

From: Miller, Elizabeth [Elizabeth.Miller@state.vt.us]

Sent: Saturday, February 01, 2014 5:00 PM

To: GPS

CC: Allen, Susan; Coriell, Scott; Richards, Alyson; Porter, Louis; Spaulding, Jeb; London, Sarah

Subject: Weekly Reports - Executive Privilege 01 31 14.pdf

Attachments: Weekly Reports - Executive Privilege 01 31 14.pdf; ATT00001.txt

A few highlights noted; you may want to read Education report in particular in light of upcoming mtg with Rebecca

WEEKLY REPORTS

Checklist
1/31/2014

Elizabeth Miller/Aly Richards

- ☒ Agency of Commerce and Community Development – Lawrence Miller
- ☐ Health Care Assignment – Lawrence Miller
- ☐ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Rebecca Holcombe
- ☒ VT Commission on Lottery – Greg Smith

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- ☐ Boards and Commissions (**no report this week**)
- ☒ Department of Liquor Control

To: Governor Peter Shumlin
From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development
Date: January 31, 2014
Re: Weekly Report

LEGISLATIVE ACTIVITY

- **Economic Development:** Lucy, Lisa, and Louis Porter will work with Senator Mullen to put together an economic development bill from pieces of various bills currently in play such as the Ralston/Scheuermann bill, and S.220.
- **House workforce education and training bill:** This bill should be introduced very soon. As background, Lucy testified before House Commerce Committee on Workforce and Education issues on 1/23 alongside Lisa Gosselin and RDC chair Bob Flint. Reinforced role that VTP plays in moving current employees up the ladder and making room for new positions. Discussed role partners such as RDCs can play in connecting with businesses regionally to workforce. RDCs understand needs and some have created excellent job fairs, school-to-work programs that highlight available careers and workforce training. Shared work DED has done in collaboration with CMO and Tourism toward creating a "work, live, enjoy" campaign to recruit and retain visitors to Vermont.
- Lisa met with Peter Stromberg who, along with Rep. Champion, has worked on H.751 calling for new Agency of Commerce and reorganization of current agency. Offered to meet with Stromberg on next trip to Bennington which is slated for 2/14 in conjunction with RDC board meeting.
- **H.563 An Act Relating to Captive Insurance:** This Department of Financial Regulation bill was successfully voted out of House Commerce last week and testimony was given before House Ways & Means this week. It was received well by the committee and positive action is anticipated. If enacted captive insurance companies would be allowed to go into a dormant status when they ceased to operate without closing down all operations. This would allow companies to re-establish an active license in the state without starting the application process all over again. It would require dormant captives to renew their dormant registration every five years, file annual financial reports and maintain at least \$25,000 in capital and surplus. The firms would have to then apply to come out of dormancy before starting to issue insurance policies again.
- **Downtown Tax Credit Testimony**
 - Noelle testified in House Ways and Means on the Downtown Tax Credit. Thanks to Chris, Leanne, Caitlin and Richard on the handout materials, we were well prepared and laid out the reasoning, benefits and why we are requesting a \$500,000 tax increase. Paul Bruhn of PTV followed up with an example of the Hardwick Inn where the tax credits took a building that “no one would touch” and now there are over 18 businesses in the heart of downtown Hardwick. The case study Caitlin prepared showed that the building before renovation was valued on the grand list at \$147,800 and after \$583,300. Click on this link to read an article on Vtdigger.org: <http://vtdigger.org/2014/01/28/use-tax-changes-downtown-tax-credit-increases-considered/>
 - Noelle provided an update on the tax credits in House General as well.

- **Track 1 Legislative Update: Growth Center Process & Incentives**

- Noelle provided an overview of the Act 59 report in House General and outlined the two bills that would likely be moving. They were interested in the Neighborhood development portions of the incentive package.
- Noelle, along with Lucy, met with the Speaker and Reps. Botzow, Klein and Ellis. We outlined the two bills. They will go to House Natural Resources and Energy and parts will go to other committees of interest but the other committees will not officially take possession of the bills. Testimony will start next week and Noelle will provide an overview of the process and bill pieces this Friday.

- **Enterprise Zones:** Noelle will testify in Senate Commerce on Friday on Sen. Baruth's Enterprise Zone proposal that is being considered as part of the Committee's Jobs Bill. We will outline our findings from the report re: Industrial Park Zones as well as comments and work from the Industrial Park Working Group and data from the RDCs. We will note the differences in the designation process of EZ vs all the other designations and raise questions on the millions of dollars in incentives that our Department will be providing for EVs.

- **Ag Enterprise/Land Use Work:** Following up on our Ag Development Working Group from this summer, Chris and Noelle met with Deputy Secretary Bothfield and Stephanie Smith from AAFM to discuss next steps. We mapped out a plan for survey, small farmer meetings, and working group meetings from Feb-December so that we have ideas for next session ready. Touched base with Rep. Will Stevens who is glad to see this happening and may introduce a bill instructing us to do this work. Good thing it was already in the works!

- **Water Shut-Offs:** Jen is preparing final bill review. S.41 has been approved by both the House and the Senate and is on the way to the Governor. The bill allows tenants of rental properties to which water service has been discontinued due to nonpayment to pay for the service directly and deduct the amount from their rent.

- **Condemnation:** Jen worked with VLCT on revised language to offer the Senate Government Operations Committee for inclusion S.168, a municipal housekeeping bill. The committee took initial testimony on the bill this week.

- **Franks Fix:** Jen facilitated communication between the Tax Department and local housing trusts after concerns raised locally that municipalities may be incorrectly assuming they must reassess properties without adjustment for housing subsidy covenants in the wake of the Vermont Supreme Court decision, Franks v. Town of Essex.

- **Renter Rebate Program:** A draft bill under consideration by the Ways and Means Committee would eliminate the program that provides tax credits for low-income renters based on the portion of their rent attributable to property taxes and redirect the funding to ACCD for housing programs. Jen heard from advocates in opposition to the change including the Vermont Affordable Housing Coalition and the Vermont Low Income Advocacy Council.

F-11

- **Justin Morrill Homestead:** Laura Trieschmann testified at the House Committee on Corrections and Institutions regarding a Capital Budget Adjustment request for the Justin Morrill Homestead. The requested funds would restore damaged exterior cladding on the 1859 library addition, reverse the direction of a secondary stair altered in the 1940s, and fund a professional conditions assessment for the aging, high-style interior of the dwelling. The Committee, which recognized the great significance of this property, was encouraged to visit when it opens this spring.

- **Act 165 Report:** Judith Williams Ehrlich, along with Anne Margolis from the Public Service Department and Jeff Crocker of the Department of Environmental Conservation, testified at the House Fish, Wildlife and Water Resources Committee regarding the Act 165 Report on streamlining review of proposed small and micro hydroelectric projects. The committee unanimously supported the interagency report's proposal that the three departments continue to work together to develop processes that will assist hydro developers with both state and federal permitting requirements.
- Megan and Steve presented to House Appropriations the results of our summer marketing campaign in the Washington, D.C. area from last summer. Steve did an excellent job explaining all of the pieces of the program as well as the positive results. We have received very positive feedback from the members.
- **Dedicated Funding for Tourism:** Megan testified in Senate Economic Development on S.221. This bill is proposing a funding formula for tourism which we do not support. The committee understands our position on formulas.

Interesting. We did not convey the first part to her; only pause fyi. Obviously the rumors are pervasive.

LUCY LERICHE, DEPUTY SECRETARY

IBM: Imminent layoffs rumored for IBM has us pushing the pause button. Lucy and her team have a proposal ready should GPS decide he wants us to proceed.

Saint Johnsbury Academy: The Division for Historic Preservation I appealing a District 7 Environmental Commission decision that essentially ignored HP issues. There has been a history of hostility toward HP with this commission. Lucy reached out to Saint Johnsbury Academy to let them know we would very much like to work in a productive and collaborative way, and that we hope to be able to work through the issues without a long contentious battle.

South Korean Public Television: Lucy and Lars were interviewed for a documentary on the Creative Economy in Vermont. This documentary program will air in two 40-minute parts throughout south Korea.

DEPARTMENT OF ECONOMIC DEVELOPMENT

- Commissioner Gosselin held key CEDS workshop on 1/27 that brought together more than 75 participants from Committee, Agency and Regional groups to discuss 58 initiatives. Groups were divided into 6 "buckets" based on key issues that have arisen and asked to refine and flesh out initiatives to meet goals. Ken Jones did an excellent presentation of overall proposed goals. Next steps will be to refine goals and create a draft outline which will be circulated for review.
- Lisa attended announcement of Spruce Peak/Stowe expansion on 1/25 along with Lt. Gov. Phil Scott and Rep. Scheuremann. Spruce Peak's proposed new adventure center will employ an anticipated additional 300 and is slated to be finished in 2016. Met with CEO Robert McEleney who says his biggest challenge is finding chefs, engineers, waitstaff and other "warm bodies" to build the workforce. Discussed with Stowe's marketing team to explore how DED may help and also collaborate on a "make Vermont home" event.
- Along with Kiersten Bourgeois and Fred Kenney Lisa met with Resolute Forest Products legal counsel Jacques Vachon to discuss potential location of an office in Vermont on 1/24. RFP is a leader in pulp and paper products. A US-based company, it is led by a Montreal-based management team that would like an office nearer to its headquarters. Kiersten Bourgeois is taking the lead on this recruitment.

- Fred Kenney has done an excellent job on a draft of an RFP to the Pew Charitable Trusts. If selected, Vermont may be one of six states to participate in an 18-month educational task force that will look at best practices in tax incentives. Selection will be in March.
- Lisa discussed with Mary Peterson opportunity to do a "listening" workshop on the cloud tax. Will follow up with her and Lars Torres to set up a meeting to discuss best approach for this.
- **Hill Farmstead Brewery - Greensboro Bend:** This award-winning craft brewery continues to grow with plans to expand their production facility and retail store in Craftsbury. They employ 6 full time and will be adding staff soon. 75% of their sales are from their retail store in Craftsbury. They are having difficulty getting cooperation from Hardwick Electric for their future power needs, and are working with a consumer assistance specialist from the Department of Public Service.
- **Louis Garneau - Newport:** The company anticipates moving into their new facility beginning this Spring and will bring assembly and eventual manufacturing of high end bicycles into the Newport plant. They employ 95 full time in Vermont and 440 worldwide with operations in Canada, Mexico, and China selling product in 46 countries. There was keen interest in the Vermont Training Program, a possible VEGI application based on project new job growth, and government contracting assistance.
- **Pete's Greens - Craftsbury:** The company is growing rapidly with employment at 17 full time. They will add another six H-2A visa workers this Spring, and a few more full time over the next several months. They need to develop a training plan emphasizing cross training and lean process. A future meeting to discuss financing options will be scheduled soon.
- **Shacksbury Cider - Shoreham:** The department facilitated a meeting with the Department of Liquor Control at the request of the company to clarify regulatory issues as they ramp up their growing business. Robin Scheu of ACEDC and the company owner met with a team of DLC officials to learn what licenses were required and what legal structure was necessary to expand their business. It was very helpful to the company and ACEDC will continue to assist going forward.
- **Vermont Natural Coatings - Hardwick:** The company is close to signing a joint venture agreement with a major international company to sell their professional line of products. They are seeking key new staff additions in management, chemical analysis, and sales. We also discussed a visionary model to establish Hardwick as a hub for the forest and wood products industry and they will work with NVDA to move it forward. No immediate needs at this time.
- **Vermont Precision Composites - Lyndonville:** Employment is steady at 20 with new 5-axis CNC capability having been added in the past year. They continue to work with Concept2, and are increasing work in medical tech and aerospace. Sales have grown 25% each year for the past two years. They are in need of ISO9000 certification, and eventually ITAR.

Captive

- **National Automotive Dealers Association (NADA):** Dan met with numerous interested members of NADA who have an interest in setting up a captive insurance company for the various needs of auto dealers.
- **National Football League:** Dan met with the Senior Vice President of Labor Litigation & Policy of the NFL Management Council and Treasurer of the NFL's captive insurance company. The NFL has had a Vermont captive for many years and they continue to be very pleased with doing business in Vermont.

Interesting.

- **Serac Corp.:** Cindy Turcot of Serac Corp signed a Vermont Training Program grant agreement. Serac is a subsidiary of Gardener's Supply. The facility does all of the manufacturing and assembly. Employee training will be in the areas of lean process improvement. The grant maximum payable will be \$5,500.00.
- **VTP Pipeline:** Now that the holidays are behind us the VTP has seen an uptick in interest. Beth is drafting grants for: Simon Pearce, Gordon's Window Décor, Allocca Enterprises, and Whitney Blake. Companies that can be considered actively working on proposals include: Revision Newport, Open Tempo, and Energizer Bennington.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

- **Energy Codes:** With Commissioner MacKay, Laura Trieschmann and Chris Cochran, Deputy Commissioner Hollar met with the Public Service Department staff overseeing updates of the state's residential and commercial energy codes. Revised every three years, the codes developed this year will include a "stretch code" that will exceed the new RBES and CBES, may include renewable energy components and will be required of projects subject to Act 250 jurisdiction. PSD's schedule anticipates the codes will become effective January 2015. PSD and DHCD will collaborate on a process for determining which historic properties should be exempted, locational factors, cost-benefit analysis, accessory dwelling units, compliance mechanisms, and how the new code will relate to VHFA and VHCB's Roadmap standards.
- **Housing Nonprofits and Public Housing Authorities:** With Gus Seelig and Sarah Carpenter, participated in a facilitated meeting between the executive directors of the local housing nonprofits and public housing authorities. The goal was to diffuse long-standing tensions between some and encourage collaboration. Tensions have heightened as funding for the housing created by both has decreased and the PHAs are being driven by HUD to act as nonprofits and seek CDBG, HOME and LIHTC funding.

Regular CDBG

- **Town of Putney:** The draft analysis has been completed and is being reviewed by management for the town's Implementation grant application for \$300,000 to be loaned to Windham & Windsor Housing Trust. The application will be considered at the February CD Board meeting. The project proposes to complete the "gut rehab" of the historic Dr. Laura Planz House, resulting in 11 new units of affordable housing in the town of Putney.



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CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: January 31, 2014
Re: Weekly Report

Susan L. Donegan

Vermont Health Connect:

The Commissioner and staff met with Secretary Lawrence Miller on Thursday to discuss some issues relating to Vermont Health Connect and the need for DFR to amend its previous Order. The Commissioner signed a new separate Order yesterday that removes the deadline for direct enrollment and authorizes the carriers to allow consumers to enroll directly with them until further notice. The Commissioner offered the services of David Martini, director of Health Insurance Policy, to assist Secretary Miller directly. David has worked on the VHC project on the DFR side from the beginning. He is an attorney and has extensive health insurance operations experience having run several plans including the roll-out of insurance for the Panama Canal federal employees. David knows all the staff at MVP and Blue Cross Blue Shield of Vermont and will be able to give Secretary Miller additional support relating to insurance operational issues.

Legislative Update:

H.198, the Legacy Insurance Management Act (LIMA) has passed out of the Senate after its third reading and will be voted on by the House. It is expected that the House will concur and pass the bill. We are available to work with your office regarding the details of a signing ceremony and press release.

H.260, the Electronic Notice and Credit for Reinsurance bill was voted out of the House Commerce Committee Wednesday. It goes to the House floor next Tuesday. The Electronic Notice portion of the bill proposes allowing policyholders the choice to "opt in" to receiving electronic notifications from insurance companies and the Credit for Reinsurance portion will add competition to the reinsurance market thus allowing Vermont insurers greater choice in the numbers of reinsurers writing risk.



fill - press later ✓

S.223, which addresses the regulation of pension loans, was passed this week by the Senate Finance Committee. AARP requested changes to the legislation and after some negotiation, language was agreed upon and the bill passed 7-0.

H.563, the bill that focuses on technical changes to captive insurance laws, was discussed on the House floor Wednesday. It was passed and is now on its way to the Senate Finance Committee.

Commissioner Susan Donegan and DFR deputies presented the department's proposed FY2015 budget to the House Appropriations Committee on Tuesday. The proposal was unanimously approved.

The Commissioner attended the meeting of the House Commerce Committee today to hear the introduction of the economic development bill sponsored by Rep. Paul Ralston (D-Middlebury) and Rep. Heidi Scheuermann (R-Stowe). Since the proposal includes statutory changes that will affect DFR, we will take an active role in its progress through the legislative process.

Banking Division:

The Commissioner and folks from the Banking Division met this week with representatives from Wells Fargo Bank to talk about their marketing and business plans for Vermont. Even though they do not have any banks here, they do write mortgages for Vermonters. The meeting also served as a "meet and greet."

The Commissioner and Banking staff members also met with representatives from the Federal Home Loan Bank of Boston. The bank sponsors a program for insurance companies that is being utilized by National Life and Blue Cross Blue Shield of Vermont. They asked DFR to review possible legislation for next session regarding how federal home loans are affected in the event of an insurance company declaring bankruptcy.

Captive Insurance Division:

David Provost, deputy commissioner of the Captive Insurance Division, spoke Thursday at the World Captive Forum, which is attended by captive insurance executives, regulators, and representatives from companies all over the world who are interested in forming captives. Provost spoke to them about what to expect when starting a captive insurance company. His presentation highlighted the subjects of capital, regulatory hurdles and what regulators expect from property/casualty or benefits programs in captives.

Insurance Division:

In the following memo, the Commissioner provides an explanation for the increase in Workers' Compensation Insurance rates in 2014.



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MEMORANDUM
CONFIDENTIAL AND EXECUTIVE PRIVILEGE

TO: The Honorable Peter Shumlin, Governor

CC: Elizabeth Miller, Chief of Staff, Office of the Governor
Jeb Spaulding, Secretary of Administration
Annie Noonan, Commissioner, Department of Labor

FROM: Susan L. Donegan, Commissioner, Department of Financial Regulation (DFR)

DATE: January 31, 2014

RE: 2014 Workers' Compensation Insurance Rates

A handwritten signature in black ink, reading "Susan L. Donegan", written diagonally across the right side of the memorandum header.

This memorandum explains the 2014 Workers' Compensation Insurance rate increases that will go into effect on April 1, 2014. After review, DFR has approved overall workers' compensation rate increases of 1.2 percent in the Voluntary Market, where most Vermont employers purchase workers' compensation insurance, and of 2.7 percent in the Assigned Risk Market, the state-administered pool where employers must purchase insurance if they are unable to find coverage in the Voluntary Market.

These modest increases will support a stable workers' compensation market that provides Vermont employers with access to affordable workers' compensation insurance. Since January 2010, rates in the Voluntary Market have increased an average of only 0.54 percent per year, while Assigned Risk Market rates have witnessed an average annual decrease of 1.28 percent.

In Vermont, 91.5 percent of workers' compensation premiums are currently being written in the Voluntary Market, which provides the most favorable rates because insurers aggressively compete by offering discounts to employers with good safety records. The overall 1.2 percent rate increase in the Voluntary Market reflects average rate increases in the five major industry sub-groups of -1.2 percent for manufacturing, +1.1 percent for contractors, -1.1 percent for office and clerical, +1.9 percent for goods and services and +3.7 percent for miscellaneous industries.

The Assigned Risk Market presently comprises 8.5 percent of Vermont's workers' compensation market by premium, up from a low of 5.7 percent in 2009. Rates are higher in the Assigned Risk Market than in the Voluntary Market because many of the employers in the residual market have poor safety records

and therefore, adverse loss histories that make them unattractive to Voluntary Market insurers. Although the Assigned Risk Market has grown slightly in recent years, the National Council of Compensation Insurers (NCCI)¹ believes this is due, at least in part, to an upturn in Vermont's economy and the resulting creation of new businesses. New businesses often fail to attract coverage in the Voluntary Market because they lack an established safety record. The Department has approved a variety of programs designed to encourage insurers to reward workplace safety with lower premiums and to provide financial incentives for Voluntary Market insurers to make offers of coverage to employers in the residual market.

Last year, DFR reduced premium filing requests and required that a new methodology be applied to calculate the loss development factors. The new formula was based on the average of the last five years excluding the highest and lowest factors instead of a simple average of the last five years. The purpose of the new formula is to have more consistent factors applied in order to "smooth out" any wide rate swings and keep increases to a minimum. DFR's analysts believe that the modest increases filed this year are related to the new methodology.

I hope the foregoing has been helpful. Please do not hesitate to contact me if I can provide additional information or analysis.

¹ 8 V.S.A. § 4687(b) requires the Commissioner to designate an advisory or service organization to assist her in the collection of statistical information and other activities relating to Workers' Comp. This statutory section also enumerates the activities that an insurance advisory or services organization shall perform under the Commissioner's oversight. On July 10, 1984, NCCI was granted a license under 8 V.S.A. § 4690. NCCI is a non-profit organization headquartered in Florida that specializes in Workers' Comp issues. One of the most important services of NCCI is its database and collection of information about all workers compensation claims. This data assists in the calculation of rates for Workers' Comp. It also helps insurance regulators, insurance companies and state workers' compensation insurance plans with data for their individual needs.



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CONFIDENTIAL AND PRIVILEGED

MEMORANDUM

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: January 31, 2014

Legislative updates:

I testified in House Operations on Open Meeting law. I made a few minor comments on language, but basically expressed that we support open meetings and changes that make them more accessible to the public.

There were several other major education topics discussed this week at the State House, including testimony from the VTNEA on teacher licensing, E-911 in schools, education governance, binding arbitration/no strike for teacher contracts, public innovation zones, education finance, school construction, dual enrollment, and [S.91](#).

Next week we expect a continuation of the discussions on governance and S.91, as well as technology in schools in relation to school readiness for the SBAC online assessments.

Significant Events/Meetings:

Vermont Business Roundtable (VBR)

I met with Lisa Ventriss, President, VBR, and we spoke at length about the hopes and priorities of the VBR. We both agree that we feel some urgency around teacher quality (making it better) and cost effectiveness (making sure our tax dollars buy the best education we can afford.) She mentioned that her group wants to hold the Governor's feet to the fire on education. I assured her that would be unnecessary; we are already on board with that agenda.

Vermont State College (VSC) - Vermont Principals Association (VPA)

I had a series of meetings this week related to leadership development. In particular, I have been working with the **VSC** system and the **VPA** to explore opportunities to collaborate around systematic support and development of principals.

Education Partners

We have had meetings with the Vermont Superintendents Association, the Vermont School Boards Association and the Vermont Principals' Association around governance. We have also scheduled upcoming meetings with these three education partners and the Vermont Association of School Business Officials and Joanne Unruh, Executive Director, Vermont Council of Special Education Administrators to discuss special education costs and the need for greater flexibility in the use of special education funds.

St. Johnsbury Academy (SJA)

I had a very good meeting with **Tom Lovett, Headmaster, SJA**. I am trying to reach out to the historical academies to build some relations. One point of connection with SJA in particular, is some of the great work they are doing around professional development and improvement of teachers. Parts of their approach are very similar to our proposed accountability model. I thought that as we move forward, we might be able to collaborate with SJA to model some elements; this would be a good faith gesture to independent schools.

Evolving Issues:

The AOE, our purposes and our challenges

Our goal is to improve the learning of every student. We are defining this in terms of making sure every child has the 21st century skills needed to thrive in the work force as well as the civic life of their communities. This means teaching them to do the things technology cannot do: reason from evidence, solve ill-structured or non-routine problems, communicate and persuade, etc. It also means preparing them for innovation by teaching them how to manage and continue their own learning throughout their lives. This is something we think is critically important given that economists estimate that 60% of the jobs that will be in demand have not yet been invented.

Education is no longer a terminal goal; it is the beginning of a life-long process of reinvention. To achieve this, we need to focus as a state, on systematic improvements in teaching and teacher quality. This means moving away from our current evaluative and punitive focus on identifying good and bad teachers and schools through test scores,



and shifting our focus to providing teachers and schools with specific, relevant, actionable data, both quantitative and qualitative, that they can use to improve.

To do this effectively we need to address:

1) The need for clarity about the goals and nature of high quality education in the 21st century, as well as for a more coherent accountability model that will actually help us understand:

- What our students know and can do across all the critical goals we have for students, not just in the tested subjects.
- The breadth and depth of opportunities our schools are providing to support learning across these goals.
- How effectively schools and the system as a whole are targeting our resources to enhance opportunities to learn (e.g. how we evaluate what we get for the dollars we spend).

It is worth noting that some of our smallest high schools really have no accountability at all—not even test-based accountability. Their class sizes are so low that they do not even have school reports with test data, because data for class sizes below 10 are not released.

2) Strengthen school and district leadership, so that schools can take on the hard work of systematically improving learning and can provide teachers with the detailed, specific feedback they need to do so. Right now we have a leadership crisis. We see 30% turnover in principals every year. As I have said in various committees, if a business saw 30% turnover in management every year, it would be considered a management crisis. We also have 15 current superintendent vacancies, and many of these positions have almost no candidates. In many districts, superintendent turnover has reached epidemic proportions. It affects certain regions more than others. We talk about the cost of budgets, but the opportunity cost of this kind of leadership turnover is devastating. These are districts that cannot support and sustain any kind of coherent agenda around instructional improvement.

Turnover is in many cases exacerbated by challenges related to governance. With respect to superintendents, governance is concentrated in districts where the superintendent has to report to multiple boards. These superintendents told me at a recent meeting that having to work through so many boards poses an intolerable work burden, and also makes it impossible to achieve any coordinated effort to move an agenda.



Turnover at the top or fragmented leadership at the SU level also puts pressures on principals, which aggravates principal turnover. Principals in isolated or less supported schools pick up functions that in other areas would be owned by superintendents, which means they have less time for instructional leadership. Lack of SU support means principals have to develop standard policies and routines that could easily be done at the SU level. And so on. We also need to provide professional development to these principals, so they can help collect and provide teachers with the specific, descriptive feedback they need to improve their teaching practice.

3) Address the challenge of cost effectiveness: Act 60 has successfully narrowed the variability in what we spend per pupil, but it has not succeeded in narrowing the variability of the opportunities we offer students to achieve ambitious goals. And, the state has seen a 20% decline in enrollment, and declines are concentrated in certain districts—typically some of our smaller, rural districts. (Worth noting: some districts are actually seeing increases and this appears to be not just about a net loss of students, but possibly about relocation of student concentrations to other areas, including Burlington.) Some of this variability is related to size, and some to local decisions. A high school of 50 to 100 students—especially one that is not using online learning opportunities—cannot provide the breadth and depth of course offerings and opportunities we feel high school students need, and certainly cannot do so at a reasonable price. On the other hand, 19% of our elementary classrooms have 3-9 students. These classes could easily be made into multi-age classes, staffed by fewer teachers.

Governance is a large contributor to this problem. For example, larger systems can collaborate to generate locally appropriate solutions to shared challenges—like support for students with emotional and behavioral disabilities—that are harder to support in small units. And, in a larger system, it may be easier to manage gradual declines in enrollment through attrition. A big challenge, however, is that the diversity of governance structures in the state makes it almost impossible to compare strategies across districts, and thus identify promising practices. We can't compare school to school, because differences in governance make our units non-comparable. **In effect, we have a system that defies analysis.**

We want our model to reflect the unique nature of Vermont. To this end, we are developing a model based around state supports and direction around purposes, but which is based on autonomous local implementation and processes. **To do this work, honestly, we need to retool the Agency, and this will be an ongoing challenge. It is very difficult to task viable staff to emerging priorities, because they are already so**



overtasked. Turning up the heat on less viable staff takes time and attention, and attention is scarce when staff have many priorities. We continue to work on this. Specific capabilities I want to build or increase include:

- Adding staff to our accountability work, so we can begin to work with all divisions to slowly and systematically reorient their ongoing work and goal processes to the direction we are taking. I am assessing whether we can do this very soon by taking one of our attorney positions and repurposing it to this work. I am working with our new General Counsel to see if this is possible. We can also supplement by strategically connecting with institutions of higher education to do some of the heavy lifting on the research front.
- Building our capacity for business analytics. We have a lot of accountants on board, all with lots of work, including managing our 360 plus funding streams. However, we need to free up or build some capacity to support analysis related to cost effectiveness. This is likely to involve a new position.
- Building our capacity for supporting school leadership that can in turn lead the work of improving learning in schools. We are looking to partner with VPA and VSC on this, but will need to add a person in house to support this work.
- Improving school climate. We are currently working with the Human Rights Commission (HRC) and VSA and VSBA, but need to have some consistent work around capturing school climate data. We also need data related to hazing, harassment and bullying, and support for social and emotional learning in schools. (Worth noting: several districts in other states that have expended significant effort on climate are seeing substantial improvements in learning associated with this work. Basically, we need to help students develop the social and emotional capabilities that enable them to learn in the first place. Also, when we improve climate, kids feel safer and they need to feel safe in order to learn.)

Privatization

S. 91 seems to have stalled a bit. Mill Moore and Steve Dale had originally been tasked with working out a compromise, but failed, after they were able to come to common agreement on key issues. We are thinking that an alternative strategy to the current framing of imposing conditions on independent schools would be to define a set of conditions that public schools must verify to be able to send public dollars to private schools. Independent schools that want to serve public students could then choose to meet those conditions, rather than having those conditions imposed on them.



NECAP Trends and next Wednesday's press conference on the NECAP score release

Next Wednesday we will release scores from the final administration of the Math and English Language Arts (ELA) NECAPs. Some key points to know:

- TH
- The sample that took the test this fall did not include 19 schools that will pilot the SBAC this spring. When we analyzed the data from previous years, we noted that these 19 schools are slightly higher performing on average than the schools in the overall sample. This may skew statewide results for the fall. We are going to encourage the media to resist making statewide comparisons, as the groups being compared are not equivalent. School level comparisons year to year are permissible.
 - We are using the press conference on Wednesday as an opportunity to take a retrospective look at the NECAPs and what we can and can't learn from tests. One key finding that will likely interest the governor is that a key takeaway from the NECAP is that the federally mandated reporting groups may not be the ones we actually want to look at. Specifically, we need to sub-analyze Vermont data by gender to understand the real story of Vermont students. When we analyze by gender, we see that the group with which we have had the least success are low income boys, whose performance continues to lag. (On some indicators, our low income girls outperform high income boys in some years.) These low income boys are also the students who typically would enter some of the jobs that are now evaporating. To ensure the economic future of the state, we really need to look hard at low income boys and figure out how to use the tools delivered by Act 77 to support better learning by these children.

SBAC Test

The SBAC pilot is this spring. I would like to ask the Governor if he would be interested in offering a group of business representatives, journalists and legislators a chance to take the high school SBAC pilot test this spring. There would be no individual scores—only an aggregate score.

The purpose would be to help a representative group of stakeholders understand:

- What a computer adaptive test is and how it differs from pen and pencil tests
- What types of skills and thinking are sampled by the test
- What kind of predictive power the SBAC might have for college and career readiness (e.g. does performance on the SBAC predict success in college and careers?)
- What kinds of learning and mastery are associated with “proficiency” on this standardized test.



State Board of Education

We are working to maintain ongoing contact with the SBE. I call Stephen Morse to discuss pending legislation and priorities, and we send them FYIs alerting them to developments related to their role. This also helps us because we can loosen them up on particular bills (such as a recent bill related to waivers) that relates to their jurisdiction but is relevant to our work. This also frees up our time to track other priorities. So far, it seems like this is a positive relationship.

Rebecca



CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Jan 31, 2014
Re: Weekly Report

Status of Governor's Priorities:

n/a

Legislative Issues/Contacts:

House Comm for H, M & GA testimony:

H575 – restricts private businesses with liquor licenses from becoming lottery agents. Back again to explain the interest level of businesses that saw presentation of lottery vending machines and how many asked us to order one for them – over 60% were interested and 50% asked for at least one machine. Also pointed out that this did not separate alcohol consumption and games of chance due to break opens still being allowed, and fraternal orgs were not restricted from either break opens or lottery agency. Committee asked to have private businesses contact them so I am soliciting these businesses with emails and letters to make contact or provide comments. H631 – pay bonus commissions on winning tickets whether prize has been claimed or not. My further testimony on this appears to have whittled the focus down to just draw games because we cannot do this for instant tickets. Our cost to track and process this will be approx twice the amount that will be paid to agents for this bonus comm. that is not being paid now (ie. Cost \$2,000 to track and process payments of \$1,000 in bonus comm). Worst part of this whole thing is the bonus comm. began as an incentive to agents and was established as a rule. Now this legis. is trying to enforce a small fraction of it because one agent missed a \$400 bonus because a player has not claimed a \$40,000 prize and agent knows that he sold it. His state rep, Pat Brennan, is bill sponsor.

Press Issues/Releases/Contacts:

n/a

Significant Events/Meetings:

n/a

Evolving Issues:

Started budget testimony with House approps yesterday, with main focus on \$100K for new website and maintaining marketing budget at same level as last year – no increase.

Summary of Key Agency Department Activity:

Finished all tax reporting requirements for winners and agents with W-2G's and 1099's. Two new staff members start next week, leaving just one open spot.

Executive Director's Commentary:

Evidently, a previously RIF employee that claimed one of our job openings was due to be paid some benefit time that should have been paid to him earlier. HR caught this and is trying to process this payment while he is on our books. We are unwilling to accept the charge and requested written notice of where the cost will be transferred to. No answer has been provided as yet. The employee left us after two weeks on the job and we are not aware of his status with the state. Just letting you know as this appears to involve multiple depts.



OFFICE OF THE SECRETARY
Phone: (802) 828-2657
Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, January 31, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Potential Road Salt Shortage

This is a problem throughout the northeast but in Vermont, it is becoming acute for local government. We have used 75,000 tons and have 65,000 on hand. Although we have placed additional orders for 30,000 tons, we may be deferring some deliveries in order that some of the critical shortages in towns and cities are dealt with. The real problem is getting a read on the overall regional supply status as the vendors (Cargill, Sifto and American Rock Salt) are not particularly transparent.

This is not a critical issue for VTrans, yet. If we have normal winter conditions for a normal period of time we should be fine.

Vilas Bridge Update

New Hampshire DOT Commissioner Chris Clement has reached out in response to our offer to take on this project in exchange for a lower percentage share of upcoming Connecticut River bridge projects. He wants to meet me at the bridge in the next couple of weeks and we are working on a possible date for that meeting. I will bring a more specific offer, possibly in writing, to that meeting. The goal is to protect our previous agreements with New Hampshire concerning the maintenance of these bridges. A side deal involving this bridge and a limited number of future projects but not affecting the overall agreements is the goal as otherwise, we don't believe that New Hampshire will rehabilitate this historic and important structure and we'll end up in court.

I-91 Bridge Project-Brattleboro

The traffic back-ups on I-91 where this two-year bridge replacement project is happening have been manageable but pronounced on holiday weekends. With President's Day coming up we are looking at several additional strategies to forewarn travelers and tourists who use this corridor. We are working with our partners to ensure that our message informs but doesn't "alarm" our potential guests.

I-89 Bridge Project – Lamoille River Crossing, Milton

We are launching another long bridge project that will involve a “crossover” funneling north and southbound traffic on to the same bridge during construction. We are doing a lot of publicity in advance of this one and will limit lane closures during commute times in both the morning and afternoon. It will stretch the project schedule but should facilitate a much better traffic flow.

I-89 Sinkhole Update

You will recall that a couple of weeks ago we experienced a sinkhole in the southbound breakdown lane of I-89 north of the Lamoille River. This has been determined to be the result of a large culvert failure more than 30 feet under the road surface. Temporary repairs have been done and the situation is being monitored while a culvert lining project takes shape. We are in the permitting stage now and significant dewatering and even some ROW concerns must be addressed but we are looking at construction this spring.

You will note that the last three items all deal with an interstate system that is 40-55 years old and will require significant investment over the next several years, nationwide. I hope the Congress comes to grips with this reality and moves transportation out of the arena of partisan bickering.

Champlain Parkway Update

Trial has been set for February 11 for the last appellant in the Act 250 appeal of this project. The appellant is Fortieth Burlington, LLC, owners of the former General Electric/General Dynamics building at 128 Lakeside Avenue. They want the C.P. to tee up directly with their driveway and this is not allowed in the permit due to green space (Pocket Park) that exists directly across from the new road. They want the project to move their driveway to the location of the park/green space.

White House Climate Preparedness Task Force

Deputy Secretary Minter has been working to support your participation in the White House Climate Preparedness Task Force. As the Co-Chair of a Task Force Sub-Committee, Sue helped lead the group's first conference call and is coordinating its first convening at the Task Force meeting in LA on 2/13. Sue also convened a productive meeting with state and Congressional delegation staff to generate recommendations from "post-Irene lessons". The delegation staff appreciated the chance to "debrief" and encouraged us to host another session which Sue will help coordinate.

NOTES FOR STAFF

Higher Federal Share for Some Projects

Under the current federal transportation authorization, MAP-21, there is a new provision that allows for a higher federal share of freight-related project funding if states can show innovation as part of project plans (design-build, advanced construction techniques, etc.). We submitted our first four projects a few months ago, even before the USDOT had completed their own process for analysis of applications. Our “freight plan” which must

precede project approval, was the first in the country to be submitted and approved by USDOT.

We have learned that all four projects have been approved for a federal share of 90% from the normal 80% on the NHS or rail system and 95% from 90% on the interstate system. These projects are I-89 paving (Brookfield-Montpelier), I-91 Paving (St. J-Lyndon), Middlebury Rail Tunnel, and a paving project on US-5 near St. Johnsbury. We will be preparing other applications in the next several weeks.

And yes, we do note the irony of a Congress that is willing to provide incentives through increased federal share of funding but seemingly unwilling to provide for the source of the funds.

Winter Weather Damage to Roads at Higher Than Normal Levels

The extreme weather this winter including swings in temperature, long below zero periods, lack of snow pack and ice/rain events have resulted in more deterioration than we can remember. We have a team out this week investigating at least four areas where recent (last 4-8 years) paving projects are heaving and cracking long before they should exhibit such deterioration. Although we assume that the weather is playing the most significant role in this phenomenon, we are going to analyze other factors such as project design, asphalt type, etc. before making a judgment about the causes or the remedies.

On older stretches where weather-related deterioration is anticipated, it is more extreme this year than normal. In the 2014 Budget Adjustment Act which is headed toward passage in the next couple of weeks, there is an extra \$1.6 million for discretionary use on winter maintenance and paving/leveling.

2014 National Summer Transportation Institute at Champlain College

The highly successful program, which has been hosted by VTrans at both the University of Vermont and currently at Champlain College, is being reviewed for funding this year. In their response to the initial application the Federal Highway Administration wrote,

“the Vermont Agency of Transportation’s NSTI program received national attention in FY2013 for a variety of reasons. VTrans successfully hosted four students from American Samoa.....and those students were mentioned during a special video greeting from USDOT Secretary Foxx. In addition, the FY2013 program required a unique collaborative component between FHWA and FAA. It proved to be an innovative pilot model for other state transportation agencies around the country.”

The program is run by our Civil Rights Division under the direction of Lori Valburn and Colleen Montague but features involvement from all parts of the Agency.

Rockingham Public Transit SNAFU

Rockingham has an aging earmark for a park and ride near the Connecticut River Transit (CRT) facility and the FTA has lost patience with the town and their lack of progress on the project. We have sent VTrans specialists to assist but the town has not taken any of

our advice. In the latest attempt to revive the project we offered the services of our public transit program and its manager, Barbara Donovan, to take over management of the project and drafted an agreement to that effect. However, the town wants to retain local control so we have backed off. It is the strong suspicion of our public transit folks that this project will come to an unfortunate end and the funding lost sometime in the near future. We hope we are wrong but we've done all we can.

F+1

Vermont Transportation Board

A status conference was held at Superior Court in Montpelier in the VTrans appeal under Rule 75 of a decision of the Transportation Board on a construction claim. This is the one I have written about before where the Board took the unprecedented step of expanding their jurisdiction on construction claims from appellate to original. This is one of two actions we have initiated in appeal of recent T-Board decisions that could cost us hundreds of thousands of dollars.

In a separate, but related step, we are including in the Transportation Bill that will be introduced in the House next week a provision that would relieve the T-Board of jurisdiction over construction claims. That appellate role would be in the office of the Secretary of Transportation with further appeal to the courts.

It should also be noted, that the Governor will have the opportunity to appoint a new Chair of the T-Board at the end of February.

Sugar is an vt.

Bus Tour to Rutland and Bennington

Staff participated in the House Transportation and House Commerce bus tour to Rutland and Bennington this week. (VTrans provided bus/driver). The opportunity to travel and socialize with legislators was useful, both for educating members about our projects along the route (which we did as "tour guides"), but also to have time with individual legislators for longer conversations. Many good issues addressed – customer service. The Rutland stop focused on the GMP Innovations Center, and presentations from City/ Chamber/ Downtown Org/ Rep. from VT Gas (who pushed phase 3 of pipeline extension). Both the City and Chamber expressed strong appreciation for VTrans' efforts (bridges, rail and especially aviation), and reinforced the connection between transportation and economic development/tourism. The visit to the Rutland Airport, with a visit from a pellet manufacturer was interesting and appreciated.

We will have talking points on our Rutland County and City investments for the Governor's visit to the Rutland Chamber on Monday. Please consider a shout out for Rep. Russell for his advocacy on the Transportation Committee (he is under attack in the media for not pushing hard enough on a bridge, which was delayed by a right-of-way issue that neither he nor we could resolve expeditiously).

F+1

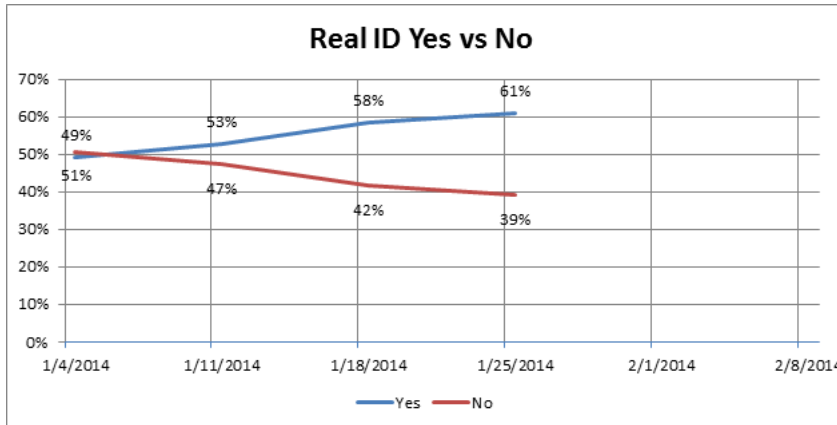
The Bennington tour was hosted by Joe Krawczyk and included a visit to the Welcome Center and several local intersections where they would like roundabouts. The finale was an excellent Public Hearing on both transportation (wish lists) and impressive local

initiatives related to workforce development and economic development. It was a long day, but both interesting and productive for all.

Real ID

The percentage of customers requesting Real ID Drivers' licenses continues to grow each week.

Year to date



Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: January 31, 2014

Integration:

We conducted a mini-retreat on Monday to follow up on the AHS retreat that you met with last September at Bolton Valley. This was smaller, and included Central Office staff and the 6 commissioners. The agenda was implementation of some of the integration changes that we have been considering. The purpose is to build the foundation and the culture of integration within AHS that will be necessary to successfully implement health care reform, integrate health with human services, control costs and assure quality outcomes for Vermonters.

To that end, we will be moving forward with the next phase of Integrated Family Services soon. (This is the effort around children's services that has been led by Melissa Bailey with support from Floyd Nease.) The integrated staff, which includes some from the Central Office, DMH, DCF, VDH and DAIL, will come together physically at a location on Harvest Lane in Williston, which had been previously occupied by a division of DAIL. This is a milestone. Addison County was the first adopter of this new model of integrated service delivery and payment, and is showing good results. Franklin County is next, with Washington County and the Northeast Kingdom to follow.

St. Albans State Office Building:

At the request of some employees in the Family Services Division of DCF and the VSEA, I met with employees of the state offices on Thursday. Jeb joined us for part of the meeting. That division has concerns about the design of their space which had not come to light earlier in the design process. While other occupants of the building (both AHS and Labor) have had their concerns resolved, somehow there had been a breakdown of communication between, Family Services, my office and BGS. I believe that we can fix most of the concerns. The meeting was constructive and ended on a mostly positive note, even if some of the BGS people are nervous.

Vermont Department of Health (VDH)

S.239 – An Act Relating to the Regulation of Toxic Substances:

The VDH is working closely with the Department of Environmental Conservation (DEC) to produce a streamlined version of the bill that would require companies to disclose the presence of "chemicals of concern" in consumer products sold in Vermont. The bill itself will lay out the criteria that a chemical would have to meet to be considered a chemical of concern.

Commissioner Chen, in consultation with the Secretary of ANR, would review disclosures and, if appropriate, add them to a list of Chemicals of Concern. The list would then be adopted by means of rulemaking and be posted on VDH's website.

question
why fix?
why not oppose?

1

Partnerships for Success Evaluation Young Adult Survey:

As part of the evaluation of the Partnerships for Success Grant, Pacific Institute for Research and Evaluation (PIRE) will be conducting a survey of 18-25 year olds in Vermont in February 2014 and again in 2016. The purpose of the survey is to assess changes in selected outcome indicators, including alcohol use and prescription drug misuse, among young adults aged 18 to 25 in the six grantee regions relative to the remainder of the state. The survey will be conducted entirely online and recruitment will take place via targeted Facebook ads and postcards mailed directly to Vermonters within the age range.

Department of Mental Health (DMH)

Health Care and Rehabilitative Services (HCRS):

HCRS, in collaboration with the DMH, trained 25+ police and emergency staff on Thursday. Commissioner Dupre gave the opening remarks. "Collaboration between law enforcement and Mental Health Crisis is paramount to a safe resolution when responding to individuals with mental health conditions".

Vermont Psychiatric Care Hospital (VPCH):

Representative Donahue was upset with delays regarding Electronic Health Records (EHR) for the VPCH, which have been in negotiations with Fletcher Allen for several months. In addition, Rep. Donahue is upset that VPCH will not be a totally smoke-free campus (there will be smoking areas for state staff). Commissioner Dupre will be meeting with Senator Ayer and Representative Pugh to discuss this further.

WCAX:

Jennifer Reading with WCAX would like information regarding people who have been found incompetent by the Court and are ordered to inpatient care. Deputy Commissioner Reed and DMH Legal Counsel Dena Monahan are researching this.

Department of Disabilities, Aging and Independent Living (DAIL)

Successful Aging Commissioners energized by meeting:

Representatives from the Governor's Commission on Successful Aging met on Thursday with Commissioners Wehry and Noonan, the Deputy Secretary from Commerce, and you to present their recommendations for making better use of Vermont's mature workers. Acknowledging that mature Vermonters are an asset to be tapped, you endorsed the idea of having best practices disseminated and an Employer Recognition Award for those who promote "mature worker friendly" environments.

House Human Service Committee hears testimony on Developmental Disabilities Service System (DDS):

Division Director Camille George answered questions from the Committee about DAIL's DDS system of care plan, now being revised. Chair Ann Pugh expressed two concerns: a belief that the legislature should have more of a voice in setting priorities and that there was a need for more oversight. Barbara Prine from VT Legal Aid agreed to the need for more oversight and also suggested there should be no limit on spending; the current DD Act clearly states the plan must prioritize services based on available resources. Camille acknowledged there were fewer

quality improvement staff following state position rescissions in 2009 but made clear the system of care plan worked well for setting priorities.

Senate Appropriations proposes additional funding authorization for Choices for Care reinvestments:

Senator Kitchel sought input for her proposal that language be added to BAA as follows: (a) *Of the funds available for reinvestment in fiscal year 2014, DDAIL is authorized to utilize up to \$1,000,000 in FY14 and FY15 on one-time investments that directly benefit eligible choices for care enrollees and one time investments to home and community based providers that are consistent with and prioritized based on current needs analysis to meet the overall strategic goals and outcomes of the waiver. This authorization is in addition to the reinvestment plan most recently submitted by the dept.*

The Department welcomed the permissive, rather than mandatory nature of the language and supported it (after a nod from Jim Reardon).

Sisters of Mercy Administrator to meet with DAILs Division of Licensing and Protection (DLP) Director:

DLP Director Clayton Clark will meet next Wednesday with Sister MaryAnn Reed to discuss findings from a recent complaint visit. Our hope is to arrive at common understanding of the living situation at St. Mary's Convent and to determine what, if any, additional safeguards need to be in place to insure health and safety of the Sisters' aging community.

Commissioner Wehry responds to Connie Woodberry:

Commissioner Wehry had a very positive conversation with Connie Woodberry regarding Ms. Woodberry's concerns about the erosion in Developmental Services, and fears that her son may have a reduced quality of life. Ms. Woodberry further stated that recent testimony by the Commissioner that "no harm would be done" seemed to dismiss that concern. The Commissioner assured Ms. Woodberry that she did not want to see anyone's quality of life decline and that her remarks were simply intended to make clear that there was a real effort made to minimize the risk of serious harm to health or safety. We found some common ground and agreed to work together to find solutions. Ms. Woodberry was very appreciative of the call and the Commissioner is grateful she made it.

Survey and Certification Director answers questions about North Country Hospital:

The DLP recently conducted an onsite investigation regarding confidentiality of patient records. The investigation resulted in the citation of one deficiency related to the failure of the hospital to have safeguards in place to prevent unauthorized use of patient record information. Because of the limited scope of this violation, the Centers for Medicaid and Medicare Services (CMS) did not impose any enforcement action against the hospital nor will DLP conduct a follow-up visit in relation to this case.

Department of Corrections (DOC)

Staff Searches:

Following the State of the State Address, Senators Campbell and Sears have asked the DOC to draft legislation regarding staff searches. This legislation aims to reduce the introduction of

contraband into correctional facilities by DOC staff. It is expected that the Vermont State Employees Association (VSEA) will push back strongly on this legislation.

Corrections Corporation of America (CCA) - Kentucky Facility:

With no notice, the warden of the Lee Adjustment Center in Kentucky resigned on Monday, January 27th, citing personal and health issues. CCA is working with the DOC on finding an appropriate replacement; it appears they have someone specific they are recruiting. The lockdown has been eased and limited movement is being allowed. DOC staff are on site as of Wednesday, January 29th. The DOC will maintain a constant presence over the next four weeks to ensure that CCA's plan is put into place. This plan includes a greater staff presence. Commissioner Pallito had a conference call with CCA management on Wednesday to keep the lines of communication open with CCA staff. This topic continues to attract media attention.

New General Counsel (GC):

Kurt Kuehl has accepted the position of GC with the DOC. He will begin employment with the DOC on February 22nd.

Population

The department's incarcerated population averaged 2,130 for the previous week. The male population averaged 1,973 with 376 being presentenced inmates. The female population averaged 157 with 48 being presentenced inmates.

Department for Children and Families (DCF)

Progress on Weatherization Front:

Eighty-three percent of the homes weatherized in December (40 out of 48) were also in the LIHEAP program. Last year only around 40% of the homes weatherized were on LIHEAP. Commissioner Yacovone will try to educate members of the House Appropriations Committee in his testimony this coming week that DCF is covering closer to 65% of LIHEAP members' fuel bills as opposed to the 30% originally thought. For years our percent of assistance was based on the assumption that LIHEAP members consumed about 750 gallons of fuel a year where they actually consumed about 500 gallons a year. This means our annual rate of assistance is much higher than we thought. The actual usage is less than assumed in part due to our weatherization efforts. Even though our targeting was not as intense as it is today, many LIHEAP beneficiaries have been aided by the Weatherization Program over the years.

Department of Vermont Health Access (DVHA)

Brattleboro Retreat:

DVHA and the Division of Alcohol and Drug Abuse Programs (ADAP) are meeting with BR on February 6th, for a review of the clinical decision tree that BR believes needs to be in place for clinical decision making. This decision tree will allow for 1st day admits when appropriate, but will be time limited until Hub & Spoke access is expanded, approximately six months.

2015 Vermont Health Connect (VHC) Plan Designs:

DVHA is proposing changes to the VHC plan designs for 2015. These include:

1. Ensuring preventative pediatric coverage gets first dollar coverage

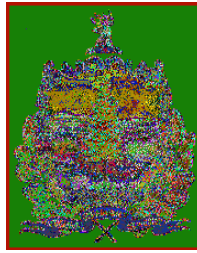
2. Adjustments to meet actuarial value requirements by increasing benefits at platinum standard and at one of the bands in the silver variation.

2013 Annual Report for the Vermont Blueprint for Health:

In 2013, the Blueprint continued to grow and strengthen the underlying model in all geographic regions or Health Service Areas (HSAs) in the state. A few highlights include:

- NCQA recognition of 17 new practices serving an additional 91,370 patients
- Blueprint recognition of the first naturopathic practice as an advanced primary care practice
- Cumulative recognition of 121 PCMH practices serving a total of 514,385 Vermonters
- Expansion to 120 CHT staff statewide
- Statewide SASH coverage with 36.5 SASH teams serving high risk Medicare beneficiaries
- New model of care for Opioid Addiction Treatment called Hub and Spoke implemented statewide with 5 regional addiction treatment centers (Hubs) and 30 Spoke staff (nurses and clinicians) deployed to buprenorphine prescribing practices (Spokes)

116 STATE STREET
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY
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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 31, 2014

Secretary's Top Issues

Farm Show

Overall, the Farm Show was a big success. Now in its third year at the Champlain Valley Expo, the show has truly hit its stride. The Agency supports the Farm Show by providing PR services and organizing Consumer Night. Agency staffers also play key roles in the meetings and banquets for the producer organizations. Sec. Ross addressed a variety of producer groups at their annual meetings, including

- Beekeepers
- Christmas Tree Growers
- Sugar Makers
- Future Farmers of America
- Specialty Foods Assoc
- Dairy

Working Lands Enterprise Board (WLEB)

The Annual Report of the WLEB was presented by VAAFM on January 22, 2014 to a joint committee of House & Senate Ag and House Commerce. The Working Lands Enterprise Board invested over \$1 million (\$1,037,000.00) into 37 agriculture and forestry projects reaching every county in the State **leveraging an additional \$1.3 million** in matching funds and is projected to create an additional **45 jobs**.

Consumer Protection

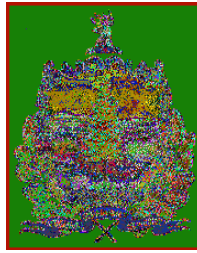
Consumer Protection Specialist Scott Dolan conducted the first ever winter Good Agricultural Practices (GAP) inspection. This was done at one of the first year round greenhouses producing lettuce and basil located in Waitsfield. This represents a significant potential expansion of the GAP program into nontraditional production seasons.

Enforcement Actions

Three small farms on the same road in Castleton will be issued corrective action letters for violations of AAPs:

- Farm 1: Runoff of wastes from the production area includes milkhouse waste, silage leachate, manure from transfer area in barn and from heavy use pasture area. In addition, some fields were found to lack the required 10 feet of vegetative buffer between row crops and surface water.
- Farm 2: Horse manure and stable bedding waste is stored within 100 feet of surface water, in fact it is stacked right on the stream bank.
- Farm 3: Runoff of wastes from the production area to surface water includes silage leachate and waste from the barnyard. In addition, two stacks of manure were observed within 100 feet of a streambank.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 31, 2014

Status of Governor's Priorities:

Legislative Activities and Issues

H. 329, State House Hearing 6-8 pm – Stephanie Smith

Senators Ashe, Starr, MacDonald, Westman, Hartwell, Bray.

- Several members of the public spoke, including a representative from Vermont Natural Resources Council, Jamey Fidel; and Rural Vermont, Carl Russell, and a couple of foresters and a municipal lister.
- General matters discussed on the current strike all senate version of H. 329 ranged from providing
 - further clarity to mapped exclusions, and the proposed floating exclusion.
 - The impacts of the lien placed on the land enrolled-how it is discharged How farm buildings and farm land are assessed (what might the proposed rules look like?)
- The proposed cap generally a concern was discouraging continued enrollment because it affects individuals that are land rich and cash poor. It was suggested that a cushion be provided to work in the cap over time and Provide time for municipalities backfill the conservation program. Cap will increase pressure to develop land.
- The discussion included comments for (by individuals enrolled) and against posting land enrolled in the program.
- Expressed by some was the concern about being fair to both the taxpayers of the state and the enrolled landowner.
- More than one speaker thought that the state could be looking for a revenue source with previous house version around penalties; or addressing fiscal concerns with the proposed cap.
- Inequity in how payments are distributed (Lake George lower land values, Charlotte higher values but lake George needs the revenue more)
- Issues brought up were
 - parking of land by developers
 - How to assess value when there are few comparable sales, or sales that do not reflect atypical sale
- General the speakers favored
 - audits,
 - ensuring land is indeed being farmed or buildings used for farming.
- Licensure for foresters will not I increase professionalism, but will increase costs for those that want to enroll in the program.

Pet Dealer Permit Law enacted 2013 - House Agriculture – Kristin Haas provided an update

- The Agency has held one Q&A conference call for town clerks and has posted useful resources on the website that can be accessed by them.
- The Agency developed and has available pet dealer permit forms upon request by town clerks. Alternatively, clerks may order them from Corrections.
- The Agency is participating in a follow up conference call for town clerks and a workshop for the same in February to continue to answer questions about the new requirements.
- One point of confusion for clerks is the interaction btw the pet dealer permit requirement and the special license requirement - Committee said they could perhaps work on clarifying the existing statutory language.

Livestock Care Standards Advisory Council -House Agriculture – Dr. Kristin Haas testified and presented the following information:

- The Livestock Care Standards Advisory Council recently welcomed Dr. Todd Pritchard as a new member; all other member seats are currently filled
- The Council will be submitting to the Committee by the end of February a letter addressing livestock welfare concerns related to Act 83, the on-farm slaughter law enacted last year
- The swine gestation and tail docking position statements created by the Council still represent the Council's positions on these issues.
- The Council has been especially focused on education/outreach during the past year. The following accomplishments were noted: successful collaboration with UVM Extension to host a livestock low stress handling workshop as part of the Grazing conference in Fairlee - more are planned; ongoing development of a transport best management practices toolkit for livestock dealers, producers, slaughter facility personnel and auctions; all pertinent materials created by the Council are located on the VAAFM website.
- The Council appreciates the continued support of the Committee and their willingness to seek Council input on proposed legislation that impacts livestock animal wellbeing.

H. 374, proposes to clarify what dental procedures performed on animals require a veterinary license – Dr. Kristin Haas testified and made the following points:

- The Agency of Agriculture does not have an official position on this bill as its content is not within the Agency's purview
- The Agency has not received complaints from pet owners related to dog groomers performing dental scaling on dogs with which they are otherwise grooming; VAAFM does not license dog groomers
- As a veterinarian and a VVMA member, I support the principles in H.347
- If the Committee is interested in obtaining information related to complaints made in this area, they should hear from a representative of the Vermont Board of Veterinary Medicine in the Secretary of State's Office of Professional Regulation
- If the Committee is concerned about the repercussions of the passage of this language, perhaps they could consider a phase in period for implementation

H. 112 GE/GMO - Senate Agriculture – Sam Werbel

Michael O'Grady from the office of Legislative Council to give legal perspective and help with language review.

- Examination of the possible interpretations of language used and although much was changed none of the changes affected the purpose of the bill, only the tone. Changes illustrate
 - the possibility rather than the certainty of negative results of GMOs. The language that was examined (in only the first 6 pages of the bill) was about the pros/cons of GE crops and not about "right to know".
- Idea was raised that perhaps VAAFM Meat Inspectors/Animal Wellness officers could be asked if they notice anything different in the health/wellbeing of animals fed with GMOs versus not.
- The Committee acknowledged that the bill indicts large scale agriculture (perhaps even more of an attack on a type and scale of farming than on specifically GMOs).

Dr. Deanne Racette, a general surgeon at Copley Hospital

- Dr. Racette gave the story of how she moved from rural farming PA to VT and how being around farmers and spending time at farmer's markets educated her about the importance of local, healthy, natural foods.
- From this she chose to make healthier dietary choices, her testimony specified limiting/eliminating processed foods, eating more local and organic food and consuming raw milk. She had tremendous health benefits from dietary change and encourages her patients to make similar changes.
- She mentioned several times the importance of a balanced "gut micro-biome" and how autoimmune, thyroid, adrenal health and solid organ (liver, spleen) functionality rely on that. The things a healthy diet is key to a healthy gut micro-biome
- She said how glyphosate and other pesticides were also part of this negative cycle.

- She is concerned that the increased number of cases of lymphoma and various cancers that she is seeing as a surgeon is because of GMOs (she claims it's similar to what lab animals have reflected).
- Dr. Racette did not cite any science or studies specifically, but did reference Don Huber and Stephanie Seneff.

Before dispersing the Committee briefly raised issue of the language that will be used in the trigger – and the need for that language to be delicate as to avoid being sued.

Wednesday, January 29, 2014

S.119 Amending Perpetual Easements – House Judiciary- Stephanie Smith

Chris Cole, AOT. The Agency currently considers environmental impacts in road way design, and is subject to numerous public processes in road development; including comment on conservation easements. The bill with an amendment would exempt AOT when the amendment of a conservation easement subject to a written determination by necessity prepared by [AOT] in accordance with 19 V.S.A. 503. Darby Bradley, VLT commented that this process appears to be in line with requirements of the proposed bill.

Meline Kehne, Natural Resources Board

- The NRB supports
- There is a proposed amendment to deepen the bench to allow for alternates to the NRB to serve on easement amendment panel.
- Expedite process with
 - earlier effective dates and
 - ability to use the emergency rule making process. John Hazen prior counsel to NRB drafted rules already.
- Concerns exist about staff resources to conduct effective review.

Jeanie McIntyre, President, Upper Valley Land Trust -Issues are

- Impacts to donor confidence-potential that this bill if it becomes law will circumvent common law protections of a donated easements
- Interplay between state legislation and federal law
- National discussion (regionally important to ensure that donor interests are protected)
- Aaron Adler, Legislative Council, indicated that the Bill would not compel land trust to use the process outlined- a land trust could still go to the Courts to amend an easement.
- Ms. McIntyre commented that applying this to bill retroactively could be an issue.

Rep. Harvey Smith discussed how the flexibility of being to amend easements is an important. He supports the concepts outlined in the bill.

Dennis Schaffer, Vermont Land Trust provided example of the various categories of easements that could be approved through the various processes. About 20 a year- approx. 3-5 would be considered a Category 3 or major amendment.

Gus Seeling, Vermont Housing and Conservation Board, Executive Director

- VHCB board is supportive
- Primary concern is transparency
- Agriculture is changing in two directions- Dairy getting bigger and more profitability with smaller farms
- This needs to be a timely response to the easement amendment process and changes of an unpredictable circumstances
- An opportunity to build trust with a farmer and be responsive to his or her needs

Joe Chocette, DRM- advocating on behalf of Vermont Gas concerning easement amendments. Explained the CPG process and the described a proposed amendment. Rep. Lippert asked whether conservation interests are considered in the CPG process. He didn't know the answer. Rep. Lippert invited Chris Roy, Counsel at DRM to schedule time with the committee to address additional questions.

Scott Klein Vermont Assistant Attorney General highlighted some need changes to conform to Federal Law.

H. 112 GE/GMO - Senate Agriculture – Tim Schmalz

Dr. Michael Hansen, Consumer's Union testimony covered

- the history of CU activities and FDA proposed policies regarding GE regulation,
- safety and health testing, and the inadequacies of the FDA and EPA oversight and policies.
- Strongly supports the bill and the right to know,
- Feels that the absence of conclusive evidence that GE is safe for human consumption and the lack of adequate oversight satisfies the legal threshold for a compelling state interest for labeling of GE foods
- Covered studies on pigs increased uterine weight in GE fed pigs as well as increased gastric inflammation rates in GE fed pigs, and the impacts on mice fed GE corn in Italian study showing increased rates of cellular changes as evidence of studies confirming health effects of GE products
- Concerns over herbicide resistant weeds as a result of GE crops and increased herbicide use
- Strongly condemned FDA practices and their absence of formal policy, stressed the states have to take lead on GE labeling and only then will the Feds step up.

Steven Drucker, Alliance for Bio Integrity testimony (phone)

- Went through the handout iteratively to make case for GE labeling (attached)
- Centered on his case against the FDA decision to make GE foods GRAS, which they should not have done based on their own admission
- EPA has done a better job overseeing those areas where they have authority (plant incorporated protectants – Bt trait in corn), but they are also weak in enforcement and oversight

Martin Donohoe, MD, OR Physicians for Social Responsibility testimony (phone)

- Restated his testimony from earlier, stressing that GE labeling is prudent given the number of concerns and studies showing human health effects from GE products.
- Some of the studies showing no harm were unethical in addition to being misleading
- FDA is basing their findings of GRAS on industry data that may be misleading, selectively applied, or even subject to redaction or omission of unfavorable data.
- The abundance of ‘concerning’ data, selective data reporting, inadequately designed and implemented studies, all lead to the conclusion that GE labeling is prudent, in order to allow informed choices.

Press

Marketing & Communications

This week was the annual Farm Show at the Champlain Valley Expo. The event was well-attended by local media, and many Agency staffers were interviewed. On Tuesday, VPR's Vermont Edition broadcasted live from the show. Sec. Ross was the anchor guest. WDEV broadcasted live each morning, and the following staffers were guests of Mark Johnson

- Sec. Chuck Ross (also interviewed by WDEV's Bill Sayre)
- Emilie Inoue, VAAFM State survey coordinator for the collaborative agricultural pests survey
- Abbey Willard, VAAFM Farm to Institution, Consumer Night
- Henry Marckres, Consumer Protection Chief and National Maple Expert
- Johanna Herron, VAAFM Farm to School, Workplace CSA
- Diane Bothfeld, VAAFM Dep. Sec. Dairy Policy
- Diane Bothfeld, VAAFM Dep. Sec. Dairy Policy

Also at the Farm Show, Alison Kosakowski was featured on “Across the Fence” with Judy Simpson.

WPTZ interviewed Steve Parise, our apiary expert, on issues related to bees.

WCAX's Gina Bullard was live from Consumer Night, featuring the Capitol Cook-off on the :30.

Unrelated to the Farm Show, Alan Graham was contacted by Nina Keck at VPR about bed bug issues. He deferred a response to the Department of Health.

Significant Events/Meetings:

Farm Show

Overall, the Farm Show was a big success. Now in its third year at the Champlain Valley Expo, the show has truly hit its stride. The Agency supports the Farm Show by providing PR services and organizing Consumer Night. Agency staffers

also play key roles in the meetings and banquets for the producer organizations. Sec. Ross addressed a variety of producer groups at their annual meetings, including

- Beekeepers
- Christmas Tree Growers
- Sugar Makers
- Future Farmers of America
- Specialty Foods Assoc
- Dairy

Evolving Issues:

- Consumer Protection Specialists reported three scanner inspection violations in retail stores. The locations were in Montpelier and Fair Haven. The violations will result in Reports of Corrective Actions Taken (RCAT's) to encourage the retail stores to improve their pricing integrity.

Summary of Key agency Department Activity

Agricultural Development:

Working Lands Enterprise Board (WLEB)

The Annual Report of the WLEB was presented by VAAFM on January 22, 2014 to a joint committee of House & Senate Ag and House Commerce. The Working Lands Enterprise Board invested over \$1 million (\$1,037,000.00) into 37 agriculture and forestry projects reaching every county in the State **leveraging an additional \$1.3 million** in matching funds and is projected to create an additional **45 jobs**.

Agency presenters included Chuck Ross, Secretary of Agriculture, Food & Markets; Jolinda LaClair, Deputy Secretary of Agriculture, Food & Markets; Mike Snyder, Commissioner of Forests, Parks & Recreation; Lucy Leriche, Deputy Secretary, Agency of Commerce & Community Development; and Colleen Leonard, Working Lands Policy Administrator. Grant recipients from the three investment areas also presented on early success stories:

Enterprise Investment Area

- **Screamin' Ridge Farm™, Joe Buley, Montpelier, VT**

\$15,000 to Purchase equipment that will boost production capability and efficiency of Joe's Soups

Service Provider Investment Area

- **The Vermont Solid Waste District Managers Association/Highfields Center for Composting, Jim Davis, Executive Director, Hardwick, VT**

\$55,000 for Technical Planning Services for Food Scrap Composting

Capital & Infrastructure Investment Area

- **Vermont Woodworking School, Carina Driscoll**

\$50,000 for Incubator space for emerging woodworking businesses

- **Black River Meats, Sean Buchanan, Springfield, VT**

\$50,000 to Build Volume and Value for Vermont Livestock Producers in New Regional Meat Markets

Food Safety and Animal health and Consumer Protection:

Consumer Protection:

- Weights and Measures Specialist Marc Paquette represented the VT Agency of Agriculture at the Vermont Maple Conference located in Hyde Park. An estimated 400 sugar makers attended the event. The specialist tested hydrometers for numerous attendees and presented two classes with timely topics including The VT Grading System as of 2014 and the Vermont Sugar Makers Association Voluntary Certification Program. The VT Agency of Agriculture is providing independent third party inspections for this certification program designed to address food safety issues in the maple industry. The specialist also attended the Caledonia County Maple Meeting providing technical assistance in similar subject matter and conducted a maple grading class to forestry program students at the Green Mountain Tech and Career Center at their facility in Hardwick.

- Consumer Protection Specialists reported three scanner inspection violations in retail stores. The locations were in Montpelier and Fair Haven. The violations will result in Reports of Corrective Actions Taken (RCAT's) to encourage the retail stores to improve their pricing integrity.
- Consumer Protection Specialist Scott Dolan conducted the first ever winter Good Agricultural Practices (GAP) inspection. This was done at one of the first year round greenhouses producing lettuce and basil located in Waitsfield. This represents a significant potential expansion of the GAP program into nontraditional production seasons.

Meat Inspection:

- Information request for a proposed “custom” (one that slaughters animals for the individual owner without inspection and are “Not for Sale”) slaughterhouse in the Fairlee area
- New license for a “custom” processing plant in West Fairlee sent today
- Met with representatives for an exempt product producer in Dorset to discuss options for expanding the business ranging from moving into a retail exemption or possibly moving into inspection to capture a larger market share
- One plant in the Orleans area working with both state and federal inspection have requested a temporary voluntary withdrawal from state inspection in order to focus on their federal processing as the out of state distribution business is growing faster than expected. They have contracted with another state inspected facility to pick up the production that they cannot keep up with.
- Corresponded with the Federal Philadelphia district office to explain the VT “custom” plant inspection program. The District office was not aware that the federal review branch has already reviewed the program and found it to be acceptable!

Agricultural Resource Management:

Plant Industry staffed an exhibit at the Farm Show all three days. Information regarding invasive insects, mosquitoes and ticks were available and staff were on hand to answer questions. The booth was well attended with many interested visitors, including students and children, and was a great success. Exhibit staffing support was also provided by UVM-extension and the Department of Forests, Parks and Recreation. Prominently featured were the “Don’t Move Firewood” message, glass display cases featuring mosquitoes, ticks, and bumble bees, as well as mosquito and tick-borne disease information. Additionally, the success of the emerald ash borer and Asian long-horned beetle outreach efforts (a major part of the CAPS cooperative program), was evident in the numerous Vermonters now able to recognize these two insects and are actively looking for them, as was clearly evident in talking to the public.

Manure Spreading Requests

- A small farm in Orwell has been granted an exemption to the Winter Manure Spreading Ban. The Farm’s spreading contractor experienced equipment difficulty prior to the beginning of the ban, and was not able to empty the pit in time.
- A medium farm in Ryegate has been granted an exemption to the Winter Manure Spreading Ban. The manure storage structure cannot be used as intended due to fluctuating temperatures leading to the layering of ice and liquid manure in the structure.

Enforcement Actions

Three small farms located on the same road in Castleton will be issued corrective action letters for violations of the AAPs:

- Farm 1: Runoff of wastes from the production area includes milkhouse waste, silage leachate, manure from transfer area in barn and from heavy use pasture area. In addition, some fields were found to lack the required 10 feet of vegetative buffer between row crops and surface water.
- Farm 2: Horse manure and stable bedding waste is stored within 100 feet of surface water, in fact it is stacked right on the stream bank.
- Farm 3: Runoff of wastes from the production area to surface water includes silage leachate and waste from the barnyard. In addition, two stacks of manure were observed within 100 feet of a streambank.

Secretary’s Comments:

Legislature – Worked with the Department of Environmental Conservation and presented to Legislative Leadership a Lab Feasibility Study; Testified to House Judiciary Committee on S. 119

Press – Had three radio interviews from the Farm Show with Mark Johnson of WDEV, and Bill Sayre and Ric Cengari of VPR

Meetings – Attended Board/Annual Meetings with the Vermont Vegetable and Berry Growers Association, the VT NH Christmas Tree Association, the VT Beekeepers Association, the VT Maple Sugar Makers Association, the Vermont chapter of the Future Farmers of America, the Vermont Specialty Foods Association, the Vermont Dairy Industry Association and the Vermont Housing Conservation Board and the Vermont Land Trust to discuss S. 119, Conservation Easements and the process for Governor's approval.

Ongoing Discussions with Governor's Office – Meeting on January 31 to discuss Lake Champlain TMDL.

Upcoming Issues and Events – Will be attending the National Association of State Departments of Agriculture (NASDA, of which Sec. Ross is the president) winter policy conference next week in the Washington, D.C. area. Available by phone.

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**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: January 31, 2014
Subject: ANR Weekly Report

Governor Level Issues:

Appeal of Plum Creek Maine Timberlands, LLC (Confidential, Attorney Client Privileged, Attorney Work Product): The Essex Superior Court issued its decision of the Appeal of Plum Creek contesting the discontinuance for over 56,000 acres from the UVA Program for FPR's adverse inspection report for cutting contrary to the forest management plan. The Court reversed the PVR discontinuance decision and adverse inspection report of FPR. The Court's decision relies on an analysis of the facts as presented by the State's expert and Plum Creek's experts. Essentially the Court decided that Plum Creek's expert was more credible and ruled in their favor. More details are in the body of the weekly.

Lake Champlain TMDL: EPA's and public comments on our "Proposal for a Clean Lake Champlain" have been posted on the DEC Lake Champlain TMDL webpage. A meeting with EPA has been scheduled for Feb 6 to discuss stormwater waste load allocation and implementation planning aspects of the TMDL.

EVERYTHING ELSE:

Legislative Issues/Testimony:

Shorelands: After making significant revisions to the version passed by the House, the Senate Natural Resources and Energy Committee voted unanimously to approve H.526, the Shoreland Protection bill. The most significant issues in the run-up to the final vote were (a) the standard for delegation of authority to municipalities to implement the program, (b) the amount of cleared

area / impervious surface allowed in the near-shore natural vegetation zone, and (c) exemptions for agricultural activities, maintenance of road infrastructure, and downtown waterfronts. All of these issues were resolved in accordance with the Administration's position on the bill and appear to have satisfied municipalities and the environmental community. The development community continues to express concern. The bill now heads to the Finance Committee for consideration of the fee provision.

Lake Champlain Cleanup Plan (TMDL): Commissioner Mears testified in front of the House and Senate Transportation Committees at the request of VTrans to provide background on the Lake Champlain cleanup efforts. The committees were looking for information on all facets of the cleanup including the scientific basis of our current efforts to target cleanup actions, the scope of potential actions required, and the legal context. They were particularly interested in information about the parts of the department's proposal relating to roads. We have scheduled a meeting for House leadership and key committees on February 12 to provide more information on the Clean Water Act total maximum daily load (TMDL) process and are working to schedule a similar meeting on the Senate side.

H.586 (House Fish, Wildlife & Water Resources Surface Water Quality Bill): David Deen's committee took extensive testimony on the omnibus water quality bill, including sections related to agricultural and road maintenance practices. DEC staff testified regarding the MOU between ANR and AAFM for enforcement of water quality violations arising from agricultural practices.

House Committee on Commerce and Economic Development: DEC staff testified on H.578 in support of changes to 24 VSA Chapter 120 relating to the new loan fund established to finance repairs to homeowner wastewater systems and water supplies. During testimony, some minor changes to the bill were discussed. The State Treasurer's office has also testified on this bill, in support. Two additional House committees, Fish & Wildlife and Water Resources and Ways and Means will review the bill next.

Senate Committee on Institutions: Testimony was provided Wednesday in support of two capital budget adjustments consisting of: an additional \$614,000 for the state match to the federal FY14 EPA Clean Water State Revolving Fund grant, which will increase the appropriation from \$700,000 to \$1,314,000 and a \$307,000 appropriation for the Village of Waterbury phosphorus grant. Testimony was concise and committee members' questions were answered without need for providing follow-up information.

Electric Vehicles: Asa Hopkins from PSD testified before the Senate Transportation Committee about a legislative report on "the feasibility, alternative implementation mechanisms, and timeline for replacing, in whole or in part, motor fuel tax revenues not collected from operators of plug-in hybrid and all-electric vehicles." The Committee seemed somewhat receptive to the report's conclusion that, given the net positive impact of electric vehicles on the transportation fund at present, an increased registration fee for electric vehicles should only be adopted if paired with an electric vehicle purchase incentive program.

Land Exchange: Commissioner Michael Snyder and ANR Lands Administration Director Mike Fraysier met with Sen. Institutions to provide updates on a proposed joint resolution, a land exchange with Markowski Excavation.

H. 217: Commissioner Snyder provided testimony to the House Human Services Committee on H.217, a bill proposing to extend restrictions on smoking in workplaces and areas of public access including state forests and state parks.

Press Issues/Releases:

New Source Performance Standards: Ken Picard of Seven Days wrote an article on the EPA's proposed revision to the New Source Performance Standards for wood burning devices. The article discusses the health effects of wood smoke on Vermont's population and the effects of more stringent regulations on Vermont's wood stove manufacturing sector.

Good Point Recycling: Several media outlets including WCAX, VTDigger and the Addison Independent reported on Robin Ingenthron's recent announcement of layoffs from his electronic waste recycling business. He is blaming DEC staff and the state contracting process for the layoffs. In statements to the media, David Mears expressed concern about the layoffs and explained that the department has at all times followed state contracting requirements and has treated Good Point Recycling fairly.

VT Fraternal Order of Eagles Grant Expands Fishing Program in State Parks: The Vermont chapter of the Fraternal Order of Eagles has given a grant to F&W to greatly expand the popular Let's Go Fishing program in Vermont's State Parks. The \$3,000 grant from the Eagles' Jimmy Durante Children's Fund will provide hands-on educational materials to State Park interpreters to allow them teach families about fishing.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Visit to Hearthstone Stoves in Morristown: At the invitation of David Kuhfahl, President of Hearthstone Quality Home Heating Products, Inc., Air Quality and Climate Division staff visited the Hearthstone factory to hear his concerns about recently proposed federal regulations pertaining to wood heating including woodstoves. Hearthstone currently has 16 wood and pellet stove models that are EPA certified and Mr. Kuhfahl expressed concern about the cost associated with having to recertify 16 models in a 5 year period using a new test method as required under the proposed regulations. We encouraged Mr. Kuhfahl to present his concerns via comments to the EPA. We also explained that the Agency supports wood burning and wants to see it done as cleanly and efficiently as possible. He indicated he will be submitting comments to EPA on these regulations and attending a public hearing in Boston on Feb 26.

Zero Emission Vehicle MOU: We met with staff from BGS, VTrans, and DPS to discuss the zero emission vehicle MOU. The group identified who should take the lead on various obligations, and discussed next steps regarding the development of the Action Plan, due in April.

IBM: The recent cold weather has resulted in IBM shifting from natural gas to their backup fuel, No.6 oil, until further notice. IBM's current permit requires the use of 0.3% sulfur fuel, but, due to recent regional trends in No.6 oil usage, 0.3% sulfur No.6 is not currently available and unlikely to be available in the near future. Therefore, IBM needs to begin purchase of 0.5% sulfur No.6 in the next few days, the lowest sulfur No.6 that is available, in order to maintain a reasonable supply of fuel on-site. We are now exploring the option and timing of issuing a permit amendment just for the sulfur in fuel due to this emergency.

Sunset Farms Mobile Home Park/John Bushee (Bennington): An Emergency Order was issued by the Environmental Court in this matter. The EO requires that the Respondent take specific action to correct the violations related to the water supply system. The timelines contained in the order give Mr. Bushee a short window of time to complete a series of necessary steps to correct the water supply issues. If he does not correct these problems, we will seek a second emergency order appointing a receiver and closing the park. We are coordinating this effort with ACCD and have informed local legislators of this pending action.

Lean: Innovation and Planning staff are busily preparing for our first Lean events week which will be held on the week of Feb 10. Three projects are underway: (1) improving the system for petroleum cleanup fund payments to contractors; (2) addressing the backlog in audits of clean water state revolving fund loans; and (3) streamlining the tracking system used by the wetlands biologists to improve the wetlands regulatory process. At the end of the week, there will be a celebration of the results of this first round of Lean events. We will be in touch with the Governor's office to invite him to attend at the celebration.

Universal Recycling Outreach: Waste Management presented details of the Universal Recycling law to the Vermont Campus Sustainability Network--a group of sustainability coordinators and representatives from colleges and universities around the state. Many of these colleges already have active recycling and composting programs in place and there was good discussion of the law, its implications, and opportunities.

Fish and Wildlife

New Orchard Proposed for Chestnut Trees: Staff attended a presentation by representatives of the American Chestnut Society to discuss whether the department might provide space for a seed orchard to grow resistant trees which would produce a supply of nuts to be planted in the wild.

ANR Bridge and Culvert Database: Staff worked with DEC and ANR-IT to include the ANR Bridge and Culvert database to the web-based ANR Atlas. This data provides an assessment of aquatic organism passage and geomorphic compatibility to over 5,000 culverts and is used by state and federal agencies, anglers and NGO's to identify enhancement projects for aquatic

organism passage. The addition of this data to the agency's GIS mapping tool provided by the agency will greatly enhance the effective use of this information.

Protecting Water Quality during Logging: Staff reviewed and compiled comments for FPR for the proposed revisions to the *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*. Logging activities adjacent to surface waters can have a profound effect on aquatic habitats and the populations they support therefore influencing these procedures may have positive long-term benefits to aquatic resources.

Annual Access Report Presentation to Senate Institutions Committee: Staff met with the Senate Institutions Committee last Friday to discuss the annual access area report. Lt. Governor Scott was also in attendance. Questions were asked about the access program in general, a few specific projects (Berlin Pond and the Roxbury Hatchery), and how to improve license sales. It was recommended the fish culture chief visit with the committee to discuss the Roxbury Hatchery status. The Committee and Lt. Governor came up with a few ideas for boosting license sales, which will be brought back to the Department.

More discussion on Berlin Pond access issues: Staff met with Berlin town representatives last Friday to discuss the status of access to Berlin Pond. The town provided staff with a near complete report from the town attorney indicating that they most likely owned land on the north end of the pond, adjacent to the City of Montpelier's parking area. Town officials were looking for a confirmation of support from the Department, which was given. Staff reiterated their preference for providing open water access in this location due to cost, ease of access, and to minimize the impact to the surrounding wildlife and habitat. Once ownership is confirmed by the town, it is expected that the Town and Department will enter into a lease giving development and access management to the Department.

Hunter Education seminars a hit! Both Hunter Education sponsored seminars (deer processing and game cooking) at the Yankee Classic proved extremely popular. Both were standing room only and both received numerous compliments with many saying they were the best seminars at the show this year.

Ice Fishing Festival and first annual winter Free Fishing Day: Staff helped coordinate and implement the Ice Fishing Festival on the first annual winter Free Fishing Day. Although cold, windy, and overcast, the day was a success with well over 100 kids, plus their parents and families, attending to learn about ice fishing, and participate in various demonstrations and stations. Staff also provided an interview during the festival to Vermont Public Television's Outdoor Journal. The segment will air in late February.

Forest, Parks and Recreation

Appeal of Plum Creek Maine Timberlands, LLC (Confidential, Attorney Client Privileged, Attorney Work Product): The Essex Superior Court issued its decision of the Appeal of Plum Creek contesting the discontinuance for over 56,000 acres from the UVA Program for FPR's adverse inspection report for cutting contrary to the forest management plan. The Court reversed

the PVR discontinuance decision and adverse inspection report of FPR. The Court's decision relies on an analysis of the facts as presented by the State's expert and Plum Creek's experts. Essentially the Court decided that Plum Creek's expert was more credible and ruled in their favor. This seems to violate the Vermont Supreme Court's decision in Jones v. FPR. The Court did recognize that the Jones decision held that "a Department's determination based upon its expertise will not be overturned unless it is 'standardless, unsupported by the evidence, or contrary to law'". However, the Court avoided that precedent by holding that the determination of measuring residual basal area is not a process that is unique to FPR foresters, but it is used by all consulting foresters and thus the Department is not entitled to deference. The Court then proceeded to discount FPR's analysis, relying upon Plum Creek's expert's opinion, in some cases without factual basis. The Court did not address the UVA statutory requirements or UVA regulatory requirements regarding the definition of "entire parcel" or anything else. The Department is considering this decision and will consult with the AG's office as to whether an appeal to Supreme Court should be filed. There are potentially significant implications to the UVA program and the Department's ability to enforce the UVA standards on any UVA forest parcel resulting from this decision. This decision also essentially dismissed numerous AMP violations because the Department worked with the landowner to get the AMP violations and discharges remedied as soon as possible and the Department/Agency did not pursue independent enforcement action for the AMP violations. This decision also has potential significant impacts on the AMP program. The State has 30 days from the date of this decision, or until February 26, 2014 to file a notice of appeal to Supreme Court.

Land Transactions: With \$1.6 million in Forest Legacy funding now expected to be available for the Groton Forest Legacy project as part of the FY'14 federal budget, the Department will be working with the Vermont Land Trust over the coming months to acquire the Molly's Falls Pond tract and to conserve other priority parcels within this Legacy project area. We are working closely with the Town of Grand Isle to obtain various state and local permits required for the Department's planned conveyance of a portion of Grand Isle State Park to the Town for outdoor recreation. Work continues on other ongoing priority ANR land transactions including Northern Green Mountains Connector Forest Legacy parcels, acquisition of the Fitzpatrick inholding at Coolidge State Forest in Killington from the Vermont Land Trust, land exchange at Alburgh Dunes State Park, sale of a portion of the former Lafreniere homestead property at Camel's Hump State Park in Bolton, sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation for expansion of an existing stone quarry, transfer of the Woodchuck Mountain parcel to the Town of Newbury, and other transactions.

ANR Long Range Management Plans: The ANR Lands Stewardship Team met late last week to review the preliminary draft management plans for West Mountain WMA and the Plum Creek Timberlands (i.e., the former Champion Lands parcels). These parcels are now collectively termed the "Kingdom Heritage Lands". The Champion Lands legislation requires that the original 2002 management plans now be updated. The original planning process for these plans generated significant public comment and included several controversial components including planned road closures. The current draft plan for West Mountain WMA includes two alternatives for closing roads within the "Core" area on the WMA. The Agency expects to release the draft

plans for public review and begin a public involvement process later this winter, and will be working to update various legislative committees prior to finalizing these plan updates.

Leases, Licenses: We are working closely with Green Mountain Power to finalize a master license agreement for all of their utility lines on Department lands. We have developed a draft master license agreement for Vermont Public Television's telecommunication building and tower at Mt. Ascutney, and a new license agreement for their telecommunication facility at Killington Peak and hope to finalize these agreements soon.

Congratulations to Graduate of National Parks Maintenance Management School: Regional Parks Maintenance Supervisor John Medose graduates this week from the highly acclaimed Parks and Recreation Maintenance Management School in Wheeling, WV. This 2-year program exposes park maintenance managers from municipal and state systems across the country to state-of-the-art systems and techniques for managing the complexities of park staff, facilities, equipment and grounds. The school has graduated around 100 managers per year for the past 35 years with the expressed purpose of raising the level of professionalism in this very technical and complex field.

Seasonal Parks Staff Recruitment: Regional Parks staff are heavily into recruiting and selecting key seasonal staff for the 2014 state park operating season. A successful season depends to large extent on the selection and placement of Park Managers (Rangers) and their primary assistants who are being recruited now. This represents 120 staff members, or approximately 40% of the total seasonal workforce.

Forestry Web Training: FPR staff, including Danny Fitzko and Ginger Anderson from the Forestry Division, attended the first of two workshops last week on web page design held by DII. FPR's web page is being completely revamped which will require us to revise much of our content. The new format will enable a web-based editing function that should enable more people access to their pages to keep them updated.

Right-of-Way: State Lands Stewardship Forester Diana Frederick met with Doug Small, logging contractor, and Fran Sladyk, consulting forester for the Town of Morristown. The Town is interesting in locating an access road and landing on state land to facilitate a timber sale. They looked at a landing on state land and laid out a skid road from the Morristown Town Forest across state land to the existing landing. Diana prepared a special use permit with Doug Small for this activity and he will be starting work in the near future.

Camel's Hump Wildlife Assessment: Forester Emily Potter began the wildlife assessment for the Camel's Hump Management Unit. She will be assessing 23 areas for bear use, trying to get an idea of the quality of each site in terms of the health of the beech trees and whether they were used recently or historically by bears. She'll record the type of use (scarring, nests, etc.) and will also assess the size of the area being used by walking the perimeter with her GPS unit.

Timber Sale Administration: Brad Greenough continues with timber sale administration and inspections on the two operations he is supervising; one on the Pine Mountain WMA in

Newbury, and the other on the Cotton Brook Block of Mount Mansfield State Forest. This will be an ongoing weekly event for him throughout the winter. The Coolidge Gilman Road timber sale got started this week, while the timber sale at Fort Dummer State Park is completed and all equipment has been moved off the site. The “Half Ash Timber Sale” within the Duxbury Block of Camel’s Hump State Park is 50% complete. The sale consists of 220 mbf and 427 cords and was purchased by the A. Johnson Co. The sale is being operated by Lathrop Forest Products of Bristol, VT.

Sugar Bush Assessments: Nancy Patch, Franklin/Grand Isle County Forester, continues analysis of ice storm damage to sugar bushes in Franklin and Grand Isle Counties. While it appears the trees will recover, Nancy has noted substantial damage to tubing systems as a result of downed trees and limbs. Lamoille County Forester Ray Toolan also spent time assisting Nancy with ice storm damage assessments. Ray wrapped up his assigned parcels in Lamoille County and help was needed up north so he lent a hand. NRCS Forester Dan Singleton participated in two site visits in Franklin County. All these assessments are being conducted for Vermont Farm Services Agency’s ECP Damage Assessments for maple producers impacted by the ice event in late December of 2013. Dan has another four properties to schedule visits for next week in the same area.

Municipal Forest Assistance: David Paganelli, Orange County Forester, is administering a timber sale on the Brookfield Municipal Forest. The sale is divided into two principal areas; one was operated last year, and the second cutting just started on January 27 when David visited the site to help locate the main skid trails.

Assisting a Hand In Need: Sixteen FPR and F&W employees (including Commissioner Snyder) volunteered their time and equipment on the morning of Sat, Jan 25 to cut, split and stack 4.5 cords of firewood for Addison County Forester Chris Olson and his family. A recent, non-work related chainsaw injury prevented Chris from processing the remainder of his log-length firewood pile at his home in Middlebury. The hard-working, enthusiastic crew enjoyed the camaraderie, favorable weather conditions and an ample supply of homemade baked goods.

Project Learning Tree: Conservation Education staff is planning a Project Learning Tree (PLT) facilitator training in Bennington in March. Outreach for this workshop is extensive and staff is hoping to fill it with at least 20 participants. CE staff met with the Maine PLT coordinator to share ideas and content for facilitator trainings. Maine and Vermont are the only states offering facilitator workshops this year. Vermont training is being paid for by a Lattner Family Foundation grant and Maine is being paid for by a Model Program Initiative Grant from National PLT. National PLT is moving forward with its new strategic planning, a few state programs will be selected to pilot test some of the new PLT workshop models and strategies. CE staff participated in a webinar and conference call outlining these new strategies and workshop models for PLT. CE staff serve on the Vermont Tree Farm committee, which also serves as the Vermont PLT steering committee; at a meeting last Friday CE staff were able to share the latest news on the PLT program in Vermont.

Current Conservation Education Activities Include: Ash Awareness week planning; receiving Arbor Day contest entries (due date Feb 28); contributing to the communications plan for the new Volunteer Harvesting Guidelines; assisting with FPR website development; working with Vermont Parks Forever group on its Groton Nature Center rehab project and; facilitating an Envirothon steering committee meeting about concerns over new, higher fees the national program is proposing.



Privileged and Confidential

MEMORANDUM

To: The Honorable Peter Shumlin, Governor
Sarah London, General Counsel

From: Christopher Recchia, Commissioner

Date: January 31, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY: I finished my testimony in the CPG proceedings yesterday, and the PSB seems inclined to support our MOU. Mike Twomey testified today. There were tough questions from the other parties about what the MOU commitments really mean, and whether Entergy can be a "fair partner" to implement it. I emphasized it is better than the alternative. VT Digger is doing some stories on this starting next week. I've spoken to John Herrick on background only while VY technical hearings are proceeding.

Net Metering: The House voted 136-8 to move the bill to third reading, and it then passed by voice vote on Thursday. Thanks for the statement released. The bill moves to the Senate where the Finance Committee will take it up, and Natural Resources Committee will have a hearing on it but not take hold of the bill.

Siting Bills: Senator Hartwell is marking up S. 201 and S.292 yesterday and today, bills which the Department opposes. At the request of Sen. Hartwell, PSD presented a list of concerns

ugh.

with the bills to the Senator to outline why we do not support it. It seems they are intent on voting a bill out of committee regardless.

H.784 – AART Electric generation and Transmission. Ralston, Kromline, Scheuermann and Young introduced this yesterday and want to discuss it with the Administration. This bill proposes to encourage the upgrade and expansion of Vermont's transmission system to promote the use of renewable energy from Canada in Vermont and other states in return for supporting transmission connections for renewable projects in Vermont and providing a source of funding for energy efficiency and renewable projects and economic development in the State. It requires the Department to negotiate for this, potentially using Vermont railway rights of way along the west side of the state. I'll be discussing this with Louis within the next few days.

Wacky. Can we even do this?

VGS – Phase II: More detail below, but VPIRG and the Town of Cornwall each filed a Motion to Dismiss alleging a lack of board jurisdiction. VGS and the PSD will respond to each of these motions, but in the January 29 filings, **VGS and the PSD urged the Board to continue the proceedings in this docket while the FERC determinations are underway. There is a 99% likelihood that FERC will decline jurisdiction and we do not want to delay proceedings during this time.**

Legislature:

January 28: Staff covered hearings in Ways and Means (solar tax credits), Senate Natural Resources (siting bills S.201 and S.292), and Fish and Wildlife (Act 165 of 2012).

January 29: Staff testified on H.702 in House Commerce, Act 165 in Fish and Wildlife, and on H.557 in House Natural Resources. Staff covered hearings in Ways and Means (solar tax credits) and Senate Natural Resources (S.202 and S.302).

January 30: Staff testified on H.612 in House Commerce, S.202 and S.302 in Senate Natural Resources, and on H.693 in House Commerce. Staff covered hearing in Senate Natural Resources (S.201, S.292).

January 31: Staff testified on H.612 in House Commerce during final vote.

New Bills affecting the PSD:

- **H.736 (Ralston, Scheuermann, Botzow et al)** –Section 8 of the bill – Creation of a Strategic Electric Rate Class for Vermont Manufacturers – enables Vermont manufacturers to voluntarily opt-out of the Efficiency Vermont Program and the monthly EEC charge. It also directs the PSB to open a docket to investigate potential changes to the electricity rate structure for VT manufacturers for purpose of reducing manufacturers' electricity charges by 10% in 2012.
- **H.754 (McCormack)** – bill directs electric distribution companies to identify source of electricity on customers' bills.

F7/1

USF 2/10 Mobil

- **H.760 (Young, Botzow, Marcotte, Kitzmiller)** – bill establishes high cost program under VUSF with intent to ensure availability and affordability of basic telecom and broadband service throughout Vermont.
- **H.759 (Botzow, Kitzmiller, Marcotte)** – bill makes misc changes to DigSafe program (PSD request)
- **H.757 (Sweaney et al)** – bill relates to exemptions to Public Records Act. Section 28 makes changes to PSD's requirement under 30 VSA § 206 by exempting information provided by companies from public inspection.
- **H.767 (Browning, Komline, Ralston and others)** – bill instructs PSB to prohibit a utility from recovering from ratepayers costs related to any jury award or excess project costs that could have been reasonably foreseen.
- **H.768 (Manwaring et al)** – bill intends to make retransmission fees transparent to consumers by preventing transmission agreements pursuant to 47 USC § 325 from including terms prohibiting disclosure of information.

Significant Meetings/Events this week:

January 27: Chris and Darren met with Senator MacDonald regarding solar options for VGS customers

January 28: Chris prepped for VY hearing with WilmerHale

January 29: Chris continued prep for VY hearing; Chris and Darren attended Governor's Council on Energy and the Environment meeting; Chris attended WEC Board meeting

January 30: Chris testified at VY hearing; Darren met with Kristen Carlson of GMP

January 31: Chris attended VY hearing; Darren and Asa met with Rep Ellis to discuss solar on state buildings

Significant Meetings/Events next week:

February 3: PSD/EVT meeting at PSD

February 4: PSD/VGS meeting at PSD; Chris meets with Bill Mohl of Entergy at Governor's office

February 5: Chris attends ACCD meeting to discuss RPCs

February 6: Chris and Darren attend Land Use meeting; GMP gives presentation on Deerfield Project to PSD (at PSD); Chris attends follow-up meeting at ANR on VY decommissioning issues

Media: Darren interviewed on VPR on net metering legislation. Bill Jordan spoke with Dan D'Ambrosio of BFP on propane issues. Chris began conversations with John Herrick, VT Digger on VY stories they are planning for next week.

Everything Else:

PERD

Residential and Commercial Building Energy Standards (RBES & CBES)

- Code Update:
 - Potential renewable options that may be included in code/stretch have been provided and are under discussion by the Department internally.
 - Met with ACCD to discuss the code update process and proposed language regarding historic buildings. (In IECC 2015 language is being proposed that would remove the exemption from codes for historic buildings and instead require that all buildings meet code unless documentation is provided that states that doing so would impact the historic nature of the building.) We will continue to work with ACCD on the historic building language as well as on other concerns/considerations they had. Also discussed having a meeting soon with them and VTrans to discuss the Location Efficiency rating process.
 - Prepared presentation and handout for Vermont Housing Council meeting on 1/29.

Renewable Energy Items

- Participated in discussions with GMP, AAFM, and “Cow Power” farmers about the future of the cow power program and whether the Standard Offer program should be changed this legislative session to have the RECs and/or environmental attributes NOT stay with the farmer (like other SO technologies) so that the farmers could get a higher and more secure price, since voluntary payments in the cow power program are not sufficient to buy all the RECs now being produced. As REC prices are high in New England the farms are able to sell RECs for more than the Cow Power price of 4 cents, but there is concern that those prices will not stay high or that VT RECs will remain eligible in those markets.

Net Metering Activity 1/13/14 – 1/24/14

	Registrations	Applications	CPGs Granted
Count	4	0	10
kWAC	14.843	0	51.941
Ave Size kW	3.710	0	5.194

Cumulative Capacity of Registrations and Applications Submitted

Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of CAP
510.60	358.72	39457.90	~ 98.6%

Total Energy Study

- Received and archived 408 TES Legislative Report comments, including 378 form letter comments sent in response to a call from 350.org and VPIRG. Summaries of the 30 new original comments are in process. The form comments make these requests:

- Invest much more in efficiency and conservation.
- Build out in-state renewable generation/production, large & small-scale.
- Assess lifecycle GHG emissions and recognize “extreme” fossil fuels like shale gas and tar sands oil.
- Study a price on carbon in at least one of the TES scenarios.
- Study a carbon tax in at least one of the TES scenarios.

Heating Fuel

- Since last reporting Crude Oil has traded up to \$96.88 v. \$94.32 a week ago.
- The natural gas market has also traded up now at \$4.975 v. \$4.231 a week ago.

Other Items

- Attended Treasurer’s Local Investment Working Group Meeting
 - Treasurer said they would make an effort to change the wording from the bill that passed last year (Act 87) that gave them permission to loan funds to organizations for energy efficiency. They would like to be able to include renewable energy in that authority, like Act 87 gave to the Treasurer’s funds that were loaned to VEDA.
 - Treasurer reported that they are still looking at QECBs and would like to use them for building projects already in the Capitol Bill that will already be required to follow Davis Bacon (such as the rebuilding of State buildings in Waterbury). They would use the QECBs to bring down the borrowing costs for the State. They were no longer talking about trying to tie those savings to the revolving loan program being considered for BGS and other state agencies.

Engineering

Vermont Yankee Fire Protection System Water Leak

On Friday, around 9:30 am, operators identified an approximately 20 gpm water leak near a station fire hydrant near the radioactive waste building. The fire protection system piping is located about 8 feet underground and uses CT River water (VY sampled the water to confirm it was river water, and contained no tritium). The leak did not affect plant operations. A standby pump is running to maintain pressure on the system. NRC resident inspectors were there all weekend monitoring the situation. VY is still working on excavating soil to locate the leak on the fire protection system. Last night, they used a "mud-sucker" truck to excavate down 5 ft, and they are now working on shoring plans. They are bringing in a new construction company to design excavation shoring. They are working on contingency plans to put a stop valve via hot tap at the river water intake (to isolate the leaking area), and they would instead pump water from the cooling tower basin (~1,000,000 gallons) if fire water were needed. They also have an agreement with the towns of Vernon and Brattleboro to use the Fire Station water pumper trucks if needed. Repair of this leak will definitely continue through the weekend.

Nuclear Engineer Position

Engineering has made an offer, which was declined. We will conduct a second round of interviews.

Canadian Natural Gas Pipeline Rupture

The TransCanada PipeLine (TCPL) system experienced a rupture and fire at the Emerson Lateral on Saturday, January 24. This “lateral” is a spur from the TCPL Canadian Mainline, which transports gas on a west to east path, roughly parallel to the US/Canadian border. Vermont Gas Systems (VGS), which is supplied from the most easterly point of the Canadian Mainline, was not affected by this incident. Few physical details are presently available for the ruptured pipeline lateral, except that it is a 30” diameter pipe. The Transportation Safety Board of Canada is investigating the cause of the incident. The ruptured pipe is one of three parallel pipelines which make-up the Emerson Lateral crossing the US Canadian border near the ND/MN line. Because of its configuration, the affected pipeline was able to be isolated, and gas service can be restored relatively promptly utilizing the other 2 pipelines. This process is continuing. Of note: proper gas restoration must occur at each individual customer premises to ensure appliance gas-safety-sequence-controls and/or standing-pilots are functioning correctly; this is lengthy process contingent on the quantity of available gas technicians.

Also noteworthy: the TCPL facilities, which supply Vermont, are looped (multiple feeds), with the exception of the approximately 10- 12 kilometers immediately upstream to the VGS system/Canadian border. This 8” steel single-feed TCPL pipeline segment does not have the emergency operations options available to multiple-feed facilities. The VGS transmission system is dual-feed (looped) between the border station and St. Albans and is single-feed between Georgia and the Greater Burlington Area.

Gas Pipeline Inspection Activity

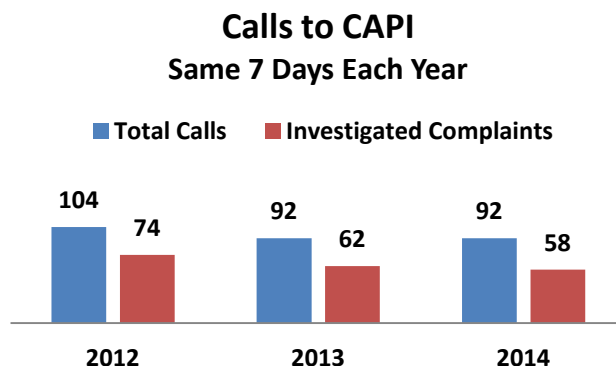
Jurisdictional propane pipeline systems, operated by Suburban Propane, were inspected in Cambridge VT. One of the inactive customer service valves was inhibiting gas flow but did not utilize a locking device. This device is required/intended to ensure safe gas service “re-activation” is only performed by qualified gas technicians. Absence of the locking device is prohibited by the federal gas pipeline safety code (49CFR192) and the National Fire Protection Association (NFPA 58) Liquefied Petroleum Gas Code. The company will be informed this finding (along with several others discovered recently) is a probable violation of state and federal pipeline safety codes. A remediation plan will also be requested.

Docket 7628 Kingdom Community Wind

The Public Service Board issued a Procedural Order Re: Continuous Monitoring Proposals which established a schedule for two rounds of discovery on GMP, followed by the filing of final recommendations. The Department’s first round of discovery, filed on Tuesday, seeks to obtain sufficient information to meaningfully compare the costs and services of the vendors that were surveyed. GMP’s responses are due on Tuesday February 4. A second round of discovery is due on February 11 with responses due February18. Final comments and recommendations are due to the PSB on February25.

CAPI

Call Data from Sunday to Saturday, January 19 to January 25, 2014.



POST CPG WIND COMPLAINTS

- Lowell Wind (1), regarding health
- Lowell Wind (1), regarding noise
- Sheffield Wind (1), expressing belief that the State of Vermont should help her family find a new place to live if their safety cannot be guaranteed

OTHER DIVISION ACTIVITY

Telephone Relay Service: Staff completed a rough draft of a Request for Proposals for a new TRS contract, to begin 7/1/14. Editing has begun, with a final version due for issuance by 3/1/14

Burlington Telecom: Staff became aware of an unresolved issue with BT. In 2013 they discovered that they had erroneously been billing for HD and DVR service at a rate higher than had been approved by the PSB. This had resulted in \$41,000 in over-billing. In the spring of 2013 BT had been in negotiations with the Department to refund these charges. However, the negotiations were never resolved. CAPI met with an attorney from the PA division and will be reaching out to BT to re-open the discussion.

Public Advocacy

Entergy VY CPG – Docket 7862 – Hearings on the PSD/ANR/Entergy settlement begin 1/30/14 and may continue on 1/31 if necessary.

GMP Rate Case and Alternative Regulation Proposal – Docket Nos. 8190 & 8191 – On December 20, GMP filed a traditional rate case, seeking a 0.03 percent rate decrease, to take effect October 1, 2014. GMP also filed a proposed successor alternative regulation plan to take effect at the same time. The Board suspended GMP's proposed rate decrease and a prehearing

conference was held on January 29 in both matters in which scheduling matters were discussed. The Board will issue a scheduling order shortly. A public hearing is likely to be held in mid-March and technical hearings are targeted for June. Separately, the Department has been engaged in informal discovery with GMP and has issued three rounds of questions, with initial answers due shortly.

Appointment of a Natural Gas Energy Efficiency Utility - Docket 7676 – PSD determined that it would support a separately-stated Energy Efficiency Charge for natural gas customers to appear on monthly bills. VGS agrees this is appropriate. PSB held status conference on 1/24/14 at which parties reported progress on making revisions of the Process and Administration document to make it applicable to VGS. VGS and PSD will circulate a revised draft to other parties in late February, and the Board will hold another status conference on 3/31/14.

Ryegate CPG Amendment re: Selective Catalytic Reduction (SCR) System - Docket 8129 – The Board issued a CPG for the project on 1/24/14. The condition recommended by the PSD (that the facility use the SCR system at all times that the facility is in operation, except during maintenance of the SCR) is included in the CPG.

Demand Resource Plan Proceeding - EEU 2013-01 – The Board approved a scheduling adjustment which will allow a comment period on the recent workshop that addressed scenario modeling results (which serves as a basis for the budget recommendations). This will provide PSD with an opportunity to address numerous issues pertaining to the behavioral measure pilot project underway with OPower.

Addison Expansion—Docket 7970—The Board and VGS - as instructed by the Board - have begun the process of notifying the landowners affected by the Board's decision to re-route a portion of the pipeline on Old Stage Road in Monkton; these landowners had no notice of and did not participate in the docket as they were not adjoining at the time the petition was filed. They will be offered the opportunity to file comments with the Board. The PSD opposed the Palmers' Motion to Amend and, in response to New Haven's Motion to Amend, requested that the Board clarify the Order and CPG with respect to the noise monitoring protocol.

Addison Expansion Phase 2—Docket 8180- A Motion to Intervene was filed by the Town of Shoreham and a Notice of Appearance was entered for counsel for the Addison County Regional Planning Commission. At the prehearing conference last week, the Board requested comments from all parties by January 29 on a number of issues including: the number, location and timing of site visits and public hearings; remaining issues regarding FERC jurisdiction and the timing of the Board proceeding; the necessity of live surrebuttal; and any remaining scheduling concerns. Vermont Gas and the PSD each filed responses accordingly.

VGS Looping Phase VI—Docket 7929—As reported in the press, two former employees of the subcontractor who is building the pipeline were arrested for making methamphetamine in their Swanton home. A third former employee, also under arrest and providing testimony in exchange for immunity, has made allegations regarding widespread drug use by pipeline

employees. Vermont Gas is investigating all aspects of the drug testing protocols which are in place and re-inspecting the work done by the two employees-one was a welder and the other a welder's assistant. The results of the investigation will be made public.

Barton Solar – Docket 8148 – The hearing officer granted limited intervention status to the Menards (neighbors) on the issues of aesthetics, noise and glare. He has also proposed a schedule. The Division for Historic Preservation has concluded that the project will have no effect on any historic sites under Section 248(b)(5). The Department is working with our aesthetics expert regarding the plantings maintenance plan and has agreed to the schedule proposed, which requests discovery from the interveners by February 14th.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The PSD participated in the prehearing conference and flagged the cost of the GMP PPA as an issue. Counsel for the petitioner did not want to set a schedule at the prehearing and requested setting a schedule within a week. Now she is proposing an unrealistic schedule that includes briefing on why the price of the PPA should/not be part of the scope. ANR seems to have some issues with the proposed schedule as well. Additionally, PSD met with GMP to discuss a number of concerns including the price of this (and other) PPAs significantly exceeding the recent standard-offer bids for solar projects. PSD's understanding is that GMP is going to attempt to re-negotiate the PPA price.

GMP Stafford Hill Solar in Rutland – Docket 8098 – In a procedural order, the hearing officer requested that GMP clarify whether it still seeks confidential treatment of certain discovery responses regarding the price of renewable energy power. Additionally, he granted GMP's request to delay filing its supplemental testimony from January 15th until February 3rd. Additionally, the PSD met with GMP and learned that the cost has decreased to 17 cents/kWh or less.

Georgia Mountain Community Wind – Docket 7508 – The Board issued a memorandum seeking comments from the Department regarding GMCW's response to a complaint from nearby residents alleging turbine operation during icing conditions in violation of the Project CPG. The Department is reviewing the complaint and GMCW's response. Department comments are due February 7, 2014.

Kingdom Community Wind – Docket 7628 – The Department issued a first set of discovery requests on GMP regarding GMP's continuous sound monitoring feasibility report. GMP responses to the requests are due to the Department by February 4, 2014. A second round of discovery will follow. The Board issued a memorandum seeking comments from the Department regarding GMP's response to a nearby resident alleging turbine operation during icing conditions in violation of the Project CPG. The Department is reviewing the complaint and GMP's response. Department comments are due February 7, 2014.

Verizon 248a Limited Size & Scope Application (Berlin) – No Docket – The Department has retained an aesthetics expert to review the application and site in response to concerns raised

by a nearby resident and the Town of Berlin. The Department anticipates filing the results of the aesthetic review with the Board by February 14, 2014.

Regulation of Voice Over Internet Protocol – Docket 7316 – The Department is beginning to prepare its direct brief, which is due on March 14th. The Department will also be seeking a contract amendment to increase the maximum contract amount with its expert witness, given the need for technical assistance and the likelihood of further process beyond briefing.

ERWR Solar, CPG Amendment – Docket 8076 – ERWR Solar filed a petition on January 17th seeking an amendment to its CPG for a solar electric generating facility. The petition seeks the Board's approval to change the project's design from using two separate power stations with inverter and transformer equipment to a design with one central power station and a single transformer, with other proposed changes relating to this modification. The Board issued a memorandum requesting parties' comments by February 7th. The Department is discussing potential revisions to the MOU.

Finance and Economics

Electric

GMP - Staff issued a RFP for a Limited Scope Cost of Capital determination under Alt Reg and Traditional Regulation. Responses are due by February 7, 2014.

GMP - An RFP is being prepared as the Department anticipates the need to hire consultants in connection with the review of the GMP proposed Alternative Regulation Plan. The work includes a critique of the Petition, a survey of other jurisdictions to identify best practices and other possible innovative regulatory techniques that might be adaptable to Vermont and proposing changes the PSD and GMP may consider making in the GMP proposed alternative regulation plan.

Gas

Docket 8180 Vermont Gas Systems Authorizing Construction of the "Addison Rutland Natural Gas Project Phase 2 (ARNGP Phase 2)

VGS has filed for a Certificate of Public Good to construct the ARNGP Phase 2 project, consisting of four components: (1) the Addison Extension, approximately 4.5 miles of new 12-inch transmission pipeline; (2) the International Paper lateral, approximately 19.4 miles of new 10-inch transmission pipeline extending under Lake Champlain to the International Paper (IP) mill in Ticonderoga, NY; (3) the Georgia Loop, approximately 3 miles of new 16-inch transmission pipeline to adjoin existing transmission pipeline; and (4) associated infrastructure in Cornwall and Shoreham, VT. Phase 2 is currently estimated to cost \$64.4 million of which IP will pay an estimated \$62 million.

Energy Efficiency Utilities

EVT/VEIC - VEIC has filed its December 2013 invoice seeking recovery of certain software

related costs for 12 to 18 months of subscription/license services that will not be delivered or available until March/April 2014. Under traditional rate making, these costs would not be recoverable until placed into service. Additionally, it's not clear the costs were authorized expenditures as part of its 2013 budget.

Regional Policy

Forward Capacity Market – Administrative Pricing

- On October 31, 2013, New England Power Generators Association (NEPGA) filed a complaint with FERC contending that the existing market rules regarding the administrative prices to be used in the event of insufficient competition and/or inadequate supply during a Forward Capacity Auction.
- The administrative pricing rules had required that the Forward Capacity Auction clearing price, in the event of insufficient competition or inadequate supply, would be set at 1.1 times the clearing price of the last competitive auction with adequate supply/sufficient competition. NEPGA argued that the administrative price should be based on the Offer Review Trigger Price for a gas turbine, or \$11/kW-month. Under the existing rules, the administrative price would be \$3.46/kW-month. NESCOE calculated that, if implemented, it would increase total FCM costs for the next FCA by \$3 billion.
- On November 25, 2014, ISO-NE filed proposed changes to the administrative pricing rules that would be based on cost of new entry instead of the Offer Review Trigger Price or the last FCA competitive/adequate supply clearing price. Under ISO-NE's proposal, the administrative price is \$7.025/kW-month. NESCOE estimated that the cost of ISO's proposed change would be about \$1.5 billion.
- NESCOE and NECPUC filed arguments at FERC against both the NEPGA and ISO-NE proposals.
- On January 24, 2014, FERC issued an order denying NEPGA's complaint and also an order approving ISO-NE's proposed rule changes. In addition, FERC required that ISO file a proposed sloped demand curve by April 1, 2014, stating that a sloped demand curve would negate the need for administrative prices.

Brayton Point Coal Plant

- In December 2013, Brayton Point filed with ISO-NE a non-price retirement request for Forward Capacity Auction 8, which cover the capacity period starting June 1, 2017 (the auction itself starts February 3, 2014). Subsequently, ISO determined that Brayton Point was needed for reliability, which allowed ISO to provide out-of-market payments.
- On January 27, 2014, Brayton Point stated that it still intends to retire effective June 1, 2017.
- The removal of Brayton Point's 1600 MW from FCA 8 greatly increases the likelihood that there will be insufficient supply in FCA 8 and therefore the administrative pricing provisions approved by FERC will go into effect.

Sloped Demand Curve

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- FERC's January 24 Order requiring ISO-NE to file a sloped demand curve by April 1 significantly compresses ISO-NE's originally proposed stakeholder process. ISO-NE had proposed that it file a proposed slope demand curve at FERC by late June 2014. Under this timeline, ISO-NE proposed that the stakeholder process develop: (1) a value for the cost of new entry; (2) a shape for the sloped demand curve for the entire pool; and (3) a mechanism for exempting state-sponsored renewable resources from the Minimum Offer Price Rule. In addition, ISO-NE stated that it would develop sloped demand curves for the capacity zones that could be used starting with the Forward Capacity Auction to be run in 2016.
 - Based on the January 24 Order, ISO-NE is now stating that it is unlikely to be able to file a renewable exemption mechanism in time for the next Forward Capacity Auction. DPS and NESCOE staff indicated significant concern with this approach and are having further discussions with ISO-NE staff.

Regional Infrastructure Initiative

- States met on January 24 to discuss the process for potentially moving forward on additional natural gas and transmission infrastructure.
- NESCOE reached out to the gas-electric focus group to request comment on the appropriate level of natural gas infrastructure needed to address winter constraints. The primary question is how far into the future we attempt to get the economic benefits – the larger the incremental infrastructure, the longer the benefits will extend.
- With respect to transmission to access Canadian hydro, states all agreed that transmission must be bundled with firm generation that has a deliverability requirement for peak winter periods. NESCOE is preparing a draft RFP, based upon the draft prepared for the Coordinated Procurement process that fell apart last spring. An open issue is whether the RFP is limited to large-scale hydro or if any renewable resources can respond. Given the states' requirement that there be firm delivery, and the interest in requiring a 150 MW size minimum, it appears that Canadian hydro will likely be the only resource able to compete.
- A significant issue with respect to the transmission RFP is that Massachusetts, which would be the largest purchaser, does not currently have the statutory authority to require its utilities to enter into long-term contracts for the power. It's unclear whether it makes sense to issue an RFP without a clear buyer.
- Vermont and New Hampshire discussed cost allocation principles. There was general agreement on most of the underlying principles; however, there was insufficient time to determine how to apply these principles. Since the structure of the RFP determines, to a large extent, the value of the transmission line to ratepayers, it was agreed that there would be future discussions regarding cost allocation after a draft RFP has been circulated.

Order 1000

- FD
priority
- Massachusetts Department of Public Utilities filed an Answer to the joint filing by Vermont, New Hampshire, and Rhode Island. The joint filing proposed a 30/70 cost allocation split for public policy transmission projects, under which 30% of the projects cost would be socialized among all of the New England states and the remaining 70%

would be borne only by those states with public policies necessitating the transmission project. The MA DPU Answer attempted to rebut the joint filing.

- **The MA DPU filing contains three misrepresentations:** (1) that the NESOCE study analyzing the benefits of transmission for Canadian hydro showed net benefits (the study demonstrated lower energy costs but did not directly compare this benefit with the significant cost of building transmission); (2) that the appropriate benchmark for comparison of cost allocation is the 100% socialization of reliability projects (the correct benchmark is that public policy projects are currently not socialized at all); and (3) that Vermont has received more benefits from the socialization of reliability projects than it pays in based on load share ratio (the physical location of a transmission project does not determine the location of the reliability issue being addressed – a transmission project located in Vermont could primarily provide benefits to another state).



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Jeb Spaulding, Secretary

PRIVILEGED AND CONFIDENTIAL MEMORANDUM TO THE GOVERNOR

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: January 31, 2014

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Significant Events/Meetings:

- Held a joint “open house” with AG/DEC re: the lab report. Legislatures attended a presentation and q&a in the Ethan Allen Room
- St. Albans – Follow up conversation with Dominic Cloud, City Manager, Emily Montgomery and Kiersten Bourgeois
- HP Meeting to discuss procurement with Commissioner Macay and Dale Azaria (along with Deb Damore and Wanda Minoli)

Evolving Issues:

- UVM/Lab – UVM’s reversionary right to 195 Colchester Avenue

FINANCE AND MANAGEMENT

Issues Update:

Significant progress has been made at the Legislature in training members on the new Expense system. Staff has received positive feedback on the new system.

Commissioner Reardon testified in House Appropriations on Wednesday, January 29th on Finance & Management’s budget.

The FY 2014 Budget Adjustment Act was voted out of the House on Friday, January 25, 2014. Commissioner Reardon sent a letter with the Administration's response to the House-passed Budget Adjustment Act to the Senate Appropriations Committee on Wednesday, January 29th. Most of the response was technical in nature. However, there was an additional \$650,000 request for the Judiciary to fill a deficit in FY 2014. Commissioner Reardon and Deputy Commissioner Clark testified on the letter on Wednesday, January 29th in Senate Appropriations.

Due to a \$2,000,000 increase in LIHEAP funding in FY 2014, Commissioner Reardon sent a letter to the Senate Appropriations Committee asking for those funds to be allocated in the following manner:

\$500,000 to the WARMTH program to strengthen the safety net program;
\$1,500,000 to remain as carry forward into FY 2015 to assist with funding issues.

The Fee Bill is on track to be voted out of the House this week.

HEALTH CARE REFORM

No report.

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy testified before the Senate Government Operations Committee on S. 218, placing limitations on the use of temporary employees and providing sick leave and benefits to temporary employees. The Committee appears to be interested in pursuing the bill, so Commissioner Duffy will work with other Commissioners to present further reasons why the bill would hamper effective management of state operations.

General Counsel Collier testified before House Government Operations on potential language for a bill protecting whistleblowers. The Committee is considering language specific to the Auditor's Office, broad general language protecting whistleblowers throughout state government, and a more limited proposal to prevent disclosure until after completion of the investigation.

In connection with H. 620, which is focusing on errors in the 3Squares program, Commissioner Duffy testified about the steps required to dismiss a classified state employee for performance problems or misconduct.

Commissioner Duffy testified before House General on VSEA's proposed bill to permit the parties to bargain for arbitration rather than review of grievances by the Labor Board. Commissioner Duffy indicated a willingness to discuss it as part of bargaining but noted reasons why arbitration would not be appropriate in all cases.

Commissioner Duffy met with Representative Mook to discuss a proposed bill on the Vermont Veterans' Home. Representative Mook will seek additional sponsors for the bill from Bennington representatives and senators.

Commissioner Duffy wrote to Representative Turner regarding concerns he expressed regarding the reclassification of members of the Vermont Troopers' Association. Representative Turner indicated he is satisfied with the response.

Commissioner Duffy and General Counsel Collier met with Senators Campbell and Baruth and John Bloomer at their request to discuss the Legislature's sexual harassment policy and potential problems with the existing policy.

DHR provided information to the Joint Fiscal Office on the fiscal impact if temporary employees are granted sick leave.

Press/Media Notes:

Fox 44 has asked Commissioner Duffy to appear for an on air interview regarding the hiring of retired state employees as temporary employees.

Commissioner Duffy spoke with Dave Gram about the Auditor's concerns around whistleblowers and the VSEA survey indicating some employees will not raise issues with the Auditor's office or management for fear of retaliation. The proposed bill and public records act were also discussed.

Significant Events/Meetings:

General Counsel Collier attended a meeting with Tim Noonan, VSEA representatives and representatives from the Attorney General's Office to discuss ways to streamline the grievance process before the Labor Board. It appears the parties were able to reach agreement to limit discovery conducted before the hearings.

Evolving Issues:

DHR continues to work with the Department of Mental Health to prepare for the recruitment of sufficient staff for the Green Mountain Care Psychiatric facility. Pursuant to statute, DHR will send letters tomorrow to former Vermont State Hospital employees who are entitled to be recalled for employment. Of the 178 permanent status employees eligible for recall, 120 have already been recalled/re-employed in their prior positions, retired or otherwise had their reemployment rights terminated. 40 will receive offers of employment, but 18 are not eligible for recall. If not currently employed by the State, these 18 individuals will retain their reemployment rights. Responses to offers are due by close of business on February 7th.

As part of the position pool sweep in November, the Secretary of Administration agreed to return some positions on the proviso that replacement positions be provided by the end of February. To date, 25 positions must still be identified by agencies and departments to ensure sufficient positions to staff Green Mountain Care Psychiatric facility.

S/u w/
Cabinet?

INFORMATION AND INNOVATION

Status of Governor's Priorities:

We are providing support for the Joint Fiscal Office's recent inquiry about the system implications involved in administering sick leave for State of Vermont temporary employees.

Legislative Issues/Contacts:

Richard testified to House Appropriations Thursday, January 30th. There were some general questions on why DII charges were increasing and the Representatives seemed satisfied with our justification. Demand services provided by DII have increased approximately \$6M primarily due to increased needs in healthcare (>\$4M) and increased request for support from other areas in state government. Representative Johnson will likely meet with us one-on-one to come to a complete understanding of our program for FY15.

Significant Events/Meetings

The new Open Data site is now live at data.vermont.gov.

Evolving

Security:

- Weekly Incidents:
 - 1 potential privacy related incident. Identification by the VHC privacy officer is in progress.
- Security Items:
 - PoAM deliverable is expected from CGI next week
 - We continue to make very slow progress on a full site penetration test/vulnerability assessment with CGI. This requires CGI to identify a partner that is agreeable to the state and sign a contract. The state reviewed what looks like an acceptable partner this week.
 - CGI continues to falter with the execution of technical components. A meeting last week related to web application filters demonstrated extremely poor planning, coordination, and execution.

LIBRARIES

No report.

TAXES

Legislative Update:

Miscellaneous Tax Bill: Ways & Means focused this week on the solar generation tax, downtown credits, and healthcare claims assessment sections. VLCT is organizing opposition on the level of the solar generation tax exemption, and the Committee ominously asked for an estimate of the lost Education Fund revenue under current law. ACCD and Tax agreed that Fred Kenney would approach Rep. Ancel to feel out whether the committee would entertain adding some technical revisions on TIF, to address matters coming to light through the ACCD reg writing process.

Fee Bill: The Department will be asking Sen. Kitchel to consider two changes. First, restoration of the Department's proposed increase in the fee for filing a property tax appeal through the Department rather than in court. The court fee is over \$200, the Department fee currently is just \$70, although by statute we need to hire outside hearing officers which cost over \$100 per day. The \$50 fee increase translates to \$10,000 in our budget. Second, W&M included poorly drafted language relative to the 3% VIC credit card charge; the Department will propose a clarification that imposes the fee on the taxpayer rather than the Department.

Education Finance: W&M continues to devote time every Friday to Ed Finance, focusing this week again on Rep. Condon's idea for a smaller property tax combined with income tax due from every payer. The Ed Committee also gave over a good chunk of time this week to Mark Perrault, Brad James and company, and entertained chaining the high spending threshold to something other than last year's average.

Transcanada Dam Valuation Appeals: Last year Sen. Kitchel spearheaded inclusion of \$150,000 in the budget to assist towns in Transcanada's appeal of dam valuations. The original cases have not settled, and are proving costly – valuation depends on complex analysis of energy prices, and the experts are far apart. In the meantime Transcanada has appealed more tax years and in more towns. Sen. Kitchel has asked the Department to testify.

Estate Tax: The tax bar appears poised to try once again to move a proposal. The proposal is sound (bumps up the exemption and allows a technical planning tool), but it would cost revenue.

Vinous Beverage: This ever popular area is under discussion again. Currently there is an excise tax that tiers at 6% ABV; given the growth in higher strength microbrews, local breweries would like a higher tier. Senate Finance was sympathetic but concerned that this too could be costly, since the tax applies to all distributors.

Water Quality Bill: The Department was called upon to testify about the administration of an excise tax on all "flushables."

Cloud: The Commissioner plans to meet with ACCD officials to get input, and possibly partner, on the rollout of draft regs for comment in advance of filing.

Tax Advisory Board: Among the matters we plan to discuss at our quarterly meeting on Monday are cloud regs, economic development incentives (a topic members expressed interest in, we hope to have Fred Kenney in attendance) and our IT project.

Operations:

FAST Contract for Integrated Tax System: As expected, the work is moving quickly. The hardware was stood up by DII, the GenTax software has been installed, and a test environment has been created. Members of the Department's internal implementation team from each division have been identified. More FAST team members arrive next week, and the formal kick-off is February 10. Ironically, the ETM system has been unstable all week, proving the point that we just can't replace it quickly enough. In the meantime, Terri Hallenbeck sent a reporter to photograph the Department's project director in front of a bunch of paper files to illustrate her story.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: January 31, 2014
Re: Weekly Report

Status of Governor's Priorities: Budget Testimony scheduled for Jan 30 went very well. Shared with the committee the amazing growth of the instate spirits manufacturers. We have 18 spirits manufacturers and a few more on the way. Great economic development!

Legislative Issues/Contacts/Updates:

- S181-S289: would allow for licensees to serve flights of various products for comparison purposes. Current law does not allow that. The bill was voted out of committee favorably and sitting in Finance due to a malt tax issue.
- S226: Allows libraries to serve alcohol for fund raising activities. The bill is filled with problems of which I addressed. No license or permit required, liability issues for the library or town/city that allows it. Licensed caterers could do this and all the concerns would be eliminated. Still pending action.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business. The committee was in favor and the department made some changes that address our concerns. The bill was voted out of committee favorably.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 02/12/2014 - Enforcement Hearings.

Evolving Issues:

- Finalizing vendor contract for ERP/POS Project-ongoing.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. March Report.

Summary of Key Department Activity:

- January sales continue to be good and should end up 4-5% over last year.

Commissioner's Commentary: Have a great weekend.

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