

From: Springer, Darren [Darren.Springer@state.vt.us]

Sent: Saturday, July 04, 2015 8:55 PM

To: Springer, Darren

Subject: Weekly Reports - Executive Privilege 07 03 15.pdf

Attachments: Weekly Reports - Executive Privilege 07 03 15.pdf; ATT00001.txt

WEEKLY REPORTS

Checklist
7/3/15

Darren Springer/Alyson Richards

- ☒ Agency of Commerce and Community Development – Patricia Moulton
- ☐ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Rebecca Holcombe
- ☐ VT Commission on Lottery – Greg Smith

Sue Allen

- ☒ Agency of Transportation – Sue Minter
- ☒ Agency of Human Services – Hal Cohen
- ☒ Agency of Agriculture – Chuck Ross
- ☒ Agency of Natural Resources – Deb Markowitz
- ☒ Public Service Department – Chris Recchia

Sarah London

- ☐ Department of Public Safety – Keith Flynn
- ☒ Agency of Administration – Justin Johnson

Jessica Gingras

- ☐ Boards and Commissions – Jessica Gingras
- ☒ Department of Liquor Control – Jim Giffin

To: Governor Peter Shumlin
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development
Date: July 2, 2015
Re: Weekly Report

PATRICIA MOULTON, SECRETARY

- **GS Precision:** BDCC and GS Precision (GSP) are scheduled to sign an MOU outlining how they will be proceeding with GSP's expansion in Vermont. This MOU is to be accompanied by a \$100,000 check from GSP for continued permitting and work on extending the road in the Exit One Industrial Park. As of today, Norm Schneeberger was still concerned for the cost of the extending the road (he is not paying for that directly) and legal costs associated with the New Market Tax Credit's (NMTC's). GSP is closed Thursday and Friday for the July 4 holiday. We are hopeful Norm will settle down and realize these are costs he would incur regardless of where he went if he uses NMTC's and that primarily grant funding is covering the road. The Town of Brattleboro will be meeting Tuesday evening to consider owning the road at Exit One post construction. VEPC has posted meeting minutes (in conformance with state law) which has the VEGI award to GSP. So news is "out" or will be. We will handle any press indicating these are "all steps necessary to convince GSP to expand in Vermont but no final decision yet." We are hopeful we will have good news next week!
- **Global Foundries:** Exciting that "Orange is the new Blue" and all seem well in Essex. I reached out to Janette Bombardier. She and I will be having a longer discussion next week. She has indicated to Joan Goldstein that she has plans for the Enterprise Fund. Given we have that spent at least twice already, we will find out what she needs and how we can accomplish that with the funding we have left *and* serve the other needs we have identified.
- **VDTM Travel Planner:** I am digging further in to the issues with the new Travel Planner on the new Tourism web site. While the web site works well, the Travel Planner is a mess. The Travel Planner is an "add on" to the web site. The news I have been hearing from VDTM staff is far more optimistic what I am hearing from my IT folks. We are working on an interim solution while we work on a final solution with all the functionality we are hoping for. This may include putting up the "old" travel planner which will at least show more properties than the current version. It is an embarrassment to say the least that we do not have a functioning planner. We will get there.
- **DFR relationship:** We had a good discussion with DFR on communications, process, etc. related to EB5 projects. This discussion was far overdue. We have not finished the full discussion but have agreed to improvements on how we communicate and when we pass information back and forth.
- **Lake Champlain Regional Chamber Govt. Relations Committee:** Cathy Davis contacted me indicating their Govt. Relations committee really wants to be able to support our Agency in budget discussions in the statehouse. The committee wants to better understand our budget and how they can advocate for it. I explained I appreciate the support but that I can and will support the Governor's recommended budget. That while they are free to advocate, I would not be able to support amounts above the Govs recommend. She understood. We agreed I would meet with the committee, discuss my vision for the agency, goals for the next 17 months as well as the budget. I would be interested in their feedback on if we were hitting the right goals or are there areas they see that we are not focusing on which we should be. Their ultimate goal is to be more specific about where to support when they are speaking with appropriations committees. They want to start with us as we are the business advocates.
- **Vacation:** I will be away on vacation from July 9 through the 18th. I will be in Alberta and British Columbia, Canada. I will have phone and Ipad with me if needed. Lucy will be in charge and here.

- **VCGI's Integration into State Government:** Katie Corrigan is a new member of ACCD's Admin team who will be working with VCGI on budget, contracting, accounting, and project support. We are very excited to have her as part of our team.
- **GIS Data**
 - **VT Open GeoData Portal:** VCGI presented the results of its test of the ArcGIS Online (AGO) Open Data platform to the State's Enterprise GIS Consortium (EGC). The results indicate that AGO Open Data is a promising platform for a new VT Open GeoData Portal, albeit with certain limitations. After some discussion the EGC voted to move forward with using the AGO Open Data platform to build a new VT Open GeoData Portal.
- **VCGI Imagery Program**
 - **LIDAR:** ACCD/VCGI are working with VTrans to pull together a MOA between VTrans/ACCD that will provide \$100,000 (from VTrans) in matching funds in support of the Windham County LIDAR project. This is a USGS 3DEP BAA initiative and grant awarded to VCGI in 2015.

DEPARTMENT OF TOURISM & MARKETING

Megan Smith, Commissioner

- Megan is on vacation this week.

Steve Cook, Deputy Commissioner

- **Vermont Tourism/Cabot:** Cook will meet with members of Cabot on July 8th to discuss Cabot's interest in returning to the Vermont Tourism marketing partnership. Cabot had paused traditional marketing investments in January of 2015 for what they had anticipated would be one year. In anticipation of reinvestment in advertising programs for 2016, Cabot has requested a meeting to investigate how a partnership would work going forward. As of now there has been no discussion of budget or specific efforts that Cabot is planning. Cook will provide a report at the conclusion of that meeting.
- **Vermont Tourism, Yonder, Long Trail & the Mountain Top Inn:** VDTM has completed the development of a project including a Vermont tech developer, a Vermont manufacturer and a Vermont Lodging property. This project, specifically targeted at outdoor enthusiasts, hopes to enhance Vermont's image in distant markets as a hiking mecca, specifically focusing on the Long Trail. We hope to develop new interest and leads with this campaign. To see the landing page produced for this promotion visit www.vermontvacation.com/yonder

COMMUNICATIONS ♦ Laura Peterson, Director of Communications

- **Media Outreach:** Laura's work with reporter Laurie Bain Wilson resulted in [this story](#) in the Boston Globe about lakes. Dorset Quarry, Lake Champlain, Lake Willoughby, and Silver Lake were all mentioned. The VDTM team also put out the monthly Commissioner's newsletter to the VT tourism industry.
- **Social Media:** Most popular Facebook post this week was an article on the [Top 15 Farm Stay Vacations](#) in the world, featuring Liberty Hill Farm in Rochester, Vermont. It reached 7528 people.

MARKETING ♦ Patrick MacCormack, Digital Marketing Coordinator

- **Consumer eNewsletter:** The July edition of the consumer eNewsletter saw another strong performance compared to the list average. The open rate remains above average, while the click rate fell a little but still saw a strong performance.

RESEARCH & STATISTICS ♦ Greg Gerdel, Research & Operations Chief

Promotions

- **Direct Mail to the Families of New College Students:** Greg Gerdel is working with the Consortium of Vermont Colleges to set up this year's mailing to the families of students matriculating this fall semester. A similar packet will go to graduate students new to Vermont schools. The project includes a special envelope and a welcome letter from the governor. Enclosures include the Vermont Vacation Guide, Road Map and a flyer from the Vermont Student Assistance Corporation (VSAC).

Research

- **2014 Lodging Survey Results:** Although the 127 completed responses were short of our desired 200, at a statewide level the data still provides useful information about a significant portion of Vermont's lodging industry. While large hotels are the missing cohort among the respondents, we are able to obtain an ample amount of the data for large hotels and resorts through Smith Travel Research (STR) to analyze the industry fully.
- Among the important consistencies in our internal survey effort is where Vermont's visitors are coming from, the size of travel parties, and average length of stay at commercial properties. It is useful to know that five percent of

guests are international visitors from overseas and the average room rates for the year by season. You can review [the complete report here](#).

VERMONT LIFE ♦ Marv Hegarty Nowlan, Editor/Sky Barsch, Associate Publisher

- **Vermont Life Tour:** We're on track to offer our first walking tour in 2016! We're working with Country Walkers of Waterbury to offer a walking, dining and beer-tasting tour of Vermont. It's going to be a lot of fun, please spread the word. We will begin advertising this special opportunity (and revenue source) in the Autumn 2015 issue. If all goes well, we might offer a cycling tour with Vermont Bicycle Tours (which owns Country Walkers).
- **Calendars/Products:** All calendars, including the weather calendar, have arrived at the fulfillment house. Nearly \$31,000 in calendar sales have been shipped out in the past week to our dealers, just in time for the long July 4th weekend. We have been making cold calls to retail locations around the state to introduce new stories to Vermont Life calendars. All the calendars have been printed. The product catalog is nearly ready for the printer.
- **Advertising:** We interviewed an outstanding candidate for advertising sales, however he is looking for full-time, not contract work. We are working on a creative solution as he has excellent contacts and references.

DEPARTMENT OF ECONOMIC DEVELOPMENT

FINANCIAL SERVICES ♦ Dan Towle, Director

- **New Captive Insurance Formation Update:** Dan is pleased to report that 11 new captives have been licensed so far this year. This is a great start to the year. Three of them are in the healthcare sector which has been a large focus area for Vermont. Dan also shared that 4 of the 11 new captives are 'redomestications', which is when a captive relocates from one domicile to another. Vermont saw redomestications from Bermuda, Cayman Islands, Nevada & Arizona. This again is a great indicator that our marketing is resonating as this is one of the largest percentages of redomestications in memory for this sample size.

VERMONT TRAINING PROGRAM ♦ Beth Demers, Director

- **Highland Sugarworks:** On referral from CVEDC's Sam Anderson, Beth met with Deb Formodig (Operations Manager) to discuss the changes to the Vermont Training Program and the application process. The company is now at 22 employees and growing. New products are ready to launch for the upcoming holiday buying season and a few more are under development. The Vermont Training Program could be useful in the acceleration of production for these new products. Deb will speak with owner Karen Kennedy and be back in touch with Beth regarding a potential scope of work.
- **NuHarbor:** Beth Demers met with Justin Fimlaid of NuHarbor, a cyber-security firm in Burlington. The company currently has 13 employees and is growing. As we have all seen from various media reports, their services are in high demand. Beth discussed the Vermont Training Program and the application process. Justin will meet with his leadership team to review employee training needs resulting from the rapid growth.
- **H. Hirschman:** The Rutland based company currently has a VTP application under review by the VTP Review Team. Training included in the proposed scope of work includes: cross training for new equipment and vendor training for new software which will tie together R&D drawings and actual CNC programming. The maximum payable applied for is \$38,175.00.
- **VTP Follow Up:** Beth has spent the week following up with the nearly 30 companies across Vermont who have expressed solid interest in developing a draft application for the Vermont Training Program. This is a good start to FY16 – keep the referrals coming!

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Commissioner MacKay and Deputy Commissioner Hollar

Commissioner MacKay

- **Silo Busting**
 - **Solar Siting Incentives:** Joined Chris Cochran in a meeting with reps from Agencies of Natural Resources, Ag and Public Service Department to discuss what types of sites the PSD should recommend to the Public Service Board for incentives for siting solar projects. The list of suggestions included landfills, decommissioned gravel pits, parking lots, rooftops, etc. The goal is to have solar on these areas rather than prime ag land and address the concerns raised by developers that these sites are more difficult and costly.
 - **Climate Cabinet:** Along with Secretary Moulton attended the Climate Cabinet discussion on several issues related to the Comprehensive Energy Plan (CEP). Noelle led discussions on the tension between energy efficiency code improvement requirements, housing affordability and historic preservation. The group outlined the issues and potential solutions for moving forward with the CEP update.

- **Comprehensive Energy Plan (CEP):** The PSD is required to do an update of Vermont's CEP. They are holding a series of 4 public meetings on various topics (renewables, transportation, land use, etc.) Noelle provided an overview for the meeting held on June 30th on the transportation + land use + energy connection and facilitated two break out groups. If you are interesting in participating, there will be four regional meetings around the state in July, an on line survey and more public meetings once the draft report is released in September.
- **Enterprise Alley Ground Breaking:** Joined Josh Hanford at a groundbreaking for Enterprise Alley, a brownfield clean up and community development project in Barre City. DHCD has provided approximately \$1.6 M for the project with funding from the Community Development Block Grant program, Municipal Planning Grants, Downtown Transportation Grants and Electric Vehicle Charging station grant. Reps from AOT and ANR along with EPA were there to kick off the clean up!

Deputy Commissioner Hollar

- **Rural Housing Service:** Tony Hernandez, Administrator of the Rural Housing Service of the U.S. Department of Agriculture was in Vermont this week to highlight a pilot program for financing mobile homes. (Details in the Housing Report.) With Josh Hanford, participated in a roundtable discussion with Hernandez and USDA-RD State Director Ted Brady. Hernandez is looking to strengthen relationships with lenders and was seeking support for RHS' legislative priorities. It was clear Ted has established a strong reputation at USDA headquarters and is pushing it to stretch their programs to better serve Vermont. It was also clear USDA is struggling, like many federal agencies, with program and staffing cuts.
- **Historic Tax Credits and Windows:** To replace or not to replace windows in housing projects in historic buildings is once again the question. This perennial issue has come up again in relation to the Darling Inn, a senior housing project in Lyndon. Along with Noelle, Laura and Caitlin, met with project developers and Gus Seelig and Craig Peltier from VHCB, which is funding the project along with our VCDP grant. The project is utilizing historic tax credits and the National Park Service has approved replacing the windows only on the back of the building. VHCB has asked the developers to appeal this decision and request permission to replace more. After a long discussion of the programmatic, operational, maintenance, historic and energy efficiency implications, DHCD made clear that the historic preservation considerations take precedence when tax credits are being used in a project. An appeal to the NPS would not be fruitful. We will however, look for ways to share the latest operational, maintenance and efficiency information with NPS formally and informally. We are also reviewing a request for additional VCDP funding to help cover the cost differential to the Darling Inn project.
- **Nancy Eldridge Farewell:** Represented Governor Shumlin and read a letter of appreciation at a farewell for Nancy at the Hotel Vermont. The Governor's words were well received and staff had the letter framed and presented it to Nancy at the event. DAIL Commissioner Susan Wehry spoke as did Craig Jones from AHS who has worked very closely with Nancy on the SASH program. Nancy is leaving to work for the National Center for Healthy Homes. A search is underway for a new executive director for Cathedral Square.
- **Surplus Property and Housing:** Explored the possibilities of using state property for housing development with Secretary Johnson, Chief of Staff Darren Springer and Secretaries Cohen, Markowitz and Minter. While examined in the past, the urgency of the housing situation led AHS Secretary Cohen to initiate a new look at the possibilities. Shared research on programs in others states prepared by Shaun as well as info from the statewide housing needs assessment and a summary of the common barriers to housing development.

COMMUNITY PLANNING & REVITALIZATION ♦ Chris Cochran, Director

- **South Burlington:** John, Richard and Gary met with South Burlington's planning department to discuss future plans for their City Center project, in their New Town Center Designated Area and Neighborhood Development Area. The project proposes the development of a new walkable downtown on land south of Williston Road and east of Dorset Street within their Tax Increment Financing District. City Center's vision includes a mix of uses including, retail, housing, a library, recreation center, city hall and public space. The city is moving forward with the streetscape design and construction for Market and Garden Street as well as Dumont City Center Park. The City sought CP+R's advice on establishing a community based organization using the National Main Street model to build community and property owner support to make their vision a reality.

GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director

Environmental Review (ER)

- The categorically excluded Green Street Retaining Wall project in Brattleboro converted to exempt. The ER has been approved.

CDBG Monitoring Visit

- Ray and Cassie monitored the Town of Putney, Dr. Laura Plantz Building at 27 Depot Road project on June 25th along with our new Disaster Recovery Senior staffer Jason Richie. The Town made a long term deferred loan of \$293,500 of the \$300,000 VCDP grant funds to the Borrower, PE 2 Housing Limited Partnership, for substantial rehabilitation to the historic Dr. Laura Plantz Building to include a complete “gut rehab” of the buildings (house and barn), extensive energy efficiency measures, a new solar thermal hot water system, a pellet boiler, a new sprinkler & fire alarm system, abatement of hazardous materials such as lead paint and asbestos. The VCDP funds helped to leverage \$2,994,648 of Other Resources that included access to low income housing tax credits to credit 11 units of low/moderate income housing. Staff provided technical assistance to the Town and the Borrower on a number of areas. The Town Manager and Grant Administrator provided staff with a tour of the site to see the rehabilitation in process. Overall, a great visit and a pleasure to work with such professional and responsive Town officials!



Putney's Plantz building at 27 Depot Road: new Pellet Boiler; & building entrance.

HISTORIC PRESERVATION ♦ Laura Trieschmann, State Historic Preservation Officer

- **Waterbury Cupola Ceremony!** The work is on time and on budget. Laura and Jamie attended the ceremony at the Waterbury Office Complex. Governor Shumlin kicked off the event, thanking everyone for their support and hard work on this project. Historic and preservation were the buzz words of the event as the last of 8 cupolas was returned to the roof of the building. This cupola, along with its northern twin, were reconstructions based on physical and photographic evidence. The original cupolas were removed in the 1960s. Jamie Duggan, who meets with the Waterbury team every Thursday, deserves much thanks for his dedication on this project. We are grateful for his watchful preservation eye!
- **Historic Preservation Fund Grant Approved!!** The National Park Service has approved the Division's fiscal year 2015 grant application, providing level funding from 2014. This funding, allocated through an act of Congress, is essential to the daily operations of the Division as well as the preservation efforts undertaken throughout the state including survey, documentation, nominations, restorations, and outreach. We greatly appreciate the assistance of the National Park Service. Our own Lucie MacAskill also deserves a big thank you for her support and patience as the transfer of funds arrived just in time.

State Architectural Historian

- **Certified Local Government Program:** Each year, the National Park Service asks every CLG community to complete a brief annual report documenting their activities during the previous year. In the past, the response rate of Vermont's CLG communities has been very low. This year Devin is contacting each local CLG Coordinator personally and sending them the annual report, with the hope that this will increase our participation in the federal reporting program.

Project Review

- **Public Service Board -** Scott, Jamie and Dale have been in discussion with staffers at the Public Service Board regarding an upcoming rule change on net metering projects slated to take effect in 2017. Consultation is focusing on DHP's role in helping the Board evaluate impact of a proposed project on historic sites, Information we need

in order to make that assessment in a timely fashion, improving notice to us of all projects, and working on a strategy to include us in the process of developing their registration, application, and petition formats so that we can provide input as to how they frame the questions that relate to historic sites

State-Owned Historic Sites

- **Bennington Battle Monument:** The first full week of summer had nice days, cold days, windy days and rainy days; with a low temperature of 56 degrees on the 28th. The Monument averaged over 100 visitors a day and gift shops brought in over \$500 a day. Among the visitors were two Blue Star families and one last school group came on the 24th of June. Marylou received a letter from a family that found the name of their maternal grandparents in our 1928 guest register. The family sent us photos that had been taken at the Monument on August 19th, included in the picture was their brand new 1928 Chevrolet. Visitors from all over the world are showing up as are quite a few Vermonters from Grand Isle, Underhill and Vershire.

HOUSING ♦ Arthur Hamlin, Housing Program Coordinator / Shaun Gilpin, Housing Policy Specialist

- The Department received a corrected Notice of Intent to Close for Evergreen Mobile Home Park in Pownal on Monday. The notice indicates that the owners want to get out of the mobile home park business and have not been able to sell the park. The closure date is December 30, 2016. A few residents have indicated that they would support having a nonprofit buy the park. The Department will schedule a meeting later this month in Pownal for the residents to explain the closure process, outline the responsibilities of the owner and residents, and make them aware of the resources and organizations available to help them. We will work in coordination with the CVOEO Mobile Home Program and other agencies and nonprofits to explore all options. State Representative Bill Botzow is engaged and checks in with the Department periodically.
- **Farrington MHP in Burlington:** An offer was made by the 120 day negotiation deadline but so far the owners have not formally replied.
- **Act 8 (H.123)** officially went into effect on July 1. Arthur compiled a list of potential penalty violations and looked into the types and amounts of penalties assessed by other State agencies, and reached out New Hampshire, Massachusetts, and New York State. Our counterpart at the NY Manufactured Home Park Program saying they were “a bit jealous” of Vermont’s better developed statutes and mobile home program.

VERMONT COMMUNITY DEVELOPMENT PROGRAM ♦ Josh Hanford, Director

Other

- **Barre City:** Josh accompanied DHCD Commissioner Noelle Mackay, DEC Deputy Commissioner Alyssa Schuren, Trish Coppolino-DEC Brownfields and AOT Secretary Sue Minter for the Enterprise Alley Remediation & Redevelopment Project Ground Breaking event. The City of Barre and AccuWorx USA (a local Barre construction company) hosted this well received event and reception to celebrate this important project. This project has \$1.3 Million CDBG & CDBG-DR funds and many years in the works. A big thanks to Carl, Kate and Ann for many years of working on this complicated project.



CHIEF MARKETING OFFICE ♦ Heather Pelham, Chief Marketing Officer

- **Intended Use Plan:** A complete redesign of this annual publication by the Dept. of Environmental Conservation has been completed with creative services support from the CMO. The Intended Use Plan identifies the Priority List of public drinking water projects that will be funded over the next year, so its release is always highly anticipated. With the new design, program accomplishments and the coming year’s priorities are now highlighted in an engaging format.
- **Amtrak:** To support ridership on the Vermonter and Ethan Allen Express Amtrak routes, the CMO has designed creative materials for public transit vehicles throughout the state and online digital advertising.
- **SOV Websites:** Content strategy and technical support related to the transition of SOV websites to the new CMS web template continues. This week’s clients included: Dept. of Public Safety (requirements gathering), Dept. of

Human Resources (content strategy), Natural Resource Board (content strategy), Dept. of Environmental Conservation (technical support), and the Agency of Education (technical support, template enhancements).



State of Vermont
Department of Financial Regulation
89 Main Street
Montpelier, VT 05620-3101
www.dfr.vermont.gov

For consumer assistance:
[All Insurance] 800-964-1784
[Securities] 877-550-3907
[Banking] 888-568-4547

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: July 2, 2015
Re: Weekly Report

Susan L. Donegan
Happy Fourth!

Appointments:

Commissioner Susan Donegan was voted Chair of the Northeast Zone Committee at the National Association of Insurance Commissioners today. The Northeast Zone, which is comprised of members from Maine, New Hampshire, Massachusetts, Vermont, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware and the District of Columbia, has the largest concentration of insurance companies in the nation. It also is domicile to many of the largest globally-active carriers. The Commissioner's term begins immediately and ends December 31, 2016.

Commissioner Donegan has appointed Deputy Commissioner of Banking Cynthia Stuart to serve as DFR's representative to the Vermont Housing Finance Agency. She also appointed Dan Raddock, assistant general counsel, to serve as DFR's representative to the Teachers' Retirement Board. These two appointments fulfill DFR's statutory requirement to have personnel assigned to these posts.

Insurance Division:

Two insurance companies have agreed to pay the state of Vermont administrative penalties for violating laws that govern when policy cancellations and/or non-renewal notices may be sent to policyholders.

State Farm Fire and Casualty Co., headquartered in Bloomington, Ill., will pay \$29,750 in fines. Its staff members are being re-trained on the specifics of Vermont cancellation policies and its computers are being re-programmed to prevent unauthorized cancellations.



Banking
802-828-3307

Insurance
802-828-3301

Captive Insurance
802-828-3304

Securities
802-828-3420

Maine Mutual Group Insurance Co. of Presque Isle, Maine, has been fined \$17,500 for similar infractions. Employees are being re-educated on cancellation procedures as required by Vermont law and, going forward, all Vermont policy cancellations will be referred to a senior underwriting agent for approval.

The Insurance Division's consumer assistance staff has fielded more than 900 inquiries and complaints between May 1 and June 30. According to its second quarter report, 30 percent of questions were regarding automobile policies and 22 percent were about homeowner policies. More than \$185,000 was reimbursed to Vermonters, which brings the total for the year to almost \$370,000. Please see the next page for the complete report.

**Division of Insurance
Consumer Assistance Section
Quarterly Statistics
April 1, 2015 – June 30, 2015**

Summary of Written Inquiries and Complaints

Totals

Inquiries Opened	787
Written Complaints Opened	115

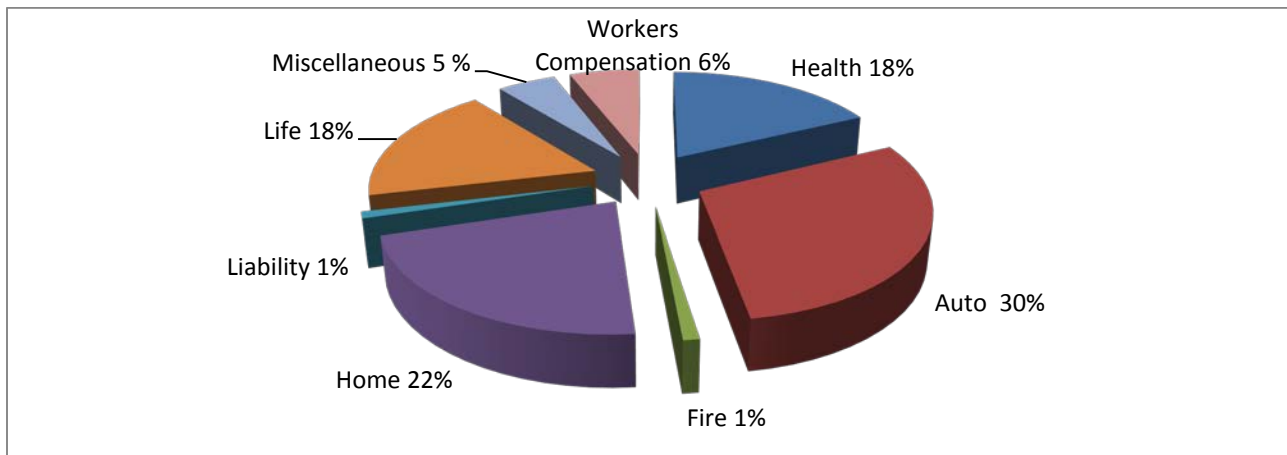
Dollar Amount Recovered for Consumers

\$185,164.17

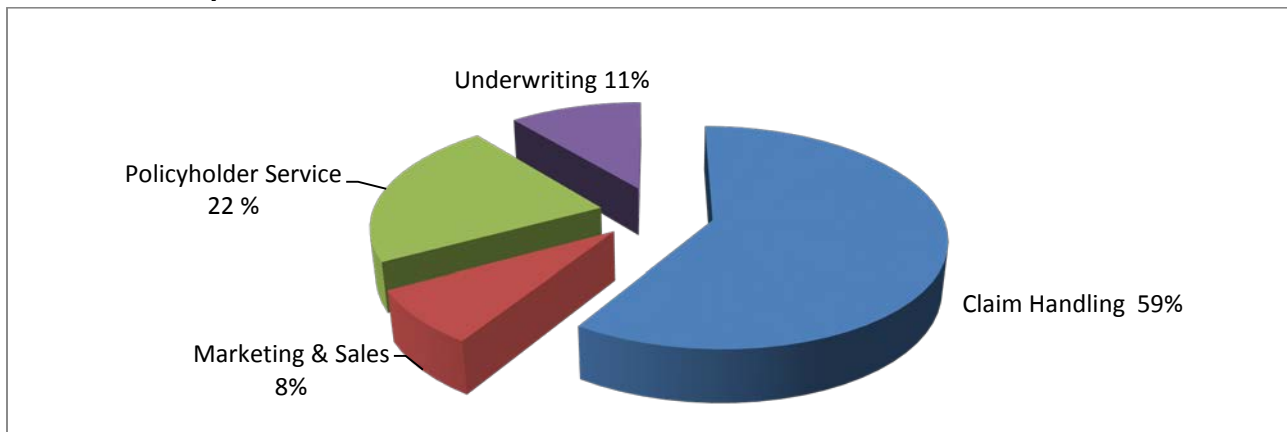
Average Days to Close Complaint

26

Complaints by Line of Insurance



Nature of Complaints



State of Vermont
Department of Financial Regulation
89 Main Street
Montpelier, VT 05620-3101
www.dfr.vermont.gov

For consumer assistance:
[All Insurance] 800-964-1784
[Securities] 877-550-3907
[Banking] 888-568-4547

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: July 2, 2015
Re: Weekly Report

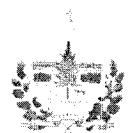
Susan L. Donegan

Addendum:

Insurance Division:

Commissioner Susan Donegan this morning signed a Certificate of General Good (CGG) that will allow a new life insurance company to seek incorporation with the Secretary of State's office. The CGG does not permit the company – Bluestone Life Insurance Co. – to conduct the business of insurance in Vermont but it is a first step in the process of becoming a licensed insurance company. Once the company receives its incorporated status, DFR will conduct a robust and extensive review of its corporate governance, its officers and directors and all financial projections will be examined by an actuary before issuing a Certificate of Authority. The issuance of a CCG does not mean that a Certificate of Authority is assumed but Bluestone has demonstrated enough good preliminary planning and financial solvency to warrant a deeper level of analysis.

This is exciting news for Vermont since a new insurance company has not been licensed in recent memory. (Susan says, "In a long, long, long, time!")





219 North Main Street, Suite 402, Barre, VT 05641
(p) 802-479-1030 | (f) 802-479-1835

**CONFIDENTIAL AND PRIVILEGED
MEMORANDUM**

TO: Governor Peter Shumlin *PS*
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: July 2, 2015

Media Contacts:

- Amy Nixon, VTDigger, submitted several requests, including: requesting an interview with Amy Fowler regarding high-spending districts data presented to the State Board; multiple angles on Act 46 implementation and the State Board retreat; Jay Diaz and the school climate work; seeking comment on the Essex-Westford vote; and seeking comment on the passage of multiple independent school approvals by the State Board;
- Lola Duffort, Rutland Herald, submitted several questions regarding Act 166 implementation and “early adopters”.
- Taylor Reed, Caledonian Record, submitted several questions regarding the approval of the Pacem School at the State Board meeting last week.
- David Delcore, Times Argus, spoke with Laurie Colgan about the Barre SU food service contract.
- Note that Lindsay Simpson, our PE consultant, will be live today on Vermont Edition on VPR. Ironical timing, because the legislature just cut her entire grants budget.

Public Presentations/Speeches/Meetings:

Monday

I met with Jeb Spaulding, VSC, and his staff regarding dual enrollment, the Common Core and SBAC, and efforts to increased post-secondary participation.

I also spoke with David Cohen of Senator Sanders’ office regarding ESEA reauthorization.

Tuesday

I met with a representative of ETS who is working on a micro-credential/badging model for professional development, and is interested in supporting work in Vermont.

Wednesday

I met with Folk from DAIL, Integrated Family Services, AOE and the Deaf and Hard of Hearing community to review services and supports for Vermont students who are deaf and hard of hearing, and identify steps for improvement as we move forward.

I also met with Dan French of the Bennington-Rutland Supervisory Union regarding the context and conditions that will enable him and his school boards to move forward productively under Act 46.

Emerging issues:

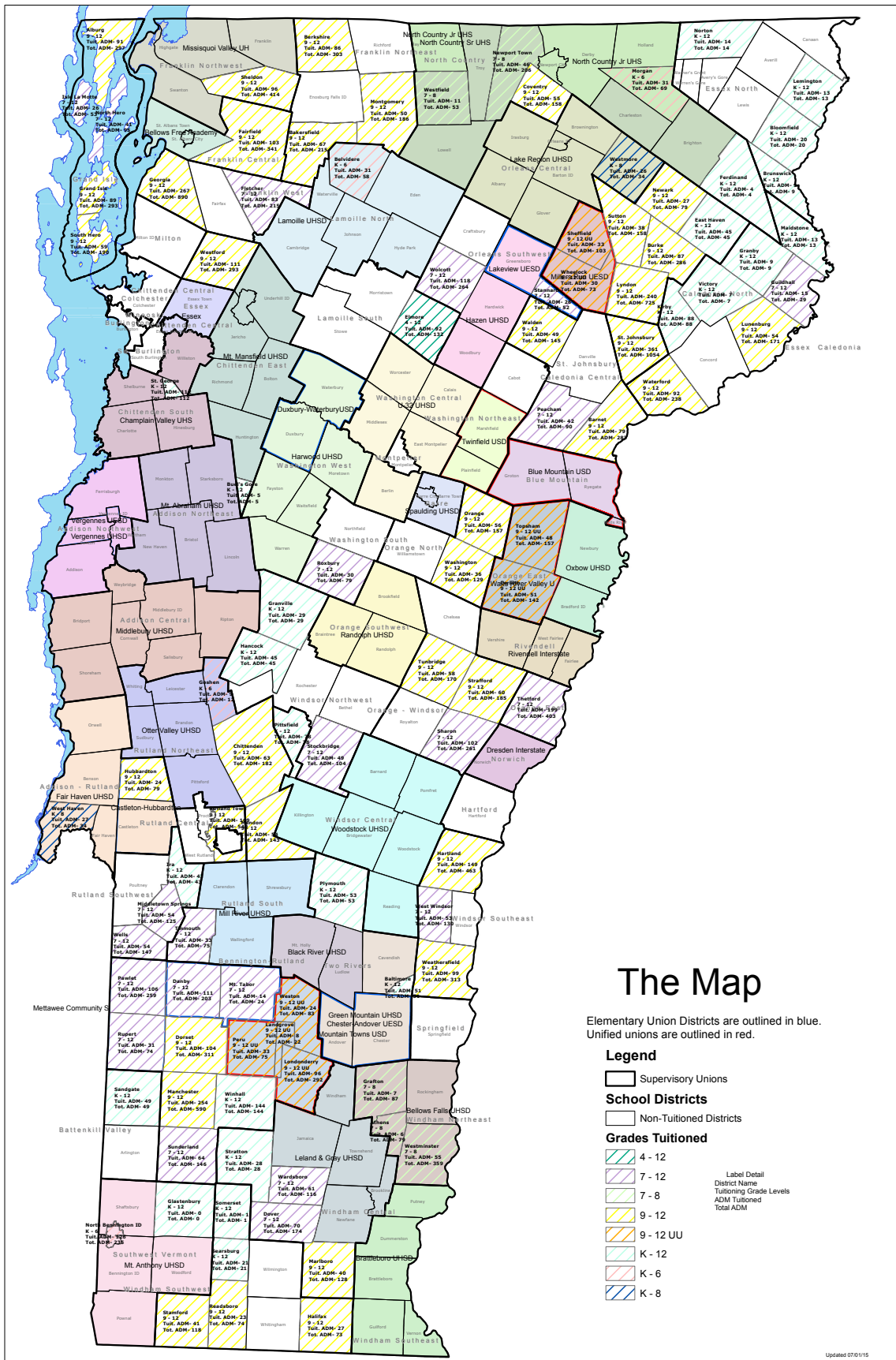
I will have a memo for you on Monday related to balancing interests related to tuitioning and operating in a way that maintains the momentum we have built to support mergers. My goal is to keep this process moving and to maintain the strong coalition we have built to sustain and support this movement. I don't want to derail the progress that is underway.

Donna Russo-Savage, Legislative Counsel, went ahead and sent out a draft of her guidance. I have attached it for your review. Her language punts decisions to the State Board and cites the need for legislative clarification.

Gov

Tuition Populations

Out of a total ADM (including EEE and PK) of 86,902 students, 6,575 students (7.5%) are tuition students. This number includes students who are tuitioned for the purposes of special education placements (e.g. residential treatment). See the map on the following page for regional distribution.



VT USDA Foods for VT Schools

Vermont Schools will be receiving a Vermont produced item in their USDA Foods entitlements this year. On Tuesday, Peggy Cantfil of the Chief Operations Branch of USDA's Food Distribution Division notified our USDA Foods Program that Commonwealth Dairy, LLC of Brattleboro, producer of Green Mountain Creamery Yogurt, had been awarded a bid through the Farm Service Agency to provide their product as one of the items in the list of foods available to schools in the country through the USDA Foods Program. Vermont schools will begin receiving their cases of 32 oz. containers of vanilla high protein yogurt in September. Rosie Krueger, the USDA Food Program Coordinator at AOE, has been working to include Vermont foods in the list of available foods through USDA for a couple of years. She was instrumental in creating an opportunity for schools to be able to purchase local Vermont vegetables through the Department of Defense program through direct delivery from a local distributor; this is the first time that a Vermont product has been purchased for national distribution as a USDA Food item.

Vacation

I will be on vacation next week. Deputies Talbott and Fowler and General Counsel Glennon will be available.



STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM *DRAFT*

To: Representative Oliver Olsen
CC: Representative David Sharpe
From: Donna Russo-Savage
Date: July 2, 2015
Subject: Act 46; Tuition- Payment and Operation

You requested an explanation of the meaning and application of Act 46, Section 4, which protects an existing district's current decision to educate resident students by operating a school, by paying tuition, or by both operating a school and paying tuition.¹

I. A School District is a Single Entity

A school district is a single municipality, regardless of whether it is a town district, an incorporated district, a union school district, or a supervisory district.² It has one elected governing body, the school district board, that is responsible for the education of all students residing in the district. A single, district-wide budget, approved by a commingled majority of all voters in the district, pays for the cost of educating all resident students – whether by operating a school or paying tuition. The statewide education property tax rate for homestead property is the same throughout the district.³ A school district is, in all respects, a single entity — even if the students for which it is organized live in different towns or villages within the district.

A school district must provide for the education of a resident student in any one grade in the district in the same way that it provides for the education of every other resident student in that grade. If the district operates one elementary school, then all resident elementary students enroll in that school; if the district does not operate a grade for which it is organized, then the district pays tuition for all students in that grade. For example, a district organized to provide education for the students in one town, *e.g.* the Rutland City Supervisory District, cannot require all grade 9 students who live on Temple Street to enroll in the high school it operates but provide tuition vouchers to all grade 9 students who live on Pierpoint Avenue (to be used at the public or independent school of

¹ Students may also be enrolled in a home study program or in a school to which their parents pay tuition, but those options are not pertinent to the purposes of this memo and are not addressed.

² *See, e.g.*, 1 V.S.A. § 126 and 16 V.S.A. §§ 551, 701, 722.

³ The rate in a multi-town district is adjusted by each town's unique common level of appraisal (CLA), however, because appraisals are conducted at the town level.

their choice, located inside or outside the district). Similarly, a district organized to provide high school education to students living in more than one town, *e.g.* the Twinfield Union School District, cannot require the students living in Plainfield to enroll in the district-operated school and simultaneously pay tuition to the public or independent schools, in or outside the district or SU, chosen by the students living in Marshfield.

It would be impractical to treat students in the same district differently when, *e.g.*, the parents and other voters residing on Temple Street or in Plainfield (in the examples above) vote for the same budget and have the same tax rate as the parents and other voters residing on Pierpoint Avenue or in Marshfield.

In addition, offering different educational options to students in the same district solely on the basis of their residential address would likely violate the Common Benefits Clause of the Vermont Constitution, Chapter I, Article 7, as it relates to the Education Clause in Chapter II, § 68.⁴

For a discussion of how a newly merged district might concurrently operate a school for one or more grades and concurrently offer tuition-vouchers for the grade(s), *see* Section III below.

II. Protections for Operating and Tuition-Paying Districts

A. Act 46, Section 4

Section 4 preserves the ability of a district that currently pays tuition on its resident students' behalf to continue to pay tuition if it chooses to do so; it also provides the same protection to a district that chooses to educate resident students by operating a school.⁵

⁴ *See*, however, the final paragraph of Section II.D below.

⁵ Sec. 4. TUITION PAYMENT; SCHOOL OPERATION; PROTECTIONS; INTENT

(a) Tuition payment; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades if it chooses to do so and shall not require the district to limit the options available to students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(b) School operation; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades if it chooses to do so and shall not require the district to pay tuition for students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(c) Tuition payment; school operation; intent. Nothing in this act shall be construed to restrict or repeal, or to authorize, encourage, or contemplate the restriction or repeal of, the ability of a school district that, as of the effective date of this section, provides for the education of all resident students in one or more grades:

(1) by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades; or

(2) by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades.

A prekindergarten–grade 12 school district created under the accelerated merger provisions of Act 46, the RED provisions of Act 153 as amended by Act 156⁶, or otherwise under 16 V.S.A. chapter 11, (*i.e.*, a unified union school district), is a single school district, which is a single municipal corporation.⁷ The districts that merged to create the new district lose their independent district status upon merger.⁸ As discussed above, once merged, each student in any one grade in a newly merged district must be offered education in the same manner as every other student in that grade.

B. Voluntary Merger

Because all voluntary mergers proceed pursuant to the union school district formation process of chapter 11, any change in the manner of operation caused by a voluntary merger must be approved independently by the voters of each potentially merging district. Thus, when voting whether to create a merged district, it is the choice of the voters of each potentially merging district whether to approve:

- merger with the other district(s); and
- any changes in the manner in which education will be provided to the students residing in the potentially merging district when the new district becomes operational.

Voluntary mergers, and the terms under which a merged district will operate, are precisely that – voluntary.

C. Merger by the State Board of Education

Act 46, Sec. 10 requires the State Board of Education to issue a plan in 2018 that merges and otherwise realigns districts to the extent necessary to provide educational opportunities through sustainable governance structures designed to meet the goals set forth in Sec. 2 of the act. Section 10 explicitly requires the State Board's plan to “ensure adherence to the protections of Sec. 4 of this act.” Therefore, the State Board's plan cannot force a district to change the manner in which it provides education (whether by operating a school or paying tuition) by merging it with a district that provides for education in a different manner.⁹ If, for example, there is one district with no similar district anywhere nearby (in or outside the existing supervisory union) and the State Board feels it is necessary to make changes in that region, then the State Board's plan will preserve that unique district under its current structure and will likely include it as a member district of a supervisory union that may or may not have the same borders as the current supervisory union in which the district is located.

⁶ 2010 Acts and Resolves No. 153 and 2012 Acts and Resolves No. 156.

⁷ 16 V.S.A. § 701.

⁸ 16V.S.A. § 722 (unified union districts) provides in part: “On the date the unified union district becomes operative, unless another date is specified in the study committee report, it shall supplant all other school districts within its borders, and they shall cease to exist.”

⁹ *Note*, however, that the State Board has had the authority since 1982 to close a school and require the district to pay tuition for its students if the district fails to meet or move toward meeting State education quality standards (or earlier, comparable standards). 16 V.S.A. § 165(b)(4).

Sections 4 and Section 10, when read separately or together, ensure that at no point under the provisions of Act 46 can a district be forced to provide education in a different manner than it currently provides it.

D. Alternative Interpretation of Section 4

Section 4 states in part that nothing in the act shall require a district “to limit the options available to students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.” It has been suggested that the quoted phrase authorizes two districts with different structures that merge *voluntarily* into a single unified union school district to require resident students of the merged district who live in one member town to enroll in a district-operated school and to provide tuition vouchers to resident students in the same grade who live in another member town.

Although this interpretation may be possible under a literal reading of the quoted phrase in isolation, all mergers contemplated by Act 46 require that the new governance structure will support the goals of the act. Providing for the education of students in a single district by such different methods, and based solely upon the location of the student’s residence, would not support the act’s stated purpose to move toward sustainable models of education governance that, among other things, provide substantial equity in the quality and variety of educational opportunities statewide.

In addition, even if this interpretation of Sec. 4 were not impractical (see final paragraph of Section I above), interpreting the phrase in this broad manner cannot transform an otherwise unconstitutional arrangement into a constitutional one.

Finally, even if the Supreme Court were to accept the proposed, literal reading of the quoted phrase and also determine that it is constitutional to provide different educational options to students in the same district solely on the basis of their residential address, then the newly merged district would not be eligible to receive merger incentives *under a comparably literal reading* of Act 46, Secs. 6 and 7, or the RED provisions of Act 153 as amended by Act 156.¹⁰

¹⁰ Act 46, Secs. 6 (enhanced incentives for early action) and 7 (incentives for later mergers) provide incentives for merger only if the new unified union school district (quoting Sec. 6(a)):

(6) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(7) demonstrates in the study committee report presented to the State Board and district voters pursuant to 16 V.S.A. chapter 11 that the proposed governance changes will meet the goals set forth in Sec. 2 of this act

In each of the three common governance structures listed in (6)(A)-(C) above, eligibility for incentives is based on either operation *or* tuition payment for the students in each group of grades. Similarly, eligibility for RED incentives requires either operation or tuition-payment for all students in each grade level. 2010 Acts and Resolves No. 156, Sec. 3.

It is important to note that there is an existing practice in one union school district that proponents could cite in support of this broad interpretation of Sec. 4. In 2006, the General Assembly enacted Act 182, Sec. 28,¹¹ which authorizes a “town school district” both to be a member of a union high school district and concurrently to pay tuition for resident students in grades 7–12. It is my understanding that this authority applies solely to Vernon and was not granted to, or requested by, any other member of the Brattleboro Union High School District (or any member of another union school district). Section 28 grants formal, legislative approval to what appears to have been a long-standing practice originally validated on July 30, 1954 by Opinion No. 13 of the Vermont Attorney General. Sec. 28 emphasizes the limited nature of the granted authority:

It is the intent of the general assembly to authorize a town school district which has historically both belonged to a union school and provided for education of its students by paying tuition *to continue the practice and not to authorize the practice in other school districts.*

(emphasis added). Although legislatively authorized in this one, narrow instance, it is unclear whether the Vermont Supreme Court would find the limited nature of the provision permissible if the provision’s constitutionality were challenged.

III. Maintaining a School and Concurrently Paying Tuition for the Same Grade(s)

A. Current Statutory Law

In connection with its obligation to provide secondary education,¹² under current law, a school district that *operates* a high school may *concurrently* furnish education by paying *tuition*:

1. to “*a public school*,” if in the school board’s judgment the arrangement “may best serve the interests of *the students*” 16 V.S.A. § 822(c)(1)(A) (emphasis added)
2. to “an approved *independent school* or an independent school meeting education quality standards if the school board judges that *a student* has unique educational needs that cannot be served within the district or at a nearby public school” 16 V.S.A. § 822(c)(1)(B) (emphasis added)

¹¹ Sec. 28. TOWN SCHOOL DISTRICT; AUTHORIZED TO PAY TUITION

Notwithstanding the restrictions of 16 V.S.A. § 822(c), a town school district which is a member of a union school district and which has historically paid tuition for resident grade 7–12 students attending public and independent schools outside the union high school district, as authorized by the attorney general’s opinion No. 13 of July 30, 1954 and section 4339, V.S. 1947, may continue to do so in accordance with the provisions of 16 V.S.A. § 824. The town school district shall pay a tuition amount which does not exceed the average announced tuition of Vermont union school districts for grades 7 and 8 or grades 9–12 as appropriate. It is the intent of the general assembly to authorize a town school district which has historically both belonged to a union school and provided for education of its students by paying tuition to continue the practice and not to authorize the practice in other school districts.

¹² 11 V.S.A. § 11(5) defines both “secondary education” and “high school education” as grades 7–12.

Note that in connection with paying tuition to a *public high school* (#1) the decision is whether concurrent school-operation and tuition-payment is in the best interests of “*the students*” (in the plural). In other words, a district choosing this model provides *all* students in the pertinent grades with the option of enrolling in the school(s) it operates or receiving a tuition voucher. In contrast, a school board’s decision to operate a school and pay tuition to an *independent high school* (#2) is made on an individual basis for “*a student*” who requests that the board pay tuition. There does not appear to be any law or rule that prohibits a school board from granting the request of every student who asks that tuition be paid to an independent school, however, so the practical result of #2 might be identical to that in #1.

Also note that in connection with payment to *a public high school*, the authority is granted in the singular. That is, under a *literal* reading of the statute, the operating district may concurrently operate a high school and pay tuition to only one other public school.

If a district operates an elementary school, Title 16 authorizes the school board to grant a parent’s request to pay tuition to a public elementary school in an adjacent school district if the board determines it would be geographically more convenient for the student.¹³ Title 16 does not, however, authorize an elementary school district concurrently to operate a school and pay tuition in a manner comparable to the authority granted in connection with high school education.

B. Newly Merged Districts

A question has arisen whether a unified union school district (prekindergarten–grade 12) created under the accelerated merger provisions of Act 46, the RED provisions, or otherwise under 16 V.S.A. chapter 11 could provide for the education of resident students in one or more grades by operating the grade(s) and concurrently paying tuition. Although not explicitly addressed by Act 46, if all students in the same grade are provided the same options, then this is likely permissible, at least to some extent:

1. As described above, current statutory law permits a school district that operates a high school to concurrently pay tuition for students in those grades. If a newly merged district is organized to operate grades 7–12 (see footnote 10 at (6)(A)) or grades 7–8 (see footnote 10 at (6)(B)), then it is, at the very least (under the strictest reading of the statute), statutorily authorized also to pay tuition in the manner and to the extent described in “A.”
2. Because concurrent operation and tuition-payment is already contemplated by statute, and because Act 46 explicitly states the intention to support local decisions and actions creating sustainable education governance models that, among other things, provide substantial equity in the quality and variety of educational opportunities statewide, it seems reasonable that districts exploring merger might want to develop proposed articles of agreement that are either different or less restrictive than the strictly-construed statutory option described

¹³ 16V.S.A. § 821(c).

in #1 above.¹⁴ It is possible that the General Assembly will clarify the extent to which these alternatives are permissible or desirable because there have been so many districts around the State asking the same question. Until the General Assembly provides clarification, the State Board of Education, when reviewing proposed articles of agreement under 16 V.S.A. chapter 11, will need to determine whether it has authority to approve the specific configuration proposed.

* * *

I hope that this memorandum is helpful. Please let me know if you have any questions or would like further research or analysis.

I will continue to think about these issues and look for additional clarification.

¹⁴ To give several potential examples, a potential a prekindergarten–grade 12 district might propose to operate one or more schools offering the grade(s) and also pay tuition for the same grade(s) at the request of any resident student to:

- * a public school operated by another district or an independent school, regardless of where it is located
- * an independent school within the merged district's borders
- * an independent school, regardless of where it is located
- * any public school that is operated by another district

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin
FROM: Secretary Sue Minter
DATE: Thursday, July 2, 2015
SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

TIGER Application Update

I appreciate your call to Secretary Foxx's office regarding our TIGER grant. I am also trying to speak with the Secretary (although he is away, and it is not easy to get onto his calendar). The other focus is calls and lobbying from our Congressional delegation. Our hope is that you would request that they also call Foxx's office to push for our TIGER grant. Our team feels these calls are essential to our success this round. Without our TIGER grant, we have very little chance of affording the Rutland - Burlington train. Thanks for helping to push this forward.

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Derby Walmart

We are working hard to meet Davis' permit needs for Walmart. Staff report real frustration re the developer since his engineer did not provide timely information to VTrans. On Monday of this week, VTrans was notified by the developer (Jeff Davis) that Walmart was threatening to delay the project if permits from the City of Newport and VTrans were not acquired this week. Since that time VTrans has worked diligently with the City of Newport, Town of Derby, FHWA, Jeff Davis and others to accelerate these permits. It appears that VTrans (and the City) will be able to provide Jeff with the information necessary to appease Walmart by COB Thursday, July 3rd. It is important to note that this last minute fire drill is in part due to the fact that VTrans was still receiving information from the engineer as of Monday, 6/29. Staff has been working diligently on this project for months and look forward to putting this one behind us.

Congressman Welch Press Conference

We are assisting Congressman Welch's office in setting up a press event in East Montpelier on July 7th at 10:15 AM to call attention to the potential consequences of any interruption in federal funding for highway construction. The bridge is at the intersection of US 2 and VT 14. This bridge is on a list that we will share with media of projects that are ready to be advertised, but will be delayed if Congress does not act. This topic has received media attention following my interview on VPR last Friday.

Outreach

I will be visiting St. Johnsbury next week to meet with local and regional officials.

VHSA Bicycle Safety

Continuing to receive feedback on bicycle safety. The VT Highway Safety Alliance is continuing conversation with highway safety partners around the state on the issues associated with bicycle safety. A meeting is being scheduled with partners, to include legislators, law enforcement, bicycle groups and others, for the second week of July. This meeting will bring the partners together to work on a comprehensive and unified plan to work on addressing the various issues associated with this important topic.

NOTES FOR STAFF

I-89 Bridges Project – Waterbury

The rehabilitation of the southbound bridge remains on schedule with an anticipated completion of this first phase on July 17th. As traffic volumes are anticipated to increase over the holiday weekend, the team has taken steps to help mitigate those increases. On Friday, July 4th, the southbound onramp will be OPEN (it is normally closed between 3 – 6PM Monday-Friday) as construction crews will not be working from Friday, July 3 – Sunday, July 5. Construction will resume on July 6th. A traffic reminder is being sent out to remind motorists of the increase in traffic during the holiday weekend and suggesting that they avoid peak periods, if possible.

The new afternoon commuter bus is just starting this week; therefore, changes in ridership will be reported later in July. In other area construction, the roundabout at the intersection of Route 2 and Route 100 in Waterbury is undergoing final pavement this week during the day and night, weather pending. There are tractor trailer detours in effect and appropriate signage is in place.

Brattleboro I-91 Bridge project

In anticipation of the July 4th holiday weekend, the team has taken several actions to manage the traffic. These include working closely with NHDOT and Town of Brattleboro officials, including adding messages and signs for travelers in NH east of Brattleboro to seek alternate routes to access I-91 SB.

1. Proactive communication to inform Public.
2. Message board on Route 9 in Brattleboro, west of Exit 2 northbound on ramp for 7/2/15 and 7/3/15 from 12PM to 7PM.
3. Close Exit 3 on ramps (north and south) on 7/5/15 from 11:00AM to 6AM.
4. Uniformed Traffic Officers at Exit 3 on ramp and at key intersections along detour route through downtown Brattleboro.
5. Traffic Signals will be changed for Exit 3 closure on Sunday (7/5/15).

6. Two additional Message Boards will be placed in New Hampshire along Route 9 on 7/5/15 from 10AM to 9PM.
7. Two message boards will be located north of the I-89/I-91 intersection to inform travelers of any potential delays.

Grand Isle Drawbridge

During recent operation of the Grand Isle Drawbridge, staff heard a loud noise from the eastern machinery room (nearest the control room) as the bridge was being lowered into the seated (down) position. The bridge shuddered as it seated but thankfully it did reach the seated position. (Had it not, Route 2 would have been closed between Grand Isle and North Hero!) Upon looking at the machinery, our bridge mechanics and electricians found that the problem was a coupling/shaft failure at the shaft going from the back of the motor to the overspeed limit switch. This is the motor that controls the speed of the bridge when in lift mode. In other words, the bridge can't currently be raised or lowered without risk of damaging the system and having it stuck in either the up or down position. As this bridge is a critical link to the Champlain islands, direction was given to staff to leave the bridge in the down position and not raise it again until it could be evaluated and repaired.

Notification was immediately given to appropriate entities (Coast Guard, VSP, etc.) and word was spread to the maritime community via the local marina, who confirmed that all large vessels currently on Lake Champlain had been made aware that the bridge would not be raised until it could be repaired. We also scrambled a consultant from Boston who is under contract with us and is an expert in movable bridges. The consultant arrived on scene last night and coordinated activities with our staff.

It will take us 4 to 6 weeks to get a replacement motor. In the meantime, our crew removed the speed switch box, the shaft and the jaw coupling (see attached pictures) and took it all to a local shop to attempt to fabricate a replacement shaft and reassemble the switch. We expect to have everything repaired and the switch reinstalled by the end of the day on Thursday, July 2nd. This will get us through – with full operation of the bridge - until a replacement motor can be delivered and installed.

Today's inspection of the west side of the bridge revealed some signs of the same issues with the motor on that side. Crews are currently working to remove the guards to gain access for a better look and will handle the repairs as needed. It is currently raining, and with thunder storms predicted the work may have to be halted for the day.

Note that a project is programmed for the replacement of this 62-year-old bridge, and we expect construction of the new structure to begin in 2018. Until then, our maintenance crews will continue to keep this bridge operational despite the everyday challenges they encounter.

Vermont Rail System (VRS) Vegetation Management Spraying of the Railroad in Montpelier

VTrans staff met with the Secretary of Ag and his staff on Tuesday, June 30 to discuss VRS Vegetation Management Spraying of the Railroad in Montpelier.

Background: VTrans leases the Washington County Railroad to VRS; under the lease agreement VRS solely manages operations, maintenance, liability, and improvements of the line, with the exception of bridges on the line which are maintained by VTrans. Recently citizens of the City of Montpelier have approached the City to request that they intervene in the permit which allows VRS to apply glyphosate, an herbicide commonly known as Roundup. VRS is permitted to utilize glyphosate by the Agency of Agriculture and has historically used this herbicide to control vegetative growth on the rails and the associated ballast area of the track. Control of vegetation is a requirement which VRS must meet to satisfy Federal Rail Administration standards for track safety and operations.

Response to Request: The City has requested that the Secretary of Agriculture delay the permit to allow time for the City, the Agencies of Ag and Transportation, and VRS to discuss options for alternate treatment along a 2.5 mile segment of track that runs through the City. Agency of Agriculture is setting up this meeting for July 6th or 7th to plan for options to address the current request in Montpelier, potentially setting this up as a pilot project which could be adapted to other communities in the future if all parties come to concurrence on appropriate criteria for requesting alternate treatment, practices, monitoring, and management of costs.

VTrans' Concerns: VTrans continues to have concerns regarding the ability to manage such requests in numerous locations statewide and the potential precedent which could be set not only for rail vegetation management treatment, but for highway and aviation vegetation management as well.

Sunset of Ancient Road Laws

Today, the VTrans Mapping Section recognizes the sunset of Act 178 of 2006 and Act 158 of 2008, which represent the "Ancient Road Laws". These two Acts have prompted municipalities to map all the class 1, 2, 3, and 4 town highways and legal trails within their boundaries. The Acts have also created a new category of highway, carved out of the class 4 town highway classification known as "unidentified corridors". The unobservable unidentified corridors have been discontinued by statute as of today, July 1, 2015.

Over the last 11 years, staff from the Mapping Section has worked diligently on crafting legislation, providing guidance to municipalities on Act 178 and Act 158, answering numerous questions, transcribing surveys from the 1700 and 1800's and running the traverses to add highways and trails to the maps, and generating the Town Highway Maps with the changes. This has been no small feat – 144 of the 255 municipalities had

mileage added or discontinued; 595.020 miles of highway and trails were added to Town Highway Maps; over 15 miles of town highway were discontinued; and a full set of 316 Town Highway Maps were produced in 2014 and 2015 – and one that has been a team effort.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Hal Cohen, Secretary, Agency of Human Services
Re: AHS Weekly Report
Date: July 2, 2015

Highlights:

VDH:

Radiofrequency at National Life Building	pg. 3
Maternal and Child Health	pg. 3
Emergency Medical Services	pg. 3

DMH:

Vermont Psychiatric Care Hospital (VPCH)	pg. 4
Rutland Mental Health: Designation	pg. 4

DAIL:

DAIL Developmental Services Division hosts visitors from Minneapolis and Singapore	pg. 4
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DOC:

Corrections Oversight Committee	pg. 5
Writers for Recovery Thank Corrections for Their Support	pg. 6
Population	pg. 7

DCF:

Children's Savings Accounts (CSA)	pg. 7
Corrections Oversight Committee Presentation	pg. 8
Scaling Up Restorative Justice Conference	pg. 8

DVHA:

Vermont Health Connect	pg. 9
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Secretary's Message

I am meeting today with Barbara Cimaglio, Dr. Tom Simpatico (psychiatrist for DVHA), Andy Pallito, Dr. Dee Burroughs-Biron (DOC Medical Director) and Dr. Bill Roberts (Northwest Medical Center), to further discuss how we might use Vivitrol as a treatment tool for opiate addicts. Dr. Roberts is a Hub and Spoke physician specializing in substance abuse treatment. He is one of the few physicians currently prescribing Vivitrol. Also, on July 16th I am meeting with Pamela O'Sullivan from Akermes pharmaceutical company to discuss how Vermont could pilot the use of Vivitrol. I am also pleased to report that Andy Pallito, Harry Chen, and Barbara Cimaglio are completely onboard regarding this treatment tool and I am looking forward to beginning a pilot soon.

Last week, I reported about the audit finding from 2013 on our SNAP Employment and Training Grant and my decision to go in person with Ken Schatz, Sean Brown and Sarah Clark, to meet with the SNAP Regional Director and his staff. It was an excellent meeting and they are now giving us the

flexibility to address this problem in a way that will put the State back in compliance and hopefully not require us to reimburse the feds for the funds that may have been spent out of compliance. We also had a great lunch in the Northend!

For many years, the Agency has supported “facilitated communication” as a tool to work with autistic children. Briefly, “facilitated communication” involves using a keypad for children to communicate along with a certain number of hours of one-on-one professional support. There is controversy around the use of this tool and there is some scientific evidence that it is not effective, and Medicaid is not considering it medically necessary. As a result, we are unable to use Medicaid funds to support this tool. On the other hand, there appears to be a great deal of passion and support for continued use of this tool from both the advocacy community and even from our staff. Until we come up an alternative payment vehicle, we are currently denying payments for the use of “facilitated communication” and I have put together a group to study what steps we can take. I have been hearing a lot of concerns from the Designated Agencies and the heads up is that the Green Mountain Self Advocacy Group is going to come out in force against this decision not to support “facilitated communication”. I am unsure where this will go, but will keep you and your staff informed.

Agency of Human Services Central Office (AHSCO)

FY15 Year-end Closeout

The Agency of Human Services is going through the closeout process and has been working to manage to a Medicaid deficit of approximately \$30 million. Using authority from the SFY 2015 Budget Adjustment Act – Act 4 Sec. 64, AHS has transferred all available global commitment spending authority from across the Agency to mitigate the Medicaid deficit. In addition, DVHA had to hold bills within its Administration appropriation to cover Medicaid payments. AHS/DVHA plans to rely on the authority established in the SFY16 Appropriations bill Section C.108 (a)(2) to access waterfall funds, if available, to cover any unpaid/unencumbered SFY15 invoices that were held SFY15. The AHS Fiscal Office has been communicating with Commissioner Reardon and his staff about the challenges and plan to close-out SFY15.

Health Care Operations

The Eligibility & Enrollment Operations Advance Planning Document (OAPD) update was submitted to CMS on 6/26. We are currently revising (scope, schedule, budget) the Implementation Advance Planning Documents (IAPDs) to CMS during July.

The Health Benefits Exchange (i.e., VHC) rule was presented to LCAR; no objections raised. The rule amendments will be effective July 15, 2015.

Public Records Request

The AHS Secretary’s office has been very busy with media and public records request this week. There appears to be a considerable interest in VHC based on the recent media and public records request.

Vermont Department of Health (VDH)

Vermont Prescription Monitoring System

This week the kickoff meeting was held for the replacement of the Vermont Prescription Monitoring System (VPMS) at VDH. The VPMS helps track the prescribing and dispensing of controlled

substances, specifically drugs most likely to lead to abuse, addiction or patient harm if they are not used properly.

Radiofrequency at National Life Building

The Health Department is looking into concerns regarding tower mounted antennas on top of the National Life Building in Montpelier. VDH, Public Service Department and VOSHA staff are working to review cancer inquiries and explore the possibility of measuring radiofrequency levels to ensure they are not in excess of the FCC guidelines.

Health Department Releases new Parenting videos

VDH is pleased to announce the release of a series of 4 ParentUp videos, *Tips From Parents Like You*. ParentUp is a website dedicated to helping Vermont parents equip kids to handle life's challenges. These videos provide tips for parents of middle and high school students.

- How to Ask - It's important for parents to remember that it's not just the questions you ask, but it also depends on how you ask the questions.
- Drive the Friends - Staying connected to the friends of your kids is one easy to stay close to your own kid.
- Meet the Parents - Reaching out to the parents of your kids will open the door to helpful relationships with other parents.
- Small Signs - Identifying a number of smaller signs early is one way to get out in front of a potential problem

Maternal and Child Health

In 2015, the Governor's office dedicated \$15,000 to support follow up activities related to the Governor's Task Force on the Prevention of Domestic and Sexual Violence. With these funds VDH supported the development of the "I Care" awareness campaign. PSAs were developed in collaboration with the VT Network Against Domestic and Sexual Violence and the Stop the Violence VT initiative. The PSAs will be aired on Fox and ABC starting June 29, 2015.

Emergency Medical Services

- VDH has been working to increase the number of EMS licensees through expanded outreach. Currently, there are 3,022 licensed EMS providers. This is the largest number of Vermont EMS providers since 1998.
- VDH continues to plan for participation in the Vigilant Guard exercise in 2016. A main focus of this exercise will be the response to a large-scale infectious disease event that will test VDH's ability to respond to a large part of the population in a very short timeframe.

Working Toward Wellness Grant Winners Announced

VDH has awarded seven grants to small businesses to create worksite wellness programs. Worksites will be given a one-time award of \$3,000 to help start up a wellness program with a focus on increasing the physical activity and healthy eating opportunities for employees.

Healthy Food in Vermont State Parks

VDH has partnered with the Department of Forests, Parks and Recreation to enhance and expand a Healthy Concessions Initiative in Vermont State Parks. This initiative began as a pilot project in a few state parks operating food concessions and is now being further developed to expand capabilities to all state parks operating or contracting food concessions.

Department of Mental Health (DMH)

Vermont Psychiatric Care Hospital (VPCH)

VPCH average census is at 23 this week. Recruitment efforts continue as the hospital has ongoing nursing vacancies that are currently being managed by traveling nurses, but an incoming orientation group contains only 3 of the 5 nurses planned. Increased use of voluntary and mandated overtime is continuing in order to maintain current bed capacity at VPCH.

The report (July 2nd) marks the hospital's 1 year anniversary of operations.

Emergency Departments

As of this writing, there is one individual charged with a crime waiting in Corrections to be assessed, likely later today, to determine hospitalization needs. Also, as of this writing, there are no identified voluntary or involuntary individuals waiting for inpatient psychiatric admissions in Emergency Departments.

Scotty

Free Press: Elizabeth Murray

Interim Commissioner Reed spoke with Ms. Murray regarding the Hundred Acre Homestead facility prior to the media release of the residential facility status of the alleged shooter of a Westford shooting range instructor earlier this week. Ms. Murray only asked general questions about the facility and were directed to DAIL as the licensing entity for that facility. DMH does not currently have oversight authority for private, licensed residential care facilities.

VPR: Taylor Dobbs

VPR released a story late yesterday regarding a February Licensing and Protection VPCH survey and the accepted plan of correction in May that identified shortcomings in one employee's performance with patient care practices and emergency involuntary procedures (EIP) documentation. Overall, the report spotlighted the identification of the inappropriate standard of care, the timely reporting that occurred, and personnel actions that are still pending final determination while the employee remains on administrative leave.

Rutland Mental Health: Designation

Both Standing Committees, Children and Adults, met last Friday afternoon and both bodies have recommended to the DMH Commissioner, by majority vote, that RMHS should be "provisionally designated with intent to de-designate". This recommendation is being taken under advisement and a formal decision will be rendered after consultation with the AHS Secretary in the near future. If the recommendation is accepted, RMHS will have 30 days to submit a plan of correction and up to 180 days to complete correction of all current deficiencies.

Department of Disabilities, Aging and Independent Living (DAIL)

DAIL Developmental Services Division hosts visitors from Minneapolis and Singapore

An entourage from the Minneapolis Star Tribune just wrapped up a tour of Vermont which included meetings with consumers, who work and/or are in post-secondary education, their employers, providers and state officials. They were very impressed with our accomplishments in closing sheltered workshops and enclaves and by efforts to provide supported employment and post-secondary education opportunities. Special thanks to DAIL staffer Jennie Masterson who organized the Star

Tribune tour and is meeting today with delegates from Singapore who are also interested in closing institutions and sheltered workshops.

White House Conference to cap yearlong discussion of aging policy

Commissioner Wehry will be joining colleagues at the White House on July 13th to participate in the once-a-decade White House Conference on Aging. Created 50 years ago at the time of the passage of the Older Americans Act and Medicare, the conference helps shape national policy on aging issues. This year's conference gathered community voices through regional forums and focused on four themes: #healthy aging, #long term services and supports, #financial security and #elder justice. The Commissioner is honored to represent the second oldest state in the nation, which this year ranked number one in senior health and has long been recognized for its Choices for Care program and leadership in aging issues.

Consultant to DAIL recognized for Lifetime Achievement award winner.

The Association for the Treatment of Sexual Abusers (ATSA) has chosen Vermont's Bob McGrath to receive a Lifetime Achievement Award for his 30 year commitment to helping individual offenders and the organizations that support them. We can all be grateful we have such a leader in our state, who is willing to serve as the consultative expert to our Developmental Disabilities Services System.

Vermont Digger carries new story of Medicaid fraud, mentions RMHS

Morgan True reported on a Ludlow woman who was arraigned last week on two felony counts of Medicaid fraud and three felony counts of false pretenses. She worked for the health department's Children's Personal Care Services program as an employer of record for two children with either long-term disability or health conditions. True also reminded readers this is the second time in two months the attorney general has brought Medicaid fraud charges against an individual. In May, Hal Curtis of Rutland was charged with six counts of Medicaid fraud for allegedly overcharging the program \$13,000 over a five-year period. Curtis is an employee of Rutland Mental Health Services.

Department of Corrections (DOC)

Corrections Oversight Committee:

The Corrections Oversight Committee met on Thursday June 25, 2015. This was the first meeting since the legislative session ended. The committee name will change on July 1st to the Joint Legislative Justice Oversight Committee. Act 58 outlines the broadened scope of statutory duties to include:

- 1) The evaluation of the pre-trial services, court diversion, and community justice centers across the state;
- 2) recommendations to the general assembly regarding the creation of consistent and cost effective statewide juvenile and criminal justice system;
- 3) Analyze to what extent the criminal justice system is impact by school discipline;
- 4) Review issues related to transport by law enforcement of people in the custody of DOC, DMH, and DOH; and,
- 5) Review and make recommendations related to aging DOC facilities.

Commissioner Pallito provided testimony on the out of state program move from Kentucky and Arizona to Michigan, status of contracts that provide educational and life skills services to offenders, and an update on three deaths.

The next committee meeting will be in August.

OOS Housing contractor change complete:

All inmates housed in CCA facilities moved to GEO facility. On 6/29/15, We began our transition from CCA to GEO. All inmates in the KY facility were moved to MI on 6/29. On 6/30 inmates in the AZ facility were transported to MI. All transports were done by air.

VT staff was in KY for a week to ensure all inmate and family concerns were addressed. They are and will remain at the MI facility for at least a week. Reportedly the transition has been uneventful thus far. The amount of advance planning and preparation for this move appears to have been beneficial.

The Prisoners Rights Office visited Kentucky in June and will visit Michigan within the next two months.

Transition of VTPSA Program FY115-16

In late 2014, VT Department of Corrections re-examined the matching of facilities with population needs and determined to re locate the incarcerated sex offender program, VTPSA.

The population was housed in both Southern State Correctional Facility and Southeast Correctional Facility. The Department determined that the population and programming needs could be better managed through returning two thirds of the program eligible participants to Northwest State and re purposing Southeast State to work with inmates eligible for a re-entry focus.

The Department of Corrections issued a Request for Proposals in November 2014 and closed the RFP in January 2015. The Department received two proposals. The Department issued both respondents state contracts. One respondent had significant experience with conducting and reviewing psycho sexual assessments and was awarded this contract. A second respondent has significant experience with State and Federal criminal justice population throughout New England. The second respondent, Re Entry Resources, began staffing in May 2015 and has hired two master level clinicians to date.

On June 23, 2015, Charlotte Albright from VPR conducted a phone interview with Kris Goldstein and Kim Bushey. She inquired about the move of the program, which we described above and further elaborated that the program had been housed at the NW facility in St Albans not long ago and that the facility has separate units with dedicated program space, which facilitates program delivery. She inquired about the contractors and we responded with the RFP process and respondents. She is interested in talking with an offender who has completed the program and we determined we would revisit this later. Kris discussed misconceptions about the sex offender population.

Writers for Recovery Thank Corrections for Their Support.

There was a public reading in Barre with writers from the Writers for Recovery (Bess O'Brien) sessions that we have been running at the Barre Turning Point and the St. Jay Correctional Center.

Members thanked the VT Department of Corrections for their wonderful support at the event.

Below are 2 poems that Bess O'Brien sent to us from the readings.

The first is from Kaleb who is incarcerated in St. Johnsbury. The second is from a young man who is in recovery and lives in Barre. These are just two out of dozens of poems.

These Are The Things That Keep Him Awake At Night
By Kaleb Kelly -- inmate at the St. Johnsbury Correctional Center

These are the things that keep him awake at night.

Terror, horror, and depression.

Nothing to do with his lack of sleep.

He retires to bed, but with thoughts that seem like a child who has ingested a god-awful amount of caffeine.

It's the simple things he lies awake at night pondering.

Still, he overthinks things.

He tries to empty his mind but it seems as he rids himself of one issue, that they multiply endlessly.

Where does it end? How?

He seeks help from yoga, meditation, and other silly methods, but still to no avail.

Maybe he is cursed to have the wandering mind, like a ghost doomed to wander until he has finished his business.

“Sobriety Stew”
Kurtis Thompson

1 tender and loving Mom

1 already seasoned old school Stepfather

1 Heavenly spirited big sister (for inspiration)

2 20 lb. cats (extra cuddly and playful)

3 cups of therapy

1 cup going back to school to become a teacher

2 tbsp writing and reading every day

2 tbsp music (the cosmic dance of the soul)

2 tbsp laughter

Season liberally with forgiveness, patience, understanding and love

Stir gently and often

Allow to simmer One Day at a Time

Population:

The Department's incarcerated population averaged 1878 for the previous week. The Department's incarcerated male population averaged 1729 for the previous week. The out of state population is currently at 280. The female population averaged 148 for the previous week.

Department for Children and Families (DCF)

Children's Savings Accounts (CSA)

The Center on Assets, Education and Inclusion and the University of Kansas has published a paper chronicling the development of Children's Savings Accounts. A section of this 51 page paper is devoted to document the process and outcome of Vermont's recent legislation and work to create a CSA program for all Vermont children. The paper notes that the difference between Vermont's approach and CSA programs in other states is that the Vermont CSA program is rooted in the state's anti-poverty agenda. Dr. William Elliot concludes the Vermont section of the article by noting, "If

children's savings accounts are believed capable of revitalizing the American Dream then Vermont's approach, which seeks to pin some of its hopes for its disadvantaged children's life chances on these transformative assets, may offer an important test of this critical function."

Corrections Oversight Committee Presentation

The Corrections Oversight Committee seemed to appreciate DCF's policy and form. DCF will follow-up with Committee on the number of secure transports from St. Albans and why this occurred. St. Albans had the highest number of secure transports (68) in the state in 2014. Overall, the number of secure transports continues to be much lower than it was in the 2005 baseline year. DCF will also begin gathering data regarding the type of restraint used or whether no restraints were used in transport similar to data provided by the Department of Mental Health (DMH).

The Committee desires statewide consistency with respect to sheriff practices. Sheriff Clark (Windham County) said he applies the least secure restraint apparatus for safety with both juveniles and mental health transports (i.e. no restraints, soft restraints and metal restraints only with his approval) but that is not consistently applied by other elected sheriffs. He appreciates special training and the additional compensation with incentives provided by DMH.

Vermont Health Professionals Opportunity Grant

The Vermont Department of Labor and Vermont Department for Children and Families have submitted a joint application to secure a Health Professions Opportunity Grant (HPOG). The grant is designed to recruit TANF and other low income individuals to participate in remedial education services, accelerated pre-apprenticeship/apprenticeship education, on-the-job training/mentoring and supportive services, resulting in immediate employment with regional healthcare employers. There are three large healthcare regional employers who are very committed to participating in this project: Dartmouth Hitchcock Health, UVM Medical Center and the Vermont Association of Hospitals and Health Systems. The primary partner for this grant will be Vermont HiTec, a nationally recognized non-profit organization with an accelerated apprenticeship model. We expect notification of receipt (or denial) of this grant by the end of July, with an anticipated start date of October 2015.

Scaling Up Restorative Justice Conference

On June 25th, DCF participated in a conference at Vermont Law School focused on how restorative justice principles can be expanded in Vermont. The participants included judges, attorneys, Human Rights Commission staff, school officials, community-based restorative justice program staff and AHS staff. DCF's Karen Vastine (Principal Assistant to Commissioner Schatz) designed the conference and served as emcee; Commissioner Schatz provided welcoming remarks. The two Nova Scotian presenters challenged participants to think more globally about restorative justice. As a result the participants identified several areas for restorative justice expansion and exploration in: schools, race relations, domestic violence and governance/leadership.

Department of Vermont Health Access (DVHA)

Blueprint

The plan for utilizing funds allocated by the Legislature has been finalized and the Blueprint is beginning to implement payment changes.

Staffers for Representative Peter Welch requested a meeting and joined the Blueprint team on Monday for a program overview and Q & A about results and measurement, and current program priorities.

The Blueprint was recently able to extend contracting with Covisint by two months to accommodate the state review process. Migration of the database from Covisint servers will be necessary to maintain access to all-payer clinical data for use in Vermont's quality of care initiatives and to maintain tracking for such programs as SASH (Support and Services at Home, personalized coordinated care that helps Vermont's most vulnerable citizens stay healthy while living comfortably and safely at home).

Vermont Health Connect

VHC Operations Update

Changes of Circumstance (CoCs)

Throughput on CoCs continues to increase steadily but VHC does not yet have agreement from BCBS to begin the widespread processing of income and add/drop dependent cases. VHC has sent them ~ 30 cases in live last week and have not received feedback from them on those cases. Leadership will be contacting BCBS to get this addressed on Wednesday.

Vermont Medical Society

The State continues to seek concrete numbers of wave 2 recoupment from BCBS. VHC is also finalizing the letter to providers this week; will need leadership decision on whether to send out.

Escalated Cases

The Operations team continues to focus on resolving the buckets of escalated cases. A weekly meeting has been set up with Vermont Legal Aid to talk through specific cases. The current backlog is approximately 100 cases. The State is working with Optum to understand how to tackle 2014 cases and began manually issuing 1095's this week.

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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: July 2, 2015

Secretary's Top Issues

Water Quality Communications

We are working to develop a communications plan to guide the outreach related to the implementation of the Clean Water Initiative. A cross-Agency (ANR, VTrans, ACCD) team has been assembled to collaborate on communications related to the Clean Water Initiative.

Montpelier Railway Pesticide Use

Due to residential concern over potential exposure due to the proximity of herbicide use to maintain a weed free ballast on the Washington County Railroad that runs through downtown Montpelier the Agency of Agriculture has amended the current permit to postpone the application pending discussions about alternative options along the section of the rail that has high pedestrian traffic. Discussions between the railway and the City of Montpelier are being encouraged. The Agency of Agriculture and the Department of Transportation are helping to facilitate the conversation.

Experimental Pesticide Permit

The Agency has issued an Experimental use permit to control weeds in pumpkins to Newmont Farms. This is a trial to demonstrate efficacy of a new active ingredient to replace Clomazone. Clomazone has the potential to volatilize and move off target after application. Last year the village of Newbury was subject to this after application herbicide movement and many properties were affected. The Agency issued this permit with the hope of finding an alternative to Clomazone and will seek a special local need registration if the product provides adequate weed control.

Highly Pathogenic Avian Influenza

There have been no new reported cases of HPAI over the past week, but the impacted Midwest states continue to consume significant personnel and equipment resources in order to depopulate infected flocks, dispose of carcasses and clean and disinfect facilities. New England-based federal animal health officials and Wildlife Services employees are deployed at this time to aid in the response. One challenge for Vermont will be to keep this issue in the forefront of Vermont poultry producers' minds during the summer months when new cases are not expected in order to ensure that they remain diligent and practice adequate biosecurity to help protect Vermont in the fall when the migratory waterfowl are moving in the Atlantic flyway. State veterinarians met with VAAFM communications staff this week to begin to develop a communication strategy to address this challenge.

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TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: July 2, 2015

Status of Governor's Priorities:

Marketing and Communications

Media

Michelle Monroe at the St. Albans Messenger contacted the Agency about a situation on Hathaway Point in St. Albans. Residents have complained that runoff from a farm field has inundated their property with water. The Agency is investigating the situation and following up with Ms. Monroe.

Communications

Agency staff are beginning to develop a communications plan in response to the anticipated arrival of Avian Influenza (AI). This is a disease that infects poultry (NOT humans), and is transmitted by wild birds. This map illustrates the regions of the U.S. currently battling AI

http://www.aphis.usda.gov/animal_health/animal_dis_spec/poultry/downloads/hpai_maps_6_18_15.pdf

We will be working with local media to promote awareness for the issue and share tips for the precautions poultry owners can take if/when AI comes to Vermont

We are working to develop a communications plan to guide the outreach related to the implementation of the Clean Water Initiative. A cross-Agency (ANR, VTrans, ACCD) team has been assembled to collaborate on communications related to the Clean Water Initiative

Website

The head of VAAFM's IT department recently departed the Agency for a new position outside of SOV. The Communications team will now assume responsibility for management of the VAAFM website. This week, we met with Harry Bell of DII to diagnose and begin to address some challenges with the site's organizational structure. We anticipate it will take a significant amount of work to categorize our content in the coming months.

Significant Events/Meetings:

- State veterinarians Haas and Mehlenbacher met with BGS staff and VAAFM lab personnel this week to finalize the equipment list and layout of the animal pathology lab space slated for inclusion in the VAAFM lab when it relocates to Randolph in 2018. The Agency has not previously had a space such as this, and it will be utilized by the Animal Health, Meat Inspection and Dairy sections of the Food Safety/Consumer Protection Division for diagnostic, training and veterinary outreach purposes.
- State Veterinarian, Kristin Haas, participated in a biweekly conference call of the Veterinary Services Training and Exercise Plan Workgroup this week. She represents the New England States Animal Agriculture Security Alliance and the National Assembly of State Animal Health Officials on this workgroup. The purpose of the call was to identify training and emergency exercise priorities that are related to the lessons learned from the ongoing Highly Pathogenic Avian Influenza outbreak and that could benefit Vermont's preparedness efforts.
- Animal Health field staff met with Mike Duane from the AG's office in reference to a subpoena issued for any notes and reports regarding an animal welfare case.

- Animal Health field staff is following up on an unlicensed person acting as a dealer. The Section received the tip off from the individual's family members. The person is unable to obtain the required bond to be licensed as a dealer but will be able to license as a transporter – the Section will monitor the individual's sales records to ensure that he is not continuing to act as a dealer. This monitoring will require collaboration with local USDA Veterinary Services staff and state-level animal health inspectors who work with regional livestock markets. Staff are meeting with the individual to review licensing requirements, the duties of a transporter, and the animal disease traceability regulations.
- Animal Health field staff Initiated two new tissue residue violation investigations: 1) occurred on a dairy farm in North Troy involving a bob veal calf; 2) occurred on a dairy farm in Bradford and involved a cull cow found positive for the antibiotic ceftiofur. The Section has initiated 18 cases since Sept 1 of 2014. This is the final year of the VT tissue residue contract due to FDA's unilateral cancellation of the contract which was in year 2 of 5. Staff also continued the investigation of a tissue residue case involving a cull cow from a dairy farm in Addison County that tested positive for the antibiotic Exceed.
- Assistant State Veterinarian met with Local Food Administrator to discuss the grant submission for year two of funding for the Produce Safety Coordinator.
- Assistant State Veterinarian participated in a meeting with BGS architect, other VAAFM staff, and staff from ANR regarding the new lab design. Specific input regarding the needs for the Animal Health pathology lab was provided. Agency veterinarians are excited about having a space to perform necropsies and tissue exams as a sink in the basement of the building is the only option at this point.

Evolving Issues:

- There have been no new reported cases of HPAI over the past week, but the impacted Midwest states continue to consume significant personnel and equipment resources in order to depopulate infected flocks, dispose of carcasses and clean and disinfect facilities. New England-based federal animal health officials and Wildlife Services employees are deployed at this time to aid in the response. One challenge for Vermont will be to keep this issue in the forefront of Vermont poultry producers' minds during the summer months when new cases are not expected in order to ensure that they remain diligent and practice adequate biosecurity to help protect Vermont in the fall when the migratory waterfowl are moving in the Atlantic flyway. State veterinarians met with VAAFM communications staff this week to begin to develop a communication strategy to address this challenge.
- Animal Health Section is reviewing a biosecurity checklist document that was drafted by the CO Agency of Agriculture. The document provided recommended practices to minimize disease transmission at fairs and other places of animal comingling. Animal Health staff are updating the document to apply specifically to Vermont and are looking for VAAFM staff members that are involved in fairs or show livestock to review the document. If interested, please contact Shelley Mehlenbacher.

Summary of Key agency Department Activity

Administration:

- The Vermont Department of Taxes issued its annual guidance to all land owners enrolled in the Current Use Program. Of note for the Agency is that starting July 1, 2015, the Secretary of the Agency of Agriculture, Food, & Markets will have the authority to direct the Vermont Department of Taxes to remove agricultural land and farm buildings from the Current Use Program when the land or buildings are used by a person who is in violation of water quality requirements established in law, administrative rule, or any permit or certification. A landowner whose land has been removed from the Current Use Program as a result of this provision may appeal the Agency's decision. If the Agency receives questions, please forward to the Stephanie Smith, 828-1732.
- The Agency of Agriculture met on the site of Long Wind Farm with staff from the Rivers Program at the Department of Environmental Conservation to discuss the application process for construction of a "farm structure" within a regulated flood plain with the farm. The Agency and the Department are coordinating their efforts to manage the permitting process under DEC's Flood Hazard Area & River Corridor Rule with an eye towards best outcomes for administration of that process for business owners.
- The Agency of Agriculture is pleased to announce that Lauren Masseria will be the new Act 250 Development Coordinator. The Agency is excited to have Lauren onboard using her land use planning knowledge and diverse communications, analytical and organization skills to support the protection of agricultural soils in the State of Vermont. The primary responsibilities of this position include reviewing proposed development on primary agricultural soils in the Act 250 land use review process, developing and maintaining policy and procedures to ensure an efficient, consistent and comprehensive development review, and facilitating understanding of Criterion 9(B) through multiple forms of outreach.

Agricultural Development:

Local Foods Staff Gathers for First Annual Team Retreat

- Four staff, one intern, and Deputy Secretary LaClair gathered at the Old Shelter at Hubbard Park last Friday for an afternoon team retreat and potluck lunch to discuss FY 15 accomplishments and areas for growth and innovation for FY 16.
- The Local Foods Team is developing a strategic plan to continue successful projects and roles and create opportunities for growth.
- Staff is currently engaged in effort to develop tag line for each program area – farm to school, farm to institution, farmers marketing tracking program, and produce safety program.
- Local Foods Team is also exploring incorporation of a more inclusive and collaborative message that includes food access, healthy choices, environmental responsibility, marketing VTs brand, increased consumer awareness, agliteracy and community based agriculture as the framework for our work.

VAAFM Local Foods Team Releases Vendor Application for First-Ever Vermont Buy Local Market, to be held on the Statehouse Lawn on August 4th

- Applications were distributed to agricultural producers throughout the state. Those interested in selling their own Vermont agricultural products at the market will send completed applications to VAAFM
- There are 40 free spaces available for vendors, which will be located on the main walkway between State St. and the Statehouse steps.
- VAAFM worked in close collaboration with BGS and the Agency of Administration in developing the application
- The website for the event can be found here:
http://agriculture.vermont.gov/producer_partner_resources/market_access_development/buylocalmarkets

VAAFM Local Foods Team Make Several Website Improvements; Establishes New Program Webpages

- The State of Vermont Employee Local Food Wellness and Consumer Awareness Initiative officially launched the new website:
http://agriculture.vermont.gov/producer_partner_resources/market_access_development/farm_institution/state/local_foods_state_gov/local_food
- The new webpage helps state workers learn more about the benefits of eating local food, as well as ways to access fresh, local food.
- Established general farmers market page with links to our Local Food Data Tracking Program at Farmers Markets:
<http://agriculture.vermont.gov/farmersmarket>
- The Farmers' Market page highlights the many ways VAAFM engages in markets- from consumer protection to TA for farmers to consumer education.
- Produce Safety Coordinator Kristina Sweet updated VAAFM's Funding Opportunities page to provide a current guide to Agency funding resources based in the Division of Agricultural Development as well as external resources for producers and nonprofits, including programs administered by United States Department of Agriculture and the Vermont Sustainable Jobs Fund. The Funding Opportunities page is located at
http://agriculture.vermont.gov/producer_partner_resources/funding_opportunities.

Local Foods Team Prepares to Award Mobile Flash Freeze Unit to Vermont Nonprofit

Local Foods Administrator Abbey Willard & Produce Safety Coordinator Kristina Sweet convened a stakeholder group to review the transfer of the Agency's mobile flash freeze unit to an eligible entity this summer. The team held two open houses for potential applicants and expects to announce the unit's new owner by mid-July. See <http://bit.ly/vtflashfreeze> for more information about the unit.

NASDA Technical Working Group Develops FSMA Operational Plan

Produce Safety Coordinator Kristina Sweet resumed participation in weekly conference calls with members of the National Association of State Departments of Agriculture's Technical Working Group (TWG) for Food Safety Modernization Act (FSMA) implementation. TWG calls were temporarily halted during June as members further developed chapters of NASDA's Operational Plan for implementation of the FSMA produce safety rule. Members will discuss chapters on financial support, dispute resolution, laboratory resources, and alignment & consistency across state produce safety programs during calls this July and August.

Food Safety and Animal Health and Consumer Protection:

Consumer Protection:

Drew Harding, Consumer Protection Temp assisting Steve Parise with apiary activities, has been busy helping bee keepers with questions, as well as assisting with the National Bee Survey in Shelburne on Thursday.

Meat Inspection:

- Permitting approved for the construction of a 4D operation in Alburg. (4D-Dead, diseased, dying, disabled) This service collects these types of animals from surrounding farms, euthanizes the animals humanely, and then renders the carcasses.
- Working with VTC to ensure the short course for on-farm slaughter and processing follows the regulations pertaining to exemptions
- Responding to a myriad of consumer inquiries regarding safety of meat products left out, worms in meat, etc.

Animal Health:

- Animal Health Field Staff
 - Completed a new pet merchant inspection in Bethel and an annual inspection for a facility on Essex Junction
 - Provide animal disease traceability supplies to multiple livestock dealers in Franklin County
 - Attended the weekly livestock auction at the Addison County Commission Sales to monitor Animal Disease Traceability compliance and complete the livestock market report.
 - Inspected sheep at annual Vermont Sheep Camp held at Addison County Field Days. Sheep camp!!
 - Continuing investigation of a tissue residue of the antibiotic EXCEED found in a slaughter cow from Addison Co Farm

Agricultural Resource Management:

North Lake Farm Survey Initiative:

- Staff are conducting water quality surveys of farms in Franklin and Orleans Counties as part of the North Lake Farm Survey Initiative. There are approximately 350 farms in the survey area and surveys are being conducted by 8 ARM Division staff members. The following number of farm facilities were surveyed within the last week as part of this initiative:
 - 13 SFOs (5 of the surveys were conducted last week and did not get included in last week's report)

Medium Farm Operation (MFO) and Large Farm Operation (LFO) Programs:

- Staff accompanied EPA on inspections of two MFOs in Franklin County. The inspections were EPA CAFO inspections to verify whether or not farms have direct discharges that would require a CAFO permit.
- Staff made sure files were ready for a FOIA of MFO and LFO program files.
- Staff arranged and held a conference call with a MFO in Addison County to discuss BMPs and timelines related to an enforcement action issued by the Agency to the farm. Options were discussed and participants in the call were NRCS, AAFM and the farm owners. The farm's technical service provider was unable to attend the call.
- Staff are working with LFOs regarding permit amendments for authorization to construct additional animal housing. Permit amendments have been drafted and discretionary public information meetings have been set-up.
- Staff are drafting reports and memos related to inspections and enforcement cases and following up as needed.
- Staff are continuing to test the FoodSafety WQ database and we have sent comments to the database designer.

Conservation Reserve Enhancement Program (CREP):

- Staff met with a MFO in Franklin County and their contractor to develop estimates for BMP water quality improvements on the farm.
- Staff assisted with a BMP laneway water diversion bar project on a SFO in Franklin County. Staff have been assisting with the reuse of old conveyor belts from a stone quarry to be used as water diversions in steep/sloped laneways. The belts are placed on their sides and buried with only a few inches remaining above grade to divert water during rain events. The rubber material of the belts allows cattle and equipment to easily go over the diversions and during rain events water is diverted off of the laneway which significantly reduces erosion and destruction of the laneway.
- Staff visited a SFO in Lamoille County to discuss CREP.

- Staff is collaborating with other ARM Division staff to perform surface water, tile drainage, and groundwater sampling in the St Albans area watershed.

Plant Industry - Entomology

- The Vector management team started mosquito surveillance started on 6/4/2015, trapping mosquitoes in 68 towns, representing all 14 of Vermont's counties. This week 207 mosquito batches of mosquitos were submitted to the Vermont Department of Health to test for mosquito-borne diseases. So far this season 440 pools have been submitted for testing. Results have been negative for 305 of the samples tested. Mosquito samples were tested for two arboviruses, Eastern Equine Encephalitis virus and West Nile virus.
- On July 1 Alan Graham provided a day of training on mosquito identification for the larval surveillance coordinators of the two mosquito districts.
- Alan Graham was interviewed by Channel 44 New for a story on July 2 about mosquito-borne viruses and mosquitoes.

Pesticides:

Due to residential concern over potential exposure due to the proximity of herbicide use to maintain a weed free ballast on the Washington County Railroad that runs through downtown Montpelier the Agency of Agriculture has amended the current permit to postpone the application pending discussions about alternative options along the section of the rail that has high pedestrian traffic. Discussions between the railway and the City of Montpelier are being encouraged. The Agency of Agriculture and the Department of Transportation are helping to facilitate the conversation.

The Agency has issued an Experimental use permit to control weeds in pumpkins to Newmont Farms. This is a trial to demonstrate efficacy of a new active ingredient to replace Clomazone. Clomazone has the potential to volatilize and move off target after application. Last year the village of Newbury was subject to this after application herbicide movement and many properties were affected. The Agency issued this permit with the hope of finding an alternative to Clomazone and will seek a special local need registration if the product provides adequate weed control.

Secretary's Comments:

VT Railway Montpelier Herbicide Spray Issue – met with AOT to discuss issues related to permit for herbicide application and state ownership of railway. It was agreed that there may be a path forward that is different than the existing permit and that the effective date of the permit needs to be delayed. Agreed to meet next week to explore opportunities to do things differently and meeting must include the City of Montpelier, AOT, VAAFM and VT Railway. Conveyed to Mayor Hollar intention to delay effective date and Sec Ross amended permit to do on 7-2-15 with the new date of application being 7-17-15. Sec Ross will call the Times Argus to report that the permit's effective date has been delayed to allow for further consideration of alternative approaches to rail maintenance.

VT Sustainable Job Fund Annual Retreat – attended meeting and emphasized the importance of local to local sales of ag and food products but the very important role of domestic export to growing the ag and food businesses and those businesses ability to keep the agricultural land in production and continue to increase the jobs in the ag and food space.

Bi-Monthly VAAFM and ANR/DEC meeting – attended meeting to convey info and coordinate action. Reviewed the status on TMDL and CLF conversations. Both are still pending and expected to be positive outcomes from the state's standpoint but the details are to be determined and there may be a need for the Governor to weigh in on a couple of aspects.

NRCS Federal Funds for Land Conservation – met with Gus Seelig and Gil Livingston to determine how to best approach and coordinate their organizations activities with an appropriate role of VAAFM in determining when VT farms being considered for conservation are in compliance with state water quality regulations. This is a requirement will be a necessary component of all land conservation projects if they are to include federal dollars from NRCS.

Water Quality and State Assistance – attended meeting in Sec Johnson's office to discuss the request by some leading legislators to consider if and how state assistance should be qualified upon meeting state water quality laws and regulations. Attending agencies agreed to assess the current processes in their respective agencies and meet again.

Governor's Retreat – Sec Ross will attend the Governor's retreat.

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Deborah L. Markowitz
Agency Secretary

Justin G. Johnson
Deputy Secretary

**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: July 2, 2015
Subject: ANR Weekly Report

Governor Level Issues:

Hermitage: DEC received a memorandum summarizing stream buffer impacts incurred under current resort ownership since 2010, and proposed in conjunction with their master plan. The memo documents 17 acres of buffer cleared based on development conducted outside of masterplan coverage, and a proposal for an additional 10 acres. This is inconsistent with current ANR guidance on stream buffer protections and we are considering our response.

Alchemist: The NRB continues to make progress on resolving the enforcement issue related to the Alchemist Cannery in Waterbury. The NRB met with representatives from the Alchemist and the former owner of the Cannery (Fred Hachman), who is also named in the enforcement matter. Both parties acknowledge that there were violations. At this point the issue is what the penalty should be. The NRB made a settlement offer to resolve the matter. The Alchemist and Mr. Hachman are expected to respond to the offer next week.

EVERYTHING ELSE:

Press Issues/Releases:

Waitsfield Organic Dairy Farmer Admits to Burning Agricultural Plastic: A press release was sent on June 29 detailing an enforcement settlement with an organic dairy farmer from Waitsfield who admitted to burning agricultural plastics and other banned material and agreed to pay a \$5,000 penalty and to properly manage farm materials going forward.

July 1st Marks Recycling Reboot: A press release was sent on July 1 about the “*Recycling Resimplified*” ad campaign kick-off marking the first milestones of Act 148, the Universal Recycling law.

Governor Shumlin Announces “ECO AmeriCorps”: This week, Governor Shumlin announced ECO AmeriCorps at a press event with Burlington Mayor Miro Weinberger at Callahan Park in Burlington, the site of a rain garden installed by volunteers as an example of the type of green infrastructure projects AmeriCorps members could work on. The new Environmental Careers and Opportunities (ECO) program will be administered by DEC targeted at clean-up efforts in the Lake Champlain Watershed. We are currently recruiting potential host sites and AmeriCorps members.

Universal Recycling Law Media Event: Secretary Markowitz hosted a press conference on June 25 to address provisions of the Universal Recycling Law taking effect on July 1 and unveiling a marketing effort designed to promote compliance with the law.

Additional DEC Headlines: State begins work on rules for new water quality law – VT Digger; In Georgia, water pollution has devalued lakeside properties by \$1.8M – VPR News; and Pollina, VSEA express concerns over DEC workers’ move from Barre – VT Digger.

Additional FWD Headlines: Man Jailed after Arrest by Wardens; VT Adds Nine Species to Threatened and Endangered List; and Monarch Butterflies Decline to Dangerously Low Levels.

Significant Events/Meetings:

Solid Waste Service Fee Report: DSM Environmental Services, completed the *Analysis of the Potential to Raise Revenue by Imposing a Service Fee on All Solid Waste Management Transactions* (Service Fee report). The report was initiated after the Solid Waste Infrastructure Advisory Committee (SWIAC) report to the legislature, this past spring, included it as a recommendation as a potential funding source for UR law implementation and the HNRE Committee requested additional information. SWIAC is being reconvened to review the report and indicate if there is support to explore this option further.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation (DEC)

Outdoor Wood Boiler Change-out Program Ends: The Outdoor Wood-fired Boiler (OWB) Change-out program ends after 4.5 years and 81 change-outs to more modern wood heating devices.

Regional Office Program Staff Reduction: The Regional Office staff onsite wastewater program has been reduced from 24 to 14 employees. Staff came together to scope a new model

for permitting, focused on the most complex systems and one that relies on the certification of a professional consultants for less complex systems.

Drinking Water State Revolving Fund (DWSRF): We have finalized the 2015 DWSRF Intended Use Plan (IUP) and statewide construction Projects Priority List and anticipate submitting the grant application for the FFY15 federal funds this Friday. The current federal allotment is \$8,845,000, but we are anticipating a small reduction in that amount as a result of a federal FY15 budget rescission. A total of 46 projects applied for inclusion in the 2015 priority list with an aggregated need of approximately \$37,000,000 of which roughly \$14,500,000 can be met with available funding.

Salvage Yard Rules Update: The final rules will be presented to LCAR on July 16. We anticipate this being the final hurdle before the Rules are adopted.

Cut: Lakes and Ponds, Aquatic Nuisance Control Permitting: Four lakes were treated with herbicide this season to control Eurasian watermilfoil: Lake Hortonia, Lake Fairlee, Lake Morey, and Lake St. Catherine (LSC). The last of which was conducted last Wednesday (June 24) in LSC. All were conducted in accordance with the requisite Aquatic Nuisance Control permits and no significant issues were reported.

Lakes and Ponds, Shoreland Protection Act – Municipal Delegation: The City of Burlington was delegated shoreland permitting authority on June 22. The delegation agreement includes a condition that requires the City to modify existing zoning bylaws within two years to extend their Shoreland district to the 95.5' mean water level of Lake Champlain. Currently, City zoning extends only to the 100' elevation on the lakeshore, and as such the state will retain jurisdiction over the area between 95.5' and 100' until change is adopted. The City expects to adopt this change in the near future.

West Lake Construction (Mt. Snow): Construction of the reservoir has resulted in significant releases of sediment. Consequently, DEC issued an NOAV to Mt. Snow on June 19 for alleged non-compliance with the construction stormwater permit. To assist in mitigating impacts, we proposed an alternative technology to address turbidity events in receiving waters of this project. We also approved an alternative stormwater routing approach among treatment ponds that should provide treatment of surface stormwater discharges in a manner that meets water quality standards for turbidity with no risk to other uses.

Fish & Wildlife (FWD)

Staff placed at LCI Derby: A VTFWD staff member placed 5th in the LCI with a 6.74 LB 26 inch Steelhead, caught in front of the Ausable River. The fish jumped 12-15 times before losing power and slowly swimming towards the boat, about 10 minutes of him doing S turns at the back of the boat staff had the fish in the net. Staff raced to the launch,



only to run out of gas 500 yards from the access, staff had to fire up the kicker motor, and pull it in the rest of the way on the little 8 HP motor. The fish was in 4th place until being bumped by a 7lb salmon later in the day. The fish was successfully released to swim again.

Fishing Activity: High water is the story this week. Wardens are still out checking licenses etc. The LCI Derby came to a safe close. Throughout the state, many violations are still being detected from fishing without license, short fish, and fishing under revocation.

Nuisance/Sick Animals/Baby Animals: There was a lot of activity this week, reports of sick raccoons, bats in houses, and a family of raccoons in an appliance store. There was a raccoon rescued from a family that was raising it, it was then transported to a rabies vector rehabber for evaluation. FWD also received reports of a sick acting fox. There were also two injured owls and a raven transported to VINS for rehabilitation.

Forests, Parks and Recreation (FPR)

Sweet Tree Sugaring Operation: FPR expects to receive a letter from the US Forest Service next week that will outline the USFS response to concerns regarding the Sweet Tree sugaring operation which is on lands encumbered by a Forest Legacy Easement held by FPR. The concerns previously expressed in a phone conference call related to the construction of the RO facility, the impact of the amount of tubing on dispersed public recreation rights guaranteed by the easement and aesthetic impacts. Once FPR receives the USFS letter, we will review and determine how to proceed with the pending request of Sweet Tree to approve the propose expansion of tapping and tubing on the adjacent Avery's Gore property.

FPR Rulemaking: Proposed amendments to the AMPs are being finalized for filing in early fall. The proposed rule banning the importation of firewood into Vermont will be finalized and filed soon.

All state parks are fully operational for the upcoming holiday weekend. With a favorable weather forecast, visitation should be strong.

Roadside Firewood: The showings for personal firewood lots were held last week. State Lands Forester Brad Greenough showed 6 lots in the Butterfield Block of Groton State Forester. Four of the people selected by lottery appeared for the required showing and are able to cut. Diana Frederick showed 5 lots on the French Hill Block of Mt. Mansfield State Forest. Only one of the successful applicants appeared for directions. The lots where people did not participate in the showing will be held over for next year's firewood lottery.

State Lands Management in District I: State Lands Forester Aaron Hurst completed inventory work for Jamaica State Park Long Ranger Management Planning process. The bid showing for a harvest at Roaring Brook Wildlife Management Unit was also conducted by Aaron. Stewardship Forester Tim Morton completed the close-out process for the harvest operation on the Curtis Hollow block of Coolidge State Forest.

Natural Resources Board (NRB)

Riverside Farm: The District 3 Act 250 Commission has received a complaint from Bill Oren about a plan to set off Fireworks at Riverside Farm in Pittsfield on the July 4th. The District Coordinator ruled that an Act 250 permit is required for the event. The applicant intends obtain a permit, but will likely out on the fireworks display on the 4th before the permit is obtained. Mr. Oren is demanding that Board enforce, and prevent the fireworks display for taking place. The District Coordinator has indicated to Mr. Oren that the Board has the discretion regarding how and whether to enforce, and based on the lack of harm associated with the activity. Her recommendation is the Board exercise its discretion not to shut down the fireworks display. The Town Selectboard supports the event.

Jeffersonville Union Bank: The NRB has been contacted by the President of the Union Bank, who is concerned about the length of time it is taking to process an Act 250 permit for construction of a bank in Jeffersonville. The issue of concern with the project is flood proofing, and ANR has been involved in the analysis. The ANR submitted what I understand to be the last piece of information on the flood issue to the Commission last week. The NRB is working with the District Coordinator to facilitate the issuance of a decision by the Commission.



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Justin Johnson, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Justin Johnson
DATE: July 2, 2015
SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Of Special Interest to 5th Floor from BGS Directors:

WSOC:

- Budget: A detailed look at the budget indicates that we are still tracking well within budget but our major risk areas which include Historic Core roof and exterior masonry repair are still out there as well as additional potential pertaining to contaminated soil.
- Media Request: Yesterday WCAX requested a walkthrough of the project and we have tentatively scheduled that for July 21st.

Scott ↑

Property Management:

- Vergennes Land Study – in process. Tenant meeting last week completed and Contractor committed to have the 1st report back to us by mid July.

DEW White River:

- Opening ceremony scheduling being worked.
- Bus drop and bus schedule issues, still open with one of the local carriers and another is adapting well to the site.

RMMTC

- Meeting with Mayor & Council went well and we are philosophically in agreement on who pays what, just need to get everyone on the same page.
- Meeting with local staff set for today.
- Local drug users shooting up in MVRTD bathroom space – Garage operator and tenant impasse resolved by Mayor.

- Amendment to lease in review.
- Revenue for FY14 invoice from Rutland received and processed.

Misc:

- GMP solar lease at Windsor – working to finalizing, last minute GMP changes are causing some heartburn. ANR has it hung up but on a positive, DOC approved.
- Hebard strategy slow moving – CAM estimate completed and presented to owners. Owner meeting went well, no real surprises. Power (meter) config. Being reanalyzed and we will have a unit/meter billing tied out soon.

Montpelier Complex Long Range Plan: Consultant is producing a draft by 7/6/15. Final draft is aimed for the end of July.

Randolph Ag/ANR Lab New Construction: For the next three weeks we are in Schematic revisions. BGS is working with the Agencies to finalize any last program and layout changes. Cannon is working on cubical layouts cannon is also working on mechanical options and other pricing options. We are beginning to assemble RFPs for a construction manager and a commissioning agent.

Westminster DPS Facility New Construction: Naylor & Bean has concrete footings and foundation wall work underway, as well as structural backfill. They are prefabricating wall sections onsite and have the electrical and mechanical subs installing sub slab conduits. A groundbreaking ceremony was held with Governor Shumlin on 6/23/15.

FINANCE AND MANAGEMENT

Nothing to report.

HEALTH CARE REFORM

Nothing to report.

HUMAN RESOURCES

Policy/Legislative Update:

Legislative Taxable Expenses Issue: Working with the legislature to develop a solution to the taxable expenses issue they have run into the past two years. We are finalizing a memo to legislative leaders which will present the legislature with options that have been vetted with Legislative Council and JFO.

Request from Chair of House Approps: Rep. Mitzi Johnson requested information regarding state employee compensation expenditures for the last number of years. We worked with Finance to provide that information to her.

Communications Update:

Press Requests: VPR has two requests with us. The first deals with legislative pay and the other is regarding a DMH employee on relief from duty status, pending conclusion of an investigation. We are coordinating with Finance and AOA on the former and with DMH on the latter.

VTDigger has an ongoing multiple agency request regarding Vermont Health Connect employees. We are coordinating AHS and DII.

A gentleman named Shane Snow, via that public record request generating website MuckRock, has requested the name, age, gender, ethnicity, job title, agency/department, city/location, and salary date on each state employee. We sent an email to the requester asking to discuss. Our current practice is to consider the age, gender, and ethnicity of state employees as confidential but we can direct the requestor to the Workforce Report for an overall breakdown of those categories.

Met with Vermont Information Consortium (VIC) to discuss their course registration and e-learning modules. Both modules show promise and VIC will host a “workshop” to discuss DHR’s needs and VIC’s offerings in greater detail. VIC would like to create enterprise solutions for both modules and would like DHR to help take the lead in development and oversight.

Significant Events/Meetings:

Labor Relations: Met with DPS to discuss a transition plan for maintaining coverage at Rutland and Newport PSAPs in preparation of consolidation.

Legal: Team established to review DHR policies and revise as necessary. Researched issues of state compliance with Vietnam Era Veteran’s Readjustment Act due to State contracts with the federal government.

Contacted potential new members to fill open positions on the Governor’s Workforce Equity and Diversity Council.

VTHR:

FICA Tax Shortfall: Received notification from Legislative offices to proceed with off cycles for remaining Legislators out of balance.

Workforce Analysis and Reporting/Benefits/Wellness/Classification/Recruitment:

Classification/Position Mgmt: FLSA proposed rules are likely to be out this week. The salary test for FLSA exemption will change significantly, potentially from \$455 per week to \$1,000 per week. That means positions as high as pay grade 25 step 1 will be eligible for time and a half overtime compensation under the FLSA. The rules may also clarify the duties test to determine the various exemptions, especially administrative and computer exemptions.

Compensation/Recruitment: ABI and exempt merit work is proceeding well. Military did not get back to us (thought we would be sending out a spreadsheet) but Doug coordinated with Sec’y Johnson and their deadline was extended to July 6, 8AM.

Benefits and Wellness: Had a positive meeting with Remedy on contract terms; able to retain the “sole and reasonable discretion of the state” language with regard to the savings calculations.

BAC meeting with ESI on specialty and other expensive drugs. Recommend the State add prior authorizations and other mechanisms to appropriately manage the utilization of these very expensive drugs.

INFORMATION AND INNOVATION

No report.

LIBRARIES

Nothing to report.

TAXES

Legislative Build Update:

“Non-Revenue/Current Use Bill” and “Revenue Bill/Current Use Bill”: Staff has been hard at work implementing changes effective July 1 – sales tax on soft drinks, meals tax on vending machines, current use easy-out, etc. Our POLA staff conducted a training with our business tax section to answer their questions about the changes to sales and use/meals and rooms taxes. This was very well-attended and a great opportunity to get everyone on the same page. Our fact sheet on the soft drinks continues to be distributed through the Retail and Grocers Association and various media reports.

The letters to landowners about the easy-out and other current use changes is expected to land in people’s mailboxes either today or early next week. The form for the easy-out has been posted to our website.

Collections/Administrative Garnishment: Deputy Commissioner has meetings set up with Vermont Legal Aid, Vermont Bankers Association, and the Credit Union Association to discuss the process of sharing information with banks/credit unions.

Cloud: We have a draft fact sheet for guidance on this legislative change that is being reviewed internally.

Education Finance: In July, our data/policy team is planning to connect with Deb Brighton and others about the yield language and what that will change for the December letter.

Operations:

Fiscal Year End came and went without issue – our budget was pretty much spent down to zero. All exempt employees have been notified of the salary increase. Our BerryDunn contract has been extended in FY2016. We are also doing a hire into range for the applicant for our security position.

VTax Project: identified our new co-leads for the project and are working to submit their RFRs. Testing has started for Phase 2 of the project.

Presentations/Press:

We received a few press calls on the sales tax on soft drinks that went into effect on July 1 (Burlington Free Press and Vermont Press Bureau), as well as one about the current use easy-out (VTDigger).

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Marcia Gardner on behalf of James Giffin, Interim Commissioner
Date: July 2, 2015
Re: Weekly Report

Vermont Department of Liquor Control

Legislative Issues/Contacts/Updates:

DLC is in the process of requesting several rule changes. One is to increase the number of ounces that may be poured into a container (mainly growlers) for consumers to take home from a second-class licensee (store) from 32 to 64 ounces and would also allow wine to be poured into similar containers. The change was initially requested by various Vermont beer and wine producers. The second proposed change would allow licensees (bars and restaurants) to purchase spirits from the State's liquor agencies with credit cards. Currently, licensees may only pay with by check or cash. At a recent public hearing, Jim Harrison from the Vermont Retail & Grocers Association (VRGA) suggested several changes to the proposed regulations. To better understand the VRGA's comments and suggestions, the Liquor Control Board has invited Mr. Harrison to meet with them before proceeding with the rules change request.

Press Issues/Releases/Contacts: **None**

Significant Events/Meetings: A Board Meeting will be held Tuesday, August 4, 2015 in Montpelier for Enforcement Hearings/Business.

Summary of Key Department Activity:

Norwich Agency: The Norwich Agency has been warned of their noncompliance with the terms of their contract with DLC. The Agency has failed to provide proof of a surety bond, after numerous requests to comply. The Liquor Control Board (LCB) has asked the Department to research other alternatives in the area. Should the LCB choose to pursue another location, DLC will communicate this with all local Legislative representatives prior to any change taking place.

Pownal Agency: After being formally warned to comply with their contract's requirements to deposit all funds from the sales of spirits on a weekly basis, the agency has come into compliance and has made all their EFT deposits to the State on time. Several large events are scheduled for the adjacent former Green Mountain Race Track and DLC hopes that these events will increase sales for the store.

E. Poultney/ Poultney and Proctorsville/Ludlow Agencies: The LCB is reviewing the sales for these locations to determine if two stores in each area are practical and profitable. In each area, the two stores mentioned are located close to one another, so service to the public would not suffer should the Board decide to give formal notice of intent to close one store in each area.

Contract updates: In a recent LCB meeting, the Board agreed to change all contract renewal dates to coincide with the end of the issuing month. Currently, contracts can end anytime during

the month, creating extra work for the Department and for the Attorney General's office who reviews all contracts. Also, the Board requested that the Department review its bond requirements as part of Department's project to modernize agency contracts.

Commissioner's Commentary:

Sent from my iPad