

# WEEKLY REPORTS

Checklist  
9/2/16

Darren Springer

- ☒ Agency of Commerce and Community Development – Patricia Moulton
- ☒ Department of Financial Regulation – Michael Pieciak
- ☒ Public Service Department – Chris Recchia
- ☒ Agency of Human Services – Hal Cohen

Sue Allen

- ☒ Agency of Education – Rebecca Holcombe
- ☒ Agency of Transportation – Chris Cole
- ☒ Agency of Natural Resources – Deb Markowitz

Sarah London

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

Jessica Gingras

- ☐ Boards and Commissions – Jessica Gingras
- ☒ Department of Liquor Control – Patrick Delaney

Laura Gray

- ☒ Agency of Agriculture – Chuck Ross
- ☒ VT Commission on Lottery – Greg Smith

James Pepper

- ☒ Department of Labor – Annie Noonan

To: Governor Peter Shumlin  
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development  
Date: September 2, 2016  
Re: Weekly Report

---

**PATRICIA MOULTON, SECRETARY**

**GOVERNOR'S PRIORITIES:**

- **453 Pine St., Burlington:** I met with folks from DEC this week about Redstone's plan to clean up and build an office/commercial building on the heavily contaminated site at 453 Pine St. This site abuts the barge canal Superfund site. 453 is not a Superfund site but heavily contaminated. Redstone's project totals \$25 million for a six story office building with commercial space on the bottom floor. \$5 million of the \$25 million is environmental cleanup. Redstone was hoping to borrow the \$5 million from DEC's clean water state revolving fund (CWSRF). However, the CWSRF statute requires revolving funds go to a municipality who then provides a municipal bond as security for the loan. The City of Burlington has indicated they are not interested in being the conduit for this loan for Redstone. They love the project, but for whatever reason they not interested in playing this role. Lucy asked Miro Weinberg about it on Thursday, Miro sent a letter indicating the City is not willing. Miro didn't seem to know much about it when Lucy asked, so perhaps it really hasn't shown up on his radar. As an alternative, DEC asked ACCD if we would be willing to borrow the money from the CWSRF, lend it to Redstone with Redstone putting up a letter of credit as security. A state agency is eligible in the CWSRF statute. (NOTE: the state capital funds in CWSRF are matched by federal funds. The federal fund would provide funds to a private entity. The state statute restricts it to municipalities. There is \$75 million in the fund. It will be needed to help implement TMDL for Lake Champlain.) Clearly such a transaction is fraught with many issues and questions. If we can be a facilitator, we are willing to pursue but the concept of one state agency lending to another state agency seems problematic. Further, we are not authorized to take on such borrowing. Joan and Lucy will be meeting with Redstone to learn more about timing, potential tenants, and all other sources they have considered. We discussed the possibility of changing the CWSRF enabling statute to allow DEC to make loans to private developers under very limited circumstances. If the timing works for Redstone, this may be the best solution. If the timing doesn't work, we will push Burlington again, but investigate the transaction DEC asked us about. Clearly this involves the Agency of administration, Department of Finance and Management, and the Treasurer. The ultimate decision would lie there.
- **Water quality week:** This week we have been attending along with ANR, Vtrans and Ag, TMDL Phase 1 plan public meetings. We have also hosted a meeting with businesses in the Burlington area to discuss future clean water funding sources. We will be hosting to future meetings on funding sources, one in Rutland and one in Montpelier.
- **Commonwealth Dairy:** We are not so patiently waiting for commonwealth to develop final plans for their expansion. They are securing an architect, and working with their engineer to develop a final set of proposed development for the office building and manufacturing expansion.
- **Westminster cracker:** Joan and I had a conversation with Bob Abramowitz of Westminster Cracker on Thursday. Bob would like to move his new gluten-free Lucy's cookies line to Rutland but says he needs \$500,000 to \$600,000 in incentives to facilitate that move. We believe the best we can come up with might be \$400,000 and we were quite candid with him about that. He is indicated Virginia has given him a six-figure offer to move Westminster there. He told us this week he would talk to New York State. We need information from him for us to total the amount of incentives we could provide between VEGI, Vermont training program, local fee and tax stabilization, and other local sources. It will be a stretch to get to \$400,000 but once we get information from him, we can total that up. My personal gut is that he is going to bring the company to Vermont. His biggest issue is the for years of lease payment he will have in Virginia after he moves the company and he wants some cash to offset that. Unfortunately, we have no resources for such an incentive.
- **Saint Albans Energizer plant:** Thursday DEC reached agreement with Pat Malone regarding institutional controls DEC is requiring for Pat to redevelop the now vacant energizer facility in Saint Albans. Early in the week we had heard from energizer that they were ready to pull the plug, and Pat Malone was ready to back away

because of the institutional control requirements. However, DEC folks went back to the drawing board and provided better language for easement, and less restrictions on the facility. The meeting Thursday was fruitful and everyone came to agreement. Hooray!

- **EB5:** The press continues to swirl with recent accusations that the proper number of rooms were not built at the Jay hotel and Penthouse suites. Michael Pieciak has confirmed that the number of rooms were correct, but the type of rooms is wrong. He will be working with Michael Goldberg on that. Meanwhile Anne Galloway and VT Digger are spreading rumors that the Vermont Regional Center is closed. They have been calling projects asking to confirm if the Vermont regional center has been shut down by USCIS. We will be indicating in our response to VT diggers appeal of our denial of public records, that the regional center is open and we have no indication that USCIS Will be revoking our regional center status.

#### **Joan Goldstein reports: EB-5**

- Spoke with the receiver today who said that the Citibank settlement will help pay the contractors about 50% of what is owed. It will take about 6 weeks for this to happen.
- We will have a group of Chinese investors appearing at the Burke opening next week and they also want to talk to us at the regional center. We will accommodate their request in accordance with what Goldberg has planned, tour, etc.

#### **IBEX**

- Visited with IBEX who mentioned that the two locations they are circling around are Portsmouth, NH and BTV. They have located three sites in Chittenden County which can accommodate their needs. We are urging them to apply for VEGI and VTP but they have been slow to apply.

•

#### **LUCY LERICHE, DEPUTY SECRETARY**

- **HUD Secretary Julian Castro:** Lucy will help to welcome Secretary Castro today (Thursday) in Burlington on behalf of the Governor.
- **Lake Champlain TMDL Public Meeting, Rutland:** Approximately 20 people came to this meeting to listen to the presentation and offer comments and questions. Overall it was fairly low-key. One of the attendees, James Maroney, is apparently a frequent flyer of these events. He is an organic farmer and read his 4-page paper to the group. Essentially, he believes that the current regulatory framework for conventional dairy is the heart of the problem. He sees the required agricultural practices as a structure that helps big dairy survive, as opposed to being a tool to help the environment. He thinks conventional farms should convert to organic for economic and environmental reasons. He claims organic methods do not contribute pollution to the lake. He further contends that regulating medium and small farms by the same standards will do nothing to clean up the lake. He followed up with a call to Lucy to expound further on his ideas. Lucy made it clear that the Governor supports organic agriculture as well as conventional, and shared the news of the NBRC grant to NOFA to help conventional farms convert to organic, and to the Finance Committee of WLEB which is also working on this issue. He is someone well known to Chuck Ross so you may already be aware of him.

#### **DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Joan Goldstein, Commissioner**

- **Water Quality:** Attended the business outreach meeting on water quality sources for funding discussion. Some interesting takeaways from the business community: 1) What are the costs? Need to see how that is calculated, 2) How is clean water fund managed? and 3) How should the state consider those that have already mitigated storm water successfully so that they are not charged twice?
- **BGS Grants:** Attended the grant allocation meeting to decide on FY17 funds. We distributed 175k to 8 projects that all created jobs and improved physical capital in a measurable way. There was very good geographical distribution from Bennington to St Albans.
- Attended the **Vernon Economic Development Committee:** They seem to be focused on broadband and developing a business incubator. My two cents to them was that they need an anchor tenant in order for the building to be truly sustainable. They were most appreciative that I made the trip.

### **BUSINESS SUPPORT - Economic Development ♦ Jared Duval, Director**

- **Balch Nature School Ribbon Cutting at Fairbanks Museum:** Represented NBRC/ACCD as 2015 NBRC grantee Fairbanks Museum officially opened the Balch Nature School, a pre-school that will serve 18 children (3 and 4 year olds), providing more high-quality child care and enabling more parents to re-enter the labor market. This opening was made possible in large part by a 2015 NBRC grant, which helped pay for the renovation of the building. It was a great event, with a crowd of little ones cutting the ribbon, with adoring and appreciative parents looking on (see picture above – photo credit Caledonian Record -- with yours truly on the far left).



- Continuing to plan a **listening and resource sharing session for the forest products industry on Oct. 5<sup>th</sup> in Bradford**. Low grade and softwood markets are in turmoil, and many primary forest products businesses (loggers and truckers) are really hurting right now, hoping to identify new markets to replace the demand that has been lost from the continued decline of the pulp and paper industry. Working with Bob Haynes/GMEDC and Marvin Harrison/Cohase Chamber of Commerce, in addition to the Working Lands Board. Save the date invitations have gone out and confirmed attendees include DFPR Commissioner Michael Snyder, among many others.
- Alongside John Young (Vermont Training Program) and Ian Hartmann (Forestry Viability Program, VHCB), had a **business support visit with Carina Driscoll at the Vermont Woodworking School**. The school is now partnered with Johnson State College and currently enrolls 32 students. VWWS is exploring both a VTP and a Viability Program enrollment application for additional training and technical assistance as the school continues to try to grow.
- Additional business support provided to: **Crowley Cheese** (Rutland Co.); **Wellwood Orchards** (Windsor Co.); **OhVeggies.net** (Windsor Co.); **Burke Racing** (Caledonia Co.); **Vermont Woods Studios** (Windham Co.); **Ironwood Brands** (Windham Co.); **Vermont Rural Water Association**; and **Rick Weingarten** (Washington Co. landowner).
- Got an email from the Agency of Agriculture re: a Quebec business (TAG Company Consultants) that is interested in buying a large number of acres in Rutland County for large-scale maple production (200,000 taps—similar in size to the relatively new Sweet Tree operation in/around Island Pond in the NEK). Have engaged Lyle Jepson, Fred Kenney, USDA and others. Will be organizing an introductory meeting to learn more.

### **BUSINESS SUPPORT ♦ Brett Long, Director**

- A business support conference call regarding North East Precision
- Brownfields meeting related to Lawson's Liquids project
- Discussions on sector/cluster/business focus for Economic Development Marketing Plan
- Investigating the potential to discount Burke contractor receivables
- Discussion with US Specialty Labs regarding potential expansion in Newport
- Discussion with Historic Preservation staff on Brownfields
- Discussions on Pine Street Brownfields project

### **FINANCIAL SERVICES ♦ Dan Towle, Director**

- **Captive Review Magazine, Editor in Chief, Richard Cutcher:** Dan met with Richard Cutcher in New York to discuss upcoming editorial ideas, speaking roles at future events and other opportunities to work together. Dan has had numerous articles published by Captive Review and is a frequent interview source. Captive Review Magazine is London based and is one of the leading authorities on captive insurance.

- **Prospective Captive Meeting in New York:** Dan met with a large energy company that is exploring setting up a captive and considering Vermont as their domicile.
- **European Captive Awards:** Dan is preparing an application for a “Non-European Captive Domicile of the Year” that will be awarded at the European Captive Summit held in Luxemburg in November. The application will showcase how Vermont is a global player with significant market share into European captive owners with US subsidiaries.
- **Towle to Present on Keynote Panel on Self-Procurement Taxes:** Dan will be presenting on a panel of captive experts on self-procurement taxes, the negative effects of the Non-Admitted Reinsurance Reform Act (NRRA) and how it is effecting the formation of captive insurance companies and the choice of their domicile. This panel is the keynote event at the Captive Owners Summit that Dan will be attending in New York in October. He will also be leading a round table discussion on the topic, “Justifying Your Captive and Communicating Its Value”.
- **Non-Admitted Reinsurance Reform Act (NRRA) Advocacy in Congress:** Dan Towle, Director of Financial Services, had several conference calls this week with stakeholders. NRRA has caused vast confusion among captive insurance companies and the efforts have been ongoing by the state to solve this issue.

#### **VT PROCUREMENT TECHNICAL ASSISTANCE CENTER ♦ Robin Miller, Director**

- **Companies PTAC is currently working with**
  - A White & Son Construction Inc. – Williston
  - Aiken Inc. dba Polhemus – Colchester
  - APAC Realty Corporation – Windsor
  - Chippers Inc. – Woodstock
  - Claire’s Home Comfort Cleaning & Linen Service – Newport
  - Cope and Associates Inc. – Williston
  - Cota & Cota, Inc. – Bellow Falls
  - Croteau Auto Parts – Orleans
  - Fair Haven Machine Inc. – West Haven
  - FR Lafayette Inc. – Essex Junction
  - Hawkeye International LTD – North Hyde Park
  - Hungerford Construction, LLC – Saint Albans
  - Ivek Corporation – North Springfield
  - Jenne Machine Shop – Lyndonville
  - JHC Fire Containment Solutions – West Wardsboro
  - Metal Flex Welded Bellows Inc. – Newport
  - Micro Wire Transmission Systems Inc. – Essex Junction
  - Mike’s Electric Inc. – Jay
  - North Country Engineering, Inc. – Derby
  - North East Precision, LLC – St. Johnsbury
  - Nuharbor – Huntington
  - Precision Composites of Vermont, LLC – Lyndonville
  - RTAT Precision Machining – Colchester
  - Sathorn Corporation – Williston
  - Sykes Hollow Innovations, LTD dba Pirit Heated Hose – Manchester Center
  - Tech Patrol – Derby Line
  - Tivoly, Inc. – Derby Line
  - Trudell Consulting Engineers – Williston
  - Vermont Aerospace Manufacturing, Inc. – Lyndonville
  - Vermont Heritage Distributors – Newport
  - Vermont Prototype, LLC – Colchester
  - Woodlan Tool & Machine Company – Bellows Falls

#### **VERMONT TRAINING PROGRAM ♦ John Young, Director**

- VTC received conditional approval for a VTP grant for Paramedic training as we will need to hear from VTC on qualified employees.
- Renewable NRG has been approved for a VTP Grant for leadership development and engineering process improvements.
- Vermont Castings is close to final application of a VTP grant for their Randolph Foundry as they are adding CNC machinery and will be adding a couple of employees.
- Met with Greensea Technologies to discuss their future growth of adding up to 15 new employees in the upcoming year. They own a 2 story building in Richmond and plan to utilize the second floor in the future for the new employees.
- Upcoming meetings with: GW Savage, Vermont Woodworking School, Precision Composites, Autumn Harp, and Northern Reliability.

#### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Deputy Commissioner Hanford**

- **HUD Secretary Julian Castro visit & VT Housing Roundtable with Sen. Leahy:** Spent much of the week coordinating with other VT housing organizations & Sen. Leahy’s office, preparing materials and logistics for this

Housing Roundtable hosted by Mayor Weinberger at Burlington City Hall. My role was to present VT's strong commitment to affordable housing, appreciation for the federal resources, including the \$40M in CDBG Disaster Recovery funding during this 5-year Irene anniversary week, express the need for flexibility from the one size fits all regulatory approach by HUD and to share the Governor's commitment to ending homelessness & his Executive Order to make 15% of all publicly funded housing available to homeless individuals and families, to better and more efficiently deliver the housing, support and services.

#### **COMMUNITY PLANNING & REVITALIZATION ♦ Chris Cochran, Director**

##### **Partner Report**

- **Efficiency Vermont – Partnership to Improve Housing:** In January, Efficiency Vermont partnered with ACCD to increase energy efficiency investments in targeted downtowns. The program was initially focused on Bennington and Randolph and aimed to increase awareness of Efficiency Vermont services with targeted outreach to landlords and business owners. The results of the pilot program were terrific – with a 350% increase in the number of planned efficiency projects in Randolph and 81% uptick in Bennington (when compared with activity in the prior 6 months). The partnership is now focused on White River Junction and Barre. Based on this initial success, Efficiency Vermont and ACCD met to identify opportunities, possible partners and incentives to target energy efficiency investments in houses and apartments in and around downtowns. We meet again in mid-September to develop an implementation strategy.

##### **State Designation Program Report**

- **Morristown:** On Monday, the Selectboard and Trustees of Morristown/Morrisville voted to end their membership in Lamoille County Planning Commission (LCPC) and affiliate with the Northern Vermont Development Association (NVDA). While state law allows towns to switch from one RPC to another, the change must “constitute a logical geographic *and* a coherent socioeconomic planning area.” Morrisville is surrounded by other towns in LCPC's region and it is unclear how they could meet this statutory requirement. This decision also jeopardizes the community's downtown designation and associated benefits like tax credits and access to the transportation fund. It further makes them ineligible for DHCD grants (MPG, VCDP) and limits their funding opportunities at sister agencies. At this time, it's uncertain if the local leadership is aware of either of these facts.

#### **GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director**

##### **CDBG Disaster Recovery Program**

##### **Environmental Review**

- **Lunenburg Kingdom Pellets Mill:** Gilman is an economic development project that involves the leasing and conversion of a portion of an old paper mill and log yard to a wood chip pellet manufacturing facility. From a toxic sites compliance standpoint, the project presents challenges. HUD's regulations require all program properties be free of hazardous materials and contamination where a hazard could affect the health and safety of its occupants. Due to the property's past uses, testing will be required to determine the degree and extent of contamination in the areas of the property that Kingdom Pellets Mill will be leasing, in order to determine the appropriate remediation action(s) required. It is imperative to ensure that proper remediation is implemented in an effort to ensure the health and safety of the workers and the product that will be manufactured at the site. As with every project, choice-limiting actions cannot be initiated until after the ER Release is received. All of these factors present a large risk for the property owner. Kingdom Pellet Mill must perform this testing prior to signing a lease, but if contamination is found and they walk away from the project once the contamination has been identified, it would fall under the Department of Environmental Conservation's (DEC) jurisdiction and it becomes a liability on the property's owner to have the site cleaned up and remediated. Quin met with Kingdom Pellet Mill representatives, Lynda from SMS of DEC and the Environmental Consultant working at the site to clarify that all the necessary testing is completed while minimizing the property owner's risk.

#### **HISTORIC PRESERVATION ♦ Laura Trieschmann, State Historic Preservation Officer**

- **Preservation 50 PechaKucha Style:** VDHP and the Preservation Trust of Vermont are partnering for a one-day event on October 20, 2016 at Chandler Music Hall, to recognize the effects of the 50<sup>th</sup> anniversary of the National Historic Preservation Act on historic preservation in Vermont. The day's event will highlight the impacts of the Act in Vermont, recounting successful and maybe some not so successful projects from a variety of perspectives. We invite participants from all disciplines, including federal and state agencies, municipalities, consultants, developers, architects and builders, and the general public to share their experiences and lessons learned to join in the fun with PechaKucha-style presentations. The presentations should summarize Section 106 projects, consultation processes, National Register nomination and survey projects, and celebrate efforts to save Vermont's historic assets. Please let us know if you wish to participate with quick 7-minute PechaKucha-style presentations. Chester Liebs will be the keynote speaker! UVM Professor Emeritus Chester Liebs served as Assistant Director

of the Vermont Division for Historic Preservation in the early 1970s, founded the University of Vermont Historic Preservation Program in 1975, and was a founding board member of the Preservation Trust of Vermont in 1980.

### **Vermont Archaeology Month**

- Vermont Archaeology Month (VAM) began on Thursday. Jess sat in for two, three-minute segments on WCAX's "The Five" in the six-o'clock hour to discuss Vermont Archaeology and some of the events happening during VAM. This weekend, VAM is co-sponsoring stone tool-making and pottery-making demonstrations at the ECHO Lake Aquarium and Science Center, and many more events begin after Labor Day.

### **State Architectural Historian**

- **Marsh-Billings-Rockefeller NHP:** At long last, Marsh-Billings-Rockefeller National Historical Park is listed in the National Register of Historic Places. The nomination was prepared by the National Park Service and officially listed on August 15, 2016.
- **House II, Hardwick:** Devin met with staff and board members from the Preservation Trust of Vermont and Landmark Trust USA to discuss the plan to purchase House II in Hardwick. They have yet to identify a major donor willing to make a contribution towards the purchase, but additional prospects will be approached soon. The owner of the house is getting frustrated with the slow progress, but raising the \$750,000 necessary to purchase, rehabilitate and operate the house isn't easy.
- **New Deal Post Office Murals:** In the mid-1930s, as part of the New Deal, large murals were painted in post offices in Northfield, Rutland, St. Albans, White River Junction and Woodstock. Another one, planned for Island Pond, was never executed. Devin is researching and documenting these murals for a public presentation at the T.W. Wood Gallery in Montpelier on November 3, in conjunction with their exhibition of New Deal/WPA artwork.

### **Project Review**

- **Stowe:** Jamie travelled up the Mansfield Toll Road with Clerk Meg Armstrong and HP Consultant Mary Jo Llewellyn to inspect masonry cleaning mock-up samples on the Stone Hut. This high-profile restoration project is moving very quickly with contract awarded last week and contractors completing the dismantling of the charred woodwork in preparation for loading into dumpster later this week. Once the building has been stripped back to its masonry shell, the stone walls and mortar joints will be cleaned of soot and glazing from the fire that destroyed the CCC-built rustic cabin on Christmas Eve of 2015. After thorough cleaning and abatement of smoke odors, work will shift to building a new roof composed of peeled log rafters and rough sawn sheathing boards to match the original 1930s construction so work can begin on the interior buildout. Due to the good level of documentation of what was there before the fire, all interior fixtures will be replicated including sleeping bunks and loft. Agreements have been made with Public Safety that will allow for certain variances, eliminating the need to electrify and/or install a sprinkler system in the cabin in order to return it to its pristine, rustic setting. Contractor Donald Blake has agreed to November 1, 2016, as the substantial completion date, which is an extremely tight time frame. Blake was the contractor for the Elmore Bath House and did a fantastic job there, so prospects are high for successfully meeting the deadline. VDHP will continue to provide technical assistance and project review oversight throughout project completion.

### **State Historic Sites & Historic Sites Section Chief**

- **Coolidge Site:** More than 200 Plymouth residents came to the Museum & Education Center this past weekend to see the debut of "Irene: Ruin to Renewal." The film was produced by the Plymouth Historical Society and Ludlow Public Community Television; it tells the story of the devastation caused by Tropical Storm Irene and the town's subsequent recovery. Originally scheduled for Saturday evening only, the response was so great that another showing was held on Sunday afternoon. State Senators Dick McCormack and Alice Nitka and Representative Alison Clarkson were among the attendees. We received a nice acknowledgment for hosting the event, and everyone was pleased with the venue. Great community PR!
  - Preparations continued for the Plymouth Folk & Blues Festival this coming weekend. Bill provided material for the September display case at the Guilford Welcome Center - a benefit of belonging to the Okemo Regional Chamber. The Herbert Hoover Presidential Museum has asked to borrow items that belonged to Calvin Coolidge for a 2017 exhibit - we've provided photos of several items for their consideration.
- **Sites Facebook Page:** This past week nearly 4,000 viewed our posting on August 26 on the 5th anniversary of the raising of the arch for the Lake Champlain Bridge. The page also reached the over 3,000 likes landmark.

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

- On Tuesday afternoon, Arthur travelled to Richford for the mobile home park sale meeting which was held at 6 p.m. at the town hall. Sixteen households were in attendance, plus the town Clerk and two Listers. At this point, there is no nonprofit interested in either park. Jonathan Bond and Laura Mistretta from the CVOEO Mobile

Home Program presented information about mobile home park cooperatives, and the outcome of the meeting was that a majority of the residents in the room decided to collect signatures to try to extend the negotiation period for the additional 120-days to look into the feasibility of that option.

- Along with Chris, John and Dale, Shaun met with representatives from Vermont Housing Finance Agency to discuss an effort to propose modification of the definition of “affordable housing” for the purpose of defining a Priority Housing Project. Right now, the record keeping needed to prove a development maintains the affordability covenants is disproportionate to the benefit from the Priority status. This may be dampening development of affordable units and a change may alleviate that.
- Housing Vermont continues to spearhead an effort to study cost drivers for affordable housing development, particularly those that are the result of policy priorities tangential to housing (e.g. energy efficiency, smart growth, universal design). Shaun has been joining conference calls discussing the goals of such an exercise and assisting with drafting an RFP for a consultant to analyze significant amounts of project data compiled by VHFA.

#### **VERMONT COMMUNITY DEVELOPMENT PROGRAM ♦ Josh Hanford, Director**

##### **Regular CDBG**

##### **Technical Assistance to Potential Projects**

- **Town of Bennington:** Program guidance has been provided to Jon Hale, of Hale Resources, a private developer who is interested in renovating the former Bennington Middle and High School which has sat vacant for a number of years. Mr. Hale was provided a sample purchase option agreement to use should he seek formal site control of the building while he completes his due diligence to determine the feasibility of redeveloping the historic building.
- **Town of Rockingham:** Program guidance has been provided to Adam Grinold of BDCC on a potential application to remediate the former Robertson Paper Mill building. EPA brownfield funding has been awarded to the project but cost estimates are showing a potential \$200,000 - \$300,000 gap, and the town and BDCC are considering a potential VCDP application to cover this.
- **City of Rutland:** VCDP Staff has set up a conference call to provide the Vermont Farmers Food Center with guidance on how to improve their Planning Grant application that was denied funding last fall. The organization is interested in re-submitting the application to help fund their efforts to complete a business plan for the expanded use of the property.

#### **CHIEF MARKETING OFFICE ♦ Heather Pelham, Chief Marketing Officer**

- **Vermont State Craft Centers:** The Standards Group for the Vermont State Craft Centers network held its quarterly meeting last week, the first since a new set of volunteers was elected earlier this summer. The Standards Group is responsible for managing the application and renewal procedure for all State Craft Centers, as well as evaluating and conducting jury reviews for any new applicants for the designation. The meeting included a review of operational procedures for the benefit of new members, as well as the development of a work plan to consider two pending applications: Grand Isle Art Works in Grand Isle, and The Collective in Woodstock. Our former VDTM colleague Catherine Brooks has joined the group and was elected as the new Chair.
- **Creative Services:** Erin has been working on several projects for the Division for Historic Preservation this week including: a new set of print ads to promote the events of Archaeology month in regional newspapers; design updates to the State Historic Preservation Plan, including the creation of 20+ charts to illustrate the results of a stakeholder survey; and pre-production updates on a new rack card for the Vermont Archaeology Heritage Center.

#### **DEPARTMENT OF TOURISM & MARKETING: Megan Smith, Commissioner**

- **ESTO:** Commissioner Smith is currently attending the U.S. Travel Association’s Educational Seminar for Tourism Organizations (ESTO) in Boca Raton, FL. This is a national forum where destination marketing professionals at the state, regional, and local levels get critical tools, tips and information to help them better market and grow their destinations. She will report on her experience next week.

#### **COMMUNICATIONS ♦ Philip Tortora, Director of Communications**

- **ESTO Conference:** Attended the national tourism conference with Commissioner Smith and Deputy Commissioner Cook. There were many insightful sessions which provided overviews of trends in the industry. Some key takeaways from the industry experts who spoke:
  - Video production, including 360 degree and virtual reality, will continue to become more prevalent in marketing for the industry, particularly in the social media space.
  - Digital marketing, including online travel agencies (OTAs), hotel, airline and meta sites, has a profound impact on people who are planning or considering vacations.

- Domestically, millennials constitute a major demographic, and are at the forefront of people who are planning more travel. They also are more prone to book trips spontaneously.
- The strong dollar could pose some challenges attracting international visitors in the near future.
- Optimism is high for the industry in the near term. Also, there is a direct correlation in how much a state or destination spends on tourism marketing and the volume of tourism dollars that come into its region.

#### **MARKETING ♦ Patrick MacCormack, Digital Marketing Coordinator**

- **VermontVacation.com:** VDTM added three new packages to the [Fall Getaways](#) page. VDTM also performed some housekeeping tasks on VermontVacation.com, updating the tracking pixels that have been added over past campaigns. Working with Karen Fahey, our media buyer, we were able to confirm the pixels that were able to be removed from our website.
- **Consumer Newsletter:** VDTM continues to be reminded how important automation is when it comes to our very lean team. Since completing the lead generation process between the new forms and our MailChimp account, we have seen an average of 1,000 new subscribers per month.

#### **SALES ♦ Kathleen Kolva, Sales Manager**

- **The Big E:** The Vermont Building was open to all vendors on August 24. Kathleen and David traveled down to West Springfield, MA to examine the BGS improvements to the tourism booth, clean out outdated material, and begin installing some of the new signage and décor pieces.



- **Sp!ke Advertising:** Kathleen met with Ken Millman and Susan Smith of Sp!ke Advertising to discuss their new role as contractors for promotional services in Canada. Dates were set for the Montreal International Tourism & Travel Show, Ottawa Travel & Vacation Show, and Montreal Outdoor Adventure Show. Kathleen was very impressed with their positive energy, creative ideas, and open-minded approach to making the most of every VDTM trade show opportunity. There will be a follow-up meeting on October 13 to go through displays, collateral, and possible integration of social media strategies.
- **Sterling Ridge Resort/Vermont Canoe & Kayak:** Sterling Ridge Resort, a property with 20+ log cabins in Jeffersonville, is working on expanding their international marketing. Kathleen met with Jessica Bonath, Marketing Director, for a familiarization tour of the property and to discuss their upcoming partnership for the International Tourism & Travel Show and other 2017 opportunities. Kathleen also made her way over to their sister company, Vermont Canoe & Kayak. They have a growing offering of tours on the Lamoille River such as Kayaks and Cocktails and Morning Maple Tour.
- **Liaison to Travel Agents and Tour Operators:** On an on-going basis, Kathleen assists travel agents and tour operators by connecting them with the right information, person, or business that will assist them in sending guests to Vermont. This week Kathleen worked Covington Travel in Richmond, Virginia to get them stocked with Vermont travel literature. She also worked with a travel agent from Barcelona to set-up his guests with a fall foliage tour in early October.

#### **VERMONT LIFE ♦ Mary Hegarty Nowlan, Editor/Sky Barsch, Associate Publisher**

- **Advertising:** This past week we closed \$3,560 in Vermont Life ad sales for our Winter 2016-'17 issue, including Jay Peak and two new clients. Also got verbal commitment from SOV AG and new client SNL Inc. for another \$19,000 in annual ad sales revenue. We continue to push for additional sales for the Winter '16-'17 issue as we approach our Sept. 13 deadline. Tom is assisting with billing tasks for the Autumn issue, and also helping wrap up advertising processing for the 2017 Vermont Fishing Regulations Guidebook and devoting more time to ad processing for the Winter issue. In the third week of August, Chris sent an email to 50 legislators asking for their help and for suggestions of businesses in their area that may be interested in or could benefit from advertising with Vermont Life. To date five have responded, with three saying they preferred not to be used as a reference when approaching businesses in their area; two responses were helpful.



State of Vermont  
Department of Financial Regulation  
89 Main Street  
Montpelier, VT 05620-3101  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

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

**CONFIDENTIAL and PRIVILEGED**

To: The Honorable Peter Shumlin, Governor  
From: Michael S. Pieciak, Commissioner, Department of Financial Regulation  
Date: September 2, 2016  
Re: Weekly Report

A handwritten signature in blue ink, appearing to read "Michael S. Pieciak", written over a horizontal line.

**Captive Insurance Division:**

**Captive Insolvency/Receivership:** On Tuesday, the Department will likely file a petition in Washington Superior Court to seize the assets of Doctors & Surgeons National Risk Retention Group IC, Inc. ("Doctors"), a Vermont licensed captive insurance company. The captive insurance division has been working closing with Doctors to rehabilitate its financial condition, but it is clear that Doctor's is teetering on insolvency and it is now the appropriate time for the Department to intervene. Once the assets are seized, the Department will seek a rehabilitation order and then quickly seek liquidation through a receivership. Because the Department is intervening at the appropriate time, it is anticipated that all claims against Doctors will be fully satisfied or close to it.

**Banking Division:**

**First litigation funding company:** On August 23, Oasis Legal Finance, headquartered in Rosemont, Ill., became Vermont's first registered consumer litigation funding company under Act 128 (H.84). Funds ranging from \$100 to \$50,000 will be available to consumers who have pending legal claims stemming from auto accidents, workers' compensation matters and personal injury cases, to name a few. The money may be used for a variety of personal expenses including housing, transportation, uninsured medical expenses and even groceries while waiting for resolution. Repayment is expected only if the client wins the case.





**Privileged and Confidential**

**MEMORANDUM**

---

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

From: Christopher Recchia, Commissioner

Date: September 2, 2016

Subject: Weekly Report

---

**Governor Level Issues:**

**Status of Priorities and Cases of Interest:**

**GMP Innovative Products Tariff Filing – Tariff No. 8616**

On July 25, GMP filed a request for approvals of tariffs related to heat pumps, heat pump water heaters, and its Connect DER product. This request marks a significant shift in GMP's provision of these products. Previously, they were provided under the rubric of an innovative pilot program. Now GMP is seeking to essentially lock them in as part of its core regulated business. It is therefore important to thoroughly investigate this proposal to determine whether GMP is appropriately reflecting all costs and revenues, whether the program is consistent with state policy, and whether the program gives appropriate consideration to low income ratepayers and other stakeholders. For this reason, the Department recommended an investigation. The Board accepted that recommendation and a prehearing is scheduled for Sept 9.

GMP staff met with Department staff on Thursday to answer questions regarding the innovative programs. The general tone was positive. GMP will seek a relatively quick schedule for the investigation and will move to continue this programs during the interim period.

**Permanent Wind Noise Rulemaking – No Docket**

The Board issued a notice regarding a process to establish rules related to noise limits from wind generation facilities pursuant to Act 174. The notice contains a list of preliminary questions from the Board aimed at scoping the rulemaking process and calls for submissions of proposed

rules by September 28 and a workshop on October 21. The Department is working with its outside consultant to develop draft rules in advance of the September 28 deadline. The Department has also learned that the PSB will engage its own outside expertise as it works through the very technical issues related to this rulemaking.

**Net Metering Rule** – The PSB has issued a revised order implementing a new net metering rule beginning January 1, 2017. The latest version reflects feedback the Board received from the Department in two key areas. The Board eliminated a provision that would have retroactively changed the program for existing customers by making their customer charge non-bypassable (holding it so that it couldn't be paid with bill credits generated from the net metering system). The Board also eliminated an annual 4% cap on the net metering program. These are significant improvements. The Department can now generally support the rule and believes this will enable a healthy net metering program moving forward.

**Act 174 Drafting of Standards** – Act 174 requires the Department of Public Service to draft standards for making a “Determination of Energy Compliance” on submitted town and regional plans. Town and regional plans that receive this determination will receive substantial deference is the Section 248 process. On Tuesday the Department held a 3 hour public meeting in Montpelier with concerned stakeholders to gather feedback on potential standards. The Department will be working hard over the next week to draft standards with the goal of issuing a draft by mid-September. After a comment period and public hearing, the Department will issue final standards on November 1. We are actively engaging with helpful stakeholders including RPC's and VNRC as we put our draft together.

**Meetings This Week:**

Aug 28 – NEG/ECP – Ed McNamara Covering for PSD

Aug 29 – Hydro Working Group meeting

Aug 30 – WDEV Interview on VGS, Act 174 Stakeholder Gathering, Entergy Meeting

Aug 31 –

Sep 01 – EAN on 90% by 2050 meeting, Chris at BFP “The Table”

Sep 02 – NESCOE Briefing Call; Taylor Dobbs in on Alt Reg process.

**Meetings Next Week:**

Sep 05 – Labor Day Holiday

Sep 06 –

Sep 07 – VCRD Climate Conference Meeting

Sep 08 – Telecommunications & Connectivity Board Meeting

Sep 09 – VTA/PSD Asset Ownership

**Media:** 7 Days on Ranger Solar projects, VPR on Act 174 Public Engagement meeting, VPR on VGS Rate Case, Rutland Herald on AARP report on VGS Alt. Reg, Recchia appearance on BFP's “The Table.”; VPR on Alternative Regulation for story next week; BFP wants to discuss Alt. Re. as well, and that will probably be scheduled for next week.

**Public Official Contacts:** Senator Chris Bray on GMP Innovative Programs

## **Everything Else:**

### ***PERD***

\* Staff held a call with REV members and GMP to walk through proposed updates to the collective draft interconnection rule. It remains possible that we will be able to file a consensus, or near-consensus, draft rule on Friday, 9/2.

\* Staff met by phone with Sandia National Lab staff, along with the Fin&Econ Director, to discuss possible scope for technical assistance they can provide in modeling utility regulation.

\* Keith Levenson has accepted our offer for the new VGS evaluation (technical position). He has 18 years of experience in energy efficiency program delivery and evaluation. We're very excited about Keith joining us! We're shooting for a start date of September 12th, as long as we can get all the necessary paperwork completed and processed by then.

\* Hiring for the other Energy Program Specialist Position (previously Matthew's position) is still in the works but we are hopefully getting close to a hire for that position as well.

\* The new Energy and Program Analyst Position has now been posted and recruiting efforts have begun. The position will focus on transportation efficiency (e.g. public transit, walking, biking, etc.); land use planning for locational efficiency and smart growth; electric vehicles (including as a resource on the electric grid); biofuels (including liquid biofuels for heating, and in-state production); and land use planning for electric generation siting. The application deadline is September 18, 2016.

### ***Regional***

#### **Integrating Markets and Public Policies**

The consumer advocates in New England had a call to discuss the IMAPP process and preliminary thoughts about working together. Maine pointed out that the states are likely to have very different perspectives, as Maine believes the current markets work, and that states should not take steps such as requiring significant long-term power purchase agreements. States with more aggressive public policy requirements indicated that one possible solution may be a move from a centralized mandatory procurement system as we have now to centralized residual markets. Under this approach states can meet most of their load and capacity requirements through bilateral power purchase agreements and any remaining load and capacity requirements can be met through residual markets to purchase needs beyond those met through the contracts. During a NEPOOL discussion of IMAPP, several stakeholders indicated that it would be helpful for states to weigh in on whether there were any solutions that were not acceptable.

#### **Installed Capacity Requirement Values**

ISO-NE has developed the following proposed values for the upcoming Forward Capacity Auction. ISO-NE will seek a vote on these values at an upcoming NEPOOL meeting.

Estimated 50/50 peak load in 2020-2021 shows a slight decrease in the amount of load at 29,601 MW, compared to the estimated peak load for 2019-2020 of 29,861 MW. The reduction is largely a result of the increasing number of solar resources.

The net Installed Capacity Requirement for 2020-2021 is 34,070 MW, compared to 34,151 MW the previous year. Net ICR is the estimated amount of resources in MWs needed to meet load and reserves, minus the capacity provided by the Phase II line providing power from Quebec.

ISO-NE has stated that solar resources are decreasing the expected load, but are slightly increasing reserve requirements.

The forced outage rate (the estimate of the percentage of hours that resources will be unexpectedly unavailable, as opposed to planned maintenance) has increased slightly due to taking Pilgrim Nuclear Station out of the resource mix. This results in a slight increase in the Installed Capacity Requirements. The forced outage rate for demand resources decreased because of a greater percentage of passive DR (energy efficiency) compared to active DR; passive DR is modeled as 0 EFORD.

As load declines, the ability of voltage reduction to contribute during abnormal system conditions decreases. One of the factors in estimating the Installed Capacity Requirement is the contribution of voltage reduction during Operating Procedure 4 events, and this number has decreased slightly.

### ***Finance & Economics***

#### **Electric**

Swanton: Tariff Filing #8617 - Swanton Village, Inc. Electric Department filed requesting for an overall rate increase in the amount of 4.52%, to take effect 9/6/16. The Department's review of Swanton's COS identified several issues, including the amount of net income requested, documentation for projects included in depreciation, and the inclusion of nonrecurring expenses. A revised the COS was determined indicating a need for only 2.05% increase. This analysis has been share with Swanton and VPPSA for a possible settlement of the case. A recommend to the PSB is due on September 7<sup>th</sup>.

VEC: Special Contract – VEC has filed three requests for Board approval of special contracts in connection with their Tier 3 “Clean Air Program.” A PSD recommendation on the first special contract is due on September 8th.

VEC: Tariff Filing – VEC is proposing a Pilot Time-of-Use Rate. VEC provided an F&E briefing for a pilot program offering time-of-use rates to be applied towards their Tier 3 (Act 56) Renewable Energy program requirements. Bases on historic AMI meter readings VEC designed a revenue neutral tariff with on-peak, mid-peak, and off-peak rates. The proscribed rate design (for Residential customers) ranges for an off-peak low of \$ .1179 per kWh to an on-peak high of \$ .3201 per kWh. VEC indicated plans to file the tariff change by August 31st.

#### **Gross Receipts Revenue**

A forecast of Gross Receipts Revenue for fiscal year 2017 was completed. The forecast estimated that the GRT would increase by approximate 0.7%. Total GRT for FY2017 \$8,855,278, 60% PSD share \$5,313,167, 40% PSB share \$3,542,111.

#### eCourt/Sustain/On-Line Returns

Utility Annual Report Forms – Testing ALL ARs – Annual Reports for utilities are being re-designed in a pdf format and tested as they become available. JTI has asked that all input be submitted through their tracking software Redmine which allows all participants, JTI and Department, to see the progress of updates and corrections. The small electric in a pdf version still needs to be initially tested.

#### ***Engineering***

##### Vermont Yankee Spent Fuel Management & Decommissioning

Systems maintenance and testing to support Spent Fuel Pool (SFP) integrity continued during the reporting period. Most notably, on 8/29, maintenance was successfully completed on one of VY's two Startup Transformers, which now supply most of the electricity used by all still-active plant systems onsite. (As a result, the transformer fully complies with IEEE and Nuclear Electric Insurance Limited Dielectric Strength requirements.) Conversion of the former Condensate Storage Tank (CST) to contingency water storage for abandoned, drained reactor systems (first reported on 6/8) has been completed. Final drain-down and abandoning of the former Rad-Waste Cleanup System (RWCU) was also completed. No issues identified during the reporting period adversely impacted SFP integrity.

##### Update on VY Groundwater Management Issues

To date, approximately 323,000 gallons of intrusion water have been shipped offsite, which equals the total stored inventory when VY's intrusion water issues became public in late February. VY expects that one shipment per week (~5,000 gallons) will remain necessary for the foreseeable future. With a return to dry weather, the intrusion rate has dropped to the 750 gal/day estimate reported earlier this month. VY has selected a contractor for resealing the Seismic Gap between the Reactor and Turbine Buildings (which should eliminate most of the remaining intrusion source). Resealing should commence the week of 9/12.

##### Second VY Independent Spent Fuel Storage Installation (ISFSI) Construction Activities

Efforts to relocate several underground conduits in the vicinity of the North Warehouse (the future site of the Second ISFSI) continue. The concrete foundation for the new diesel generator being installed with the Second ISFSI has been poured immediately west of the warehouse. Additional excavation between the two Dry Fuel Storage Transport Turning Pads near the VY Containment Access Building (CAB) is also ongoing. Soil from these excavations is being stored onsite for subsequent backfill once relocation of the conduits and construction of the new diesel generator are complete.

##### Vermont Gas Systems Addison Transmission Pipeline Project Construction

Approximately 11,609 feet of pipeline was installed last week by the primary construction contractor for the project. 11,229 was all installed by open-trench method and 380 feet of pipe was installed by boring under roads. Total 2016 installation between Williston and Middlebury at the end of the week was approximately 18.3 miles. The Department Pipeline Inspector

performed additional inspections of pipeline installation at Monkton Swamp and the Dragon property and installation of test-station wiring to monitor ANGP pipeline cathodic protection.

#### Docket 8685 Coolidge Solar

Engineering held a conference call with Coolidge Solar to discuss the lack of engineering detail in the Coolidge petition, relative to other large generation projects, that was mentioned in the testimony of Bill Jordan. Coolidge indicated it will file rebuttal testimony from an engineering witness that will discuss potential impacts to the electrical system.

#### ***Public Advocacy***

##### VGS Rate and Alt Reg Filings – Docket Nos. 8710 & 8698

The Department filed testimony on August 22. The Department is the only non-petitioning party to file testimony in this case. (AARP and CLF are parties but did not file testimony.) On August 29, VGS and AARP filed discovery on the Department's testimony. Responses are due on September 12. On August 30, AARP alerted the Department that it is releasing a report on VGS's experience with alt reg. The AARP report describes alt reg as generally failing consumers.

##### GMP Base Rates Filing – No Docket

The Larkin Report was filed on August 15. The next step is for a Department recommendation on September 15. In the interim, the Board will hold a workshop on the filing. The workshop is tentatively scheduled for September 13 in the afternoon. On September 8, Department staff and Bill Schultz will meet with Bob Simpson and Bill Griffin of the AGO to discuss the proceeding.

Additionally, the Department issued an RFP for a hydro appraiser to assess the value of the dams that were excluded from this year's rate case but that GMP intends to purchase. Responses to the RFP are due on August 31. So far, two have been submitted. A conversation with GMP's attorney indicated a positive development – that 4 to 6 out-of-state facilities are now eligible for net metering treatment in those states. GMP is considering either selling those facilities for a quick profit or enter into net metering arrangements – with proceeds of either going to Vermont ratepayers. GMP will provide additional data on this possibility for consideration in the appraisal process.

##### Swanton Met Tower Penalty Investigation – Docket 8561

This case involves a meteorological tower constructed in Swanton without prior Board approval. Respondent Belisle recently filed a notice of appeal to the Vermont Supreme Court of the Board's Order Denying Reconsideration of the Hearing Officer's decision to grant intervenor status to Christine and Dustin Lang. The Department received Appellant's docketing statement dated August 9<sup>th</sup> on August 15<sup>th</sup>. The Department filed its own docketing statement on August 19<sup>th</sup>. On August 18<sup>th</sup>, the Supreme Court issued an order directing Appellant Belisle to show cause why an interlocutory appeal is appropriate in this matter prior to issuance of a final Board order. Belisle's response was due on August 29<sup>th</sup>, with Appellees' comments due 10 days thereafter. PSD has not yet received Belisle's response, since his counsel only occasionally observes the usual courtesy of emailing filings.

##### Blittersdorf/Irasburg MET Tower Investigation – Docket 8585

The Department filed a response to Blittersdorf's reply to the Department's motion for partial summary judgment, cross-motion for summary judgment, and motion to dismiss. Blittersdorf argues that the Board lacks jurisdiction over the MET tower in question, principally because he intends for the MET tower to be permanent (as opposed to temporary as contemplated by § 246). The parties now await a ruling on the Department's motion for partial summary judgment.

#### South Forty Solar – Docket 8600

The Hearing Officer issued a proposal for decision recommending approval of the Burlington project. The PFD made findings consistent with the Department's conclusions regarding the economic benefit criterion – namely that additional economic analysis showed that the project will have a net-positive economic benefit to the state. The PFD also adopted the Department's recommendation that the Board order SFS to recalculate the decommissioning trust fund estimate to include all costs, including those that were netted out due to salvage value. The Department filed comments in response to the PFD suggesting some edits to clarify annual decommissioning fund reporting obligations. The PFD will now be sent to the Board for review with the parties' comments.

#### Sheffield/Brouha Noise Investigation – Docket 8653

The Department, Vermont Wind, and Brouha filed responses to motions for reconsideration of the Hearing Officer's July 21 order clarifying attenuation testing assumptions and ordering additional outdoor monitoring, filed by Vermont Wind and Brouha respectively. Vermont Wind sought reconsideration of the Hearing Officer's decision not to require a 3 dBA difference between overall and background sound levels to exist in order to analyze sound data, and the finding that indoor sound levels could be determined by applying attenuation measurements to outdoor sound levels (as opposed to direct indoor monitoring). Brouha sought reconsideration of a number of irrelevant and relatively minor issues presented in the Hearing Officer's order in an attempt to bolster his position in his federal nuisance suit. The Department responded by arguing that reconsideration of any of the issues presented by the other parties was not appropriate or grounded in a sound legal basis. The parties have agreed to have their experts meet by the end of September in an attempt to craft a protocol for the additional monitoring that is agreeable to all parties.

#### Swanton Proposed 4.52% Rate Increase – Tariff No. 8617

Based on the Planning and Finance Division's reviews, the PSD informed Swanton that it could support a 2% rate increase. The PSD requested an extension until September 7<sup>th</sup> to file its recommendation.

#### GMPSolar Williamstown – Docket 8682

The PSB approved the project and issued a CPG, subject to expected and usual conditions. Allco filed another notice of appeal with the Supreme Court, asserting that any doubt regarding the finality of the PSB's denial of Allco's intervention request has been resolved by the grant of a CPG.

#### Coolidge Solar 20 MW facility in Ludlow - Docket 8685 and Request for Rule 4.100 contract approval- Docket 8586

Along with the PSD, GMP, WEC, ANR and BED each filed discovery responses, which the PSD is reviewing. The petitioner is scheduled to file rebuttal testimony on September 14<sup>th</sup>. Discovery questions on the rebuttal testimony are due by September 21<sup>st</sup>.

SunE Solar Rutland – Docket 7957

This CPG holder was ordered to show compliance with testimony (incorporated into the CPG) that it would preserve a 20-foot fire lane. The PSB allowed until August 31<sup>st</sup> for comments on the compliance affidavit, which did not actually show compliance. The PSD has requested an extension until September 8<sup>th</sup> to file comments. The PSD will attempt to facilitate the resolution of the current safety concerns within that timeframe and anticipates recommending that the PSB open an investigation into the CPG violation.

GMPSolar Panton – Docket 8637

With reference to the Allco appeals, the Supreme Court notified Allco that it would dismiss the appeal unless it filed complete and adequate docketing statements by September 8<sup>th</sup>. On August 26<sup>th</sup>, Allco filed a docketing statement.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182

Since the PSB found Rutland Renewable's proposed new letter of credit conforms to the requirements of its CPG and approved it as a replacement to the previously approved letter of credit, the petitioner has requested the prior letter of credit be returned.

GMPSolar Hartford – Docket 8580

With reference to the Allco appeals, the Supreme Court notified Allco that it would dismiss the appeal unless it filed complete and adequate docketing statements by September 8<sup>th</sup>. On August 26<sup>th</sup>, Allco filed a docketing statement.

Petition of Robert Garthwaite to Revoke CPG #NM-1771 – Docket 8774

This case involves a complaint that the holder of the CPG, David Blittersdorf, did not construct the turbines in accordance with the CPG application. On August 1<sup>st</sup>, the Hearing Officer issued a Prehearing Conference Memorandum establishing dates for intervention requests and responses and adopting the Department's recommendation that the investigation proceed in two phases: the first to determine whether a violation has occurred, and the second to determine the magnitude of penalty, if appropriate. The Hearing Officer issued a separate order requiring Mr. Blittersdorf to file an affidavit, by August 26<sup>th</sup>, pursuant to 30 V.S.A. § 30(g) explaining whether or not the project is in conformance with its CPG. Mr. Blittersdorf filed an affidavit stating that his project is in compliance with its CPG, since the project application did not require measuring devices, mapping software, or geographic coordinates to locate the wind turbines, nor did it require that he provide a listing of all the residences within a mile or less of the project. He maintains that the residential wind turbines "were installed in the same general location as indicated on the Google Earth screen shot submitted with the application." The Hearing Officer will issue a separate scheduling order requesting parties' comments.

VGS-Act 250 jurisdictional inquiry re: Vermont Gas's Addison Facilities-no docket

On August 15, Jim Dumont presented to the Rutland office of the Natural Resources Board a Request for a Jurisdiction Opinion regarding the necessity of a Land Use Permit for the Addison

Natural Gas Project and/or portions thereof; the Request was submitted on behalf of “several citizens” who reside in Hinesburg and Monkton. The District Coordinator directed the Request to Vermont Gas, the Department, the Board and ANR and asked that any comments on the Request be submitted by September 20. The Department is reviewing the Request and conferring with the other interested parties.

VGS Addison Expansion –Notice of Probable Violations-no docket- A NOPV regarding Vermont Gas’s construction practices where electric transmission lines are present was transmitted to VGS on August 8. The NOPV alleges that Vermont Gas failed to follow its own Specifications in this regard. The NOPV requests, among other things, a civil penalty in the amount of \$150,000. Vermont Gas is preparing a response.

A second draft NOPV regarding improper pipe burial is undergoing review by the Public Advocacy division.

CLF declaratory ruling re: amended CPG for the VGS Addison Expansion-Docket 8330- Oral argument-as requested by CLF- will be heard by the Board on September 7 at the Pavilion Auditorium. Parties of record entitled to participate are Vermont Gas, CLF and the Department.

VGS-Petition for a Renewable Natural Gas Program and Optional Tariff-Docket 8667

A technical hearing will be held on September 2. The Department is generally supportive of the Program and is preparing its witness for participation in the hearing.

VGS-Town of Hinesburg condemnation-Docket 8643

This parcel is in a park owned by the Town. Reply briefs were submitted by Vermont Gas and the Resident Intervenor on August 29. Vermont Gas has requested a Board order by September 15.

BHC Solar LLC – Docket 8692

Enforcement action to investigate false or misleading statements on the application for a 150kW net metered solar project in Vergennes, Vermont pertaining to the existence of Historic Sites adjacent to or near the proposed project. Department has reviewed the proposed Stipulation of Material Facts drafted by Respondent, BHC Solar LLC, as well as a proposed Stipulation of Material Facts drafted by adjoining landowner Mary McGuire. DPS, with the consent of all parties, moved for an extension on the deadline for submission of a stipulation of material facts, proposing a deadline of 9/9/16. While the facts stated in the two drafts look acceptable to the Department, it is quite likely that concerns over semantics may prevent a stipulation. Recommendations for the next procedural steps are also to be submitted by the parties. It is unlikely parties will agree on those next steps, as the Department seeks two rounds of discovery and Respondent has already indicated it opposes this.

No Docket Number – GMP Supplemental Net Metering Program

On 8/15/16 the Board issued an order resuming regulatory review of certain net metered applications in GMP’s service territory and in particular addressed the projects that had been accepted into the GMP Supplemental Net Metering Program, which affords net metering status to qualified projects between 15kW and 150kW subject to certain conditions. On 8/30/16, the Department, on behalf of itself as well as the Division for Historic Preservation and the Agency

of Natural Resources, filed a request with the Board seeking confirmation of which projects in the program had already filed CPG applications with the Board. Confusion has arisen where State agencies have concerns about compliance with certain of the Section 248 criteria, but not all agencies are entitled to receive copies of all CPG applications. This is especially true of roof mount and existing structure installations where DHP and ANR feel obliged to review potential impacts. The Department has conferred with GMP to enlist their assistance in compiling a list of the projects that GMP believes already have filed CPG applications. The goal of the request to the Board is not to delay the projects, but to ensure that agencies will have the ability to comment before the expiration of any comment period.

#### VEC – Great Bay PURPA Wheeling Dispute – Docket No. 8781

If you've made it past the title, congratulations on being awake. The description will attempt to put you to sleep. The dispute is regarding transmission charges levied by VEC on Great Bay (an existing hydro QF) operating under a 1-year Rule 4.100 contract. Great Bay seeks a refund of past charges and an order prohibiting future charges as inconsistent with Rule 4.100 and PURPA. VEC has moved to dismiss, based on preemption grounds. VEC argues that FERC has exclusive jurisdiction over transmission charges that VEC is charging pursuant to its OATT. The Department is reviewing the pleadings and a response is due Sept 16. An initial read suggests that the motion to dismiss is premature as material facts appear to be at issue.

#### GMP 248(j) Petition to Reconstruct the South Brattleboro Substation – Docket 8778

GMP filed a petition on July 5<sup>th</sup> requesting approval pursuant to Section 248(j) for reconstruction of the South Brattleboro Substation. The Department filed a letter on August 24<sup>th</sup> recommending approval of the project, and GMP filed a revised Proposal for Decision on August 29<sup>th</sup> reflecting its agreement with the Department and ANR.

#### Petition of Morrisville Water and Light Department for a Declaratory Order Interpreting the Meaning of “first-come, first-served” in 30 V.S.A. § 219a(h)(1)(A) – Docket 8756

The Hearing Officer held a prehearing conference on August 5, 2016. A schedule was agreed upon by all parties, whereby Morrisville will file testimony on August 15<sup>th</sup> and the DPS will file a response on August 29<sup>th</sup>. Morrisville's testimony filed on August 15<sup>th</sup> reports that Morrisville has since submitted an interconnection application, which the Board has previously accepted as sufficient for securing a position in the net metering queue. Morrisville has agreed to follow a protocol of using the date of interconnection application as the determinative date for “first come, first serve” with respect to the requirement contained in 30 V.S.A. § 219a(h)(1)(A), an approach endorsed by the Department in its previous comment, and the parties have entered into a Stipulation. The Department filed the Stipulation, along with its comments, on August 30<sup>th</sup>.

#### Petition of the CLEC Association of Northern New England to Amend Board Rule 3.706(D)(1) Regarding the Rental Calculation for Pole Attachments – no docket

The Board has held a Rule 3.706 workshop on August 26, 2016. The Board will be issuing an Order regarding the process for moving forward.

Otter Creek Solar, LLC pursuant to Board Rule 5.508 seeking resolution of a dispute regarding an interconnection request with Green Mountain Power Corporation – Docket 8775 – This case concerns a dispute among GMP and a solar net metering developer over GMP's treatment of a

solar project for which the developer changed its location and GMP subsequently deemed the project's application withdrawn for reason of a "material change." The Department, GMP, and Otter Creek Solar have submitted extensive filings setting forth their respective positions, and the Department has agreed with GMP that the application should be considered withdrawn and the Board should require the developer to submit a new application. The Hearing Officer issued a Scheduling Order on August 19<sup>th</sup> requiring parties to submit testimony in response to a number of posed questions by August 31<sup>st</sup> (deadline extended by GMP's request). None of the factual questions are directed at the Department and the legal issues identified by the Hearing Officer were addressed in the Department's previous comments dated April 21<sup>st</sup>. The Department filed a letter on August 31<sup>st</sup> indicating it has no further comments beyond those already stated in its April 21<sup>st</sup> filing and will not be filing additional testimony. Parties will then propound discovery and a technical hearing will take place on September 16<sup>th</sup>.

### ***Telecommunications***

#### **CoverageCo Proposal**

Vanu CoverageCo is a company that was retained by the VTA to construct a wireless cell network throughout Vermont. CoverageCo is not profitable. In a meeting on August 25, with PSD telecom staff, CoverageCo revealed that it had been in "survival mode" for a long time and had not been constructing the project cell sites. At the August 25 meeting, CoverageCo presented a proposal that it believes will allow it to become profitable, thereby enabling it to complete the project. CoverageCo identified 49 sites from the original 95 VTA Project I sites to decommission. These sites either experience contention (the underlying carrier doesn't allow its device to roam with CoverageCo) with other networks or have insufficient traffic. CoverageCo plans to replace these sites with 49 new or existing sites. Of the new sites CoverageCo identified, 24 are owned by CoverageCo and were being constructed with private capital. In addition, the company will add 25 sites from the "Incentive Project." The sites it decommissions will be taken off the network but not deconstructed. Decommissioned sites will be turned up again, if new carriers join the network or traffic improves. None of this reshuffling will impact EDA funded sites or EDA-Match corridors. CoverageCo would still be responsible for constructing the same number of sites it is currently under contract to provide and will find new locations to replace the incentive sites it is moving to Contract I. Division staff has reviewed the proposal and has conditionally approved the re-design, however, if significant progress is not made on the project by the end of December, it is unlikely that CoverageCo's investors will allow the project to continue and the PSD will have to refer the project to the attorney general for potential legal action. CoverageCo has started work in two corridors which the department has prioritized for them, they are the Roxbury and Strafford areas. In Roxbury they have now contracted with TDS for the backhaul service and are planning to test and commission the sites in early September. In Strafford they have now contracted with Fairpoint for backhaul on 8 of the planned 13 sites. The remaining 5 sites are part of the new plan and will be deployed later.

#### **E-911 Board Meeting**

PSD staff attended the quarterly meeting of the Vermont E-911 Board. Four executives from FairPoint presented information describing the root cause of two recent E-911 outages. They related that in June and again in August, problems with the text to 911 system caused the entire E-911 system to become inoperative (including not only text but also voice calls), for approximately 45 minutes each time. The problem in both cases was caused by a third party, a

service provider acting on behalf of the nationwide cellular wireless providers, that processes text to 911 texts, sending unexpected signaling information to the E-911 call processing center. FairPoint, with the agreement of the E-911 Board staff, disabled text to E-911 for 23 days in order to develop and test procedures to ensure that such problems do not recur. Members of the public questioned the capabilities of E-911 Board staff to oversee its contractors, including FairPoint. E-911 Board members, and FairPoint, all lauded E-911 Board staff capabilities, but the E-911 Board chair indicated that the Board is considering revising its budget to bring on outside professional engineering assistance to oversee contractors.

#### Verizon Underpayment to VUSF

The Department sent a letter to wireless carriers asking the carriers to comply with a September 2014 Public Service Board order that compels them to explain how they calculate wholesale prepaid sales. The law requires carriers to remit payment on wholesale transactions at a rate that reflects 2% of the retail sale. During a phone call with a representative of Verizon and Division staff, Verizon admitted that it had not paid VUSF on wholesale prepaid from September 2014 to November 2015. The Company sent a response to the Department's letter stating that it will file its wholesale methodology and accounting of whole-sale prepaid at some point in mid-October.

#### Eustis Contract Expiration

Eustis Cable Inc. is the contractor hired to build the Department's fiber projects. The Eustis contract expired on December 31, 2015. Despite the expiration of the term, the fiber construction projects are not complete and both Eustis and the Department have been performing on the contract. The contract expiration has now become an issue with the state's payment system. Staff is working on an amendment. The Department has one project with Eustis to complete and it is substantially finished. Staff hopes that the Department of Finance and Management approve an amendment so that the projects can be quickly completed. Staff is working on an amendment now.

#### Comcast & Cavendish

Last September, the Connectivity Team met with the town of Cavendish. The Connectivity Division identified Comcast as a possible solution to the town's broadband gaps. Comcast did not bid on Cavendish during the latest grant round, but will be meeting with the town on September 8 to discuss a future partnership. Comcast already has a presence in Cavendish and could extend service through line extensions.

#### Records Request

The Department received a records request for information on CoverageCo's efforts in Topsham, Corinth, and Bradford. Staff produced some records relevant to the request. Staff also spoke with the requesting party, a journalist in Bradford, and talked with him about narrowing the request. The request could impact hundreds of documents and take several hours to complete. Staff recommends having a longer discussion with the journalist, as it appears he wants to write about Topsham Telephone's refusal to extend service to Vanu CoverageCo. It should be noted that as broadband is a non-regulated service, the state has no ability to compel Topsham Telephone or any other provider to provide broadband service to any customer as we do with telephone service.

#### FairPoint Petition to Investigate 5903 Service Metrics (Docket 8701)

FairPoint has petitioned the Board to allow it to modify its existing service quality metrics and reporting requirements. FairPoint is requesting that it be permitted to report on service quality only for addresses where its customers do not have access to an alternate landline provider. FairPoint is also requesting that the Board modify the troubles cleared metric so that it is measured at 48 hours instead of 24 hours. The Department served its first round of discovery on FairPoint on August 25. FairPoint's responses are due by September 8. FairPoint has already informed the Department that it believes that the discovery requests are excessive and that they may not be able to complete responses within the deadline. Department staff had a phone conference with FairPoint to discuss discovery and possible alternatives for limiting the burden on FairPoint. The parties have agreed to allow their technical witnesses to communicate directly to clarify and possibly narrow the scope of the Department's requests without compromising the Department's ability to present its testimony.

#### PSB Workshop on Pole Rental Rulemaking Petition from CANNE

The Board held a workshop on August 26 for a rulemaking petition from the CLEC Association of Northern New England (CANNE). CANNE is requesting that the Board amend Rule 3.706 and the formula for establishing rental rates for attachments on utility poles. CANNE is requesting that the Board modify the rule to require that all attaching entities be billed at the same rate. The current rule presumes that cable providers utilize half of the space that all other attaching entities use, and are presumed to be billed accordingly. Representatives from GMP, VEC, WEC, Burlington Telecom, FairPoint, Firstlight, Level3, Sovernet, FairPoint, Comcast, the RLECs, Lyndonville Power, VEPSA, AT&T, Duncan Cable, Design Access Network, and ECFiber attended the workshop. The pole owning electric utilities and incumbent telecom companies generally oppose the petition. They commented that if the Board proceeds with a rulemaking, it should expand the scope to address other issues such as dual poles. They also commented that if the Board modifies the rule, it should do so in manner that does not reduce revenues to pole-owners to prevent ratepayers from bearing the revenue burden through increased rates. The CLECs commented that it would be inappropriate to expand the scope of the rulemaking, and that the changed rate would not drastically affect electric rates. They also commented that it will achieve equity amongst competing entities that provide similar services and stimulate broadband development in rural areas. The Board's hearing officer stated that he will issue a memorandum within two weeks discussing the scope of the rulemaking and identifying a process for moving forward.

#### T-Mobile § 248a Application – Vershire (Docket 8689)

The Board held a technical hearing on August 18th. The Town presented its Selectboard chair as a witness in opposition to the project. The town's prefiled testimony argues that the project (which includes installation of a new tower) does not comply with the Vershire Town Plan. However, under cross-examination, the witness appeared to concede that it does comply with the plan. He further testified that the application should still be denied because T-Mobile did not pick an ideal location and should have spent more time consulting with the Town before proceeding with an application.

#### Charter Tariff Investigation (Docket 8715)

In response to two consumer complaints, the Board initiated a proceeding to determine whether Charter is complying with its line extension tariff. Two consumers complained that Charter is imposing costs on consumers that should be borne by the company when it completes line extensions (such as overbuilding existing cable lines and installing new nodes). Charter has requested that the Board extend the deadline for filing a proposed schedule on September 15. The Department agreed to the request.

#### Comcast CPG Renewal (Docket 8301)

The Board completed technical hearings for the docket on Monday, July 18. DPS staff will begin preparing a post-hearing brief, which is due by September 2.

#### Burlington Telecom CPG Renewal (Docket 8719)

The Department plans to work with Burlington Telecom to prepare an MOU that resolves all pending issues associated with the docket. The Department does not expect that the docket will proceed to a technical hearing.

#### Report to the Connectivity Advisory Board

30 V.S.A. § 202f (h) directs the Commissioner of Public Service to submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year. Staff is drafting the required report for review and presentation to the Connectivity Advisory Board at their upcoming meeting on Thursday, September 8. In addition to the information required by statute, it is anticipated that the report will also include an update on Connectivity Division activities over the past year, such as a recap and status update on grants awarded through the Connectivity Initiative in fiscal year 2015, listing of road show presentations, and recent financial pressures on the VUSF due to E911 appropriations (actual and expected) that will have the net effect of negatively impacting funds available for use by the Connectivity Fund. Although it is expected that a separate overview will be given to the Connectivity Advisory Board at their September 8 meeting on the first round of 2016 grants from the Connectivity Initiative, the report will be flexible enough to also include information on the RFP process and any other pertinent information.

#### Connectivity Roadshow Vernon

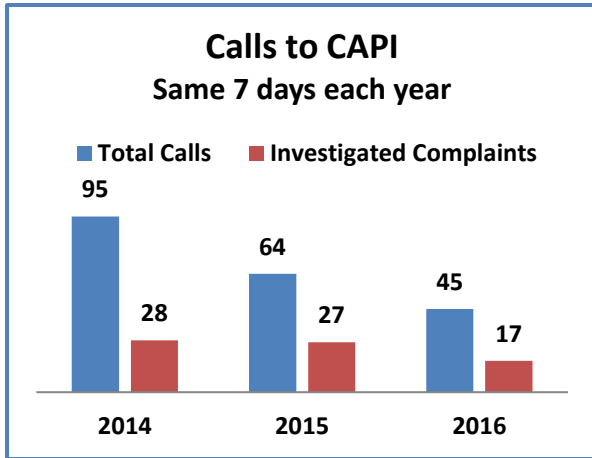
Staff prepared a presentation to be given to the Vernon Economic Development Group on August 29<sup>th</sup>. The group is meeting at the request of the local Connectivity Committee, which seeks to determine a way to bring fiber to the hope to all addresses in the township. Connectivity staff will be presenting as part of a panel including members of the USDA/Rural Utility Service, the Brattleboro Economic Development agency, and local representatives.

#### PSD GIS Server

A GIS server with associated hardware and software is required to process broadband availability information in addition to other ad hoc reports and mapping requests internally. Staff concluded that contracting with Stone Environmental would be the best solution to meet the current and future software and hardware needs of the Department. Staff sent the completed sole source contract to PSD Administration where the contract has gone through the first level of review and is now awaiting legal review before being sent to the Agency of Administration.

### Connectivity Initiative Grant Proposals

Staff spent time extracting the location data from the 9 proposals received. Staff mapped or attempted to map the addresses for the nine proposals in order to discover any redundancy and



also to verify the locations were in fact unserved. During the first proposal review meeting it was determined there needed to be some follow up with three of submitting providers to clarify locations. Staff reviewed, analyzed and held a conference call with an internet service provider that requested over 1,500 addresses be removed from consideration during the award process and determined 467 addresses will be removed to prevent overbuilding of addresses currently served.

### 2016 Broadband Data Collection Initiative

A formal request for broadband availability data went out to over 40 providers on August 8<sup>th</sup>. Staff has been following up individually with the providers sending along maps of their territories and a list of addresses that PSD considers served along with offering any assistance needed to compile this information which is due September 30<sup>th</sup>. Five providers have already responded with updates or requests for further information.

### ***CAPI***

Report period for August 21 to August 27, 2016

GMP -- CAPI received a third complaint from an applicant that was denied entry into GMP's supplemental net metering program.

### POST CPG COMPLAINTS

Wind – none to report.

Solar – none to report.

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary, Agency of Human Services  
**Re:** AHS Weekly Report  
**Date:** September 2, 2016

---

**Secretary's Message:**

I mentioned before our intent to revive Community Profiles which were a hallmark of the Agency and State Government up to 2008. The profiles were the work of a five-person planning team in the AHS Central Office. Over time that team dwindled due to rescissions and Community Profiles were ended. We have found a way to leverage existing resources and with no new funding revive this important work. All we need is to transfer and extend an existing limited service position to have the final piece of our foundation in place to support these Profiles. Community Profiles will advance the work of State Government by providing access to population data about health and well-being. It will create efficiencies in data sharing within AHS, state entities and partners. It will fulfill our obligation under Act 186 which directs us to advance certain population outcomes. These new profiles will be much more flexible, accessible and rich in data compared to the older profiles. The Community Profiles were held in high regard around the State and their resurrection will be a significant achievement for this Administration in the eyes of community partners, advocates and other stakeholders. We hope to have a kick off with you Governor as early as October as long as we can get past this last hurdle of staffing.

This week, a Vermont team including Lawrence Miller, Robin Lunge, Steven Costantino, Selina Hickman and I met face-to-face with the CMS staff, including Director Vikki Wachino in Baltimore. We have made significant progress and we are continuing to tie things together before your meeting with Secretary Burwell on September 14<sup>th</sup>. In our meeting, we articulated the importance of finishing both the APM and the 1115 Waiver by October 15<sup>th</sup> and will continue to do so in our upcoming discussions.

**AHS Highlights:**

**Vermont Department of Health (VDH):**

**Climate Change Grant Renewal**

The Health Department was awarded a new five-year grant from the Centers for Disease Control and Prevention to continue implementing the Building Resilience Against Climate Effects (BRACE) framework in Vermont. The new grant will focus on 1) implementing actions to reduce climate impacts on health and 2) evaluating the effectiveness of those actions. Funding for the new grant is over \$200,000 per year.

**Naloxone Availability**

The Division of Emergency Preparedness and Injury Prevention is working with partners across the state to ensure the availability of supplies of Naloxone across the state. In addition to several Police Departments and EMS Agencies, there are currently fourteen other sites across the state that have been trained and supplied with Naloxone. Four additional sites are currently being trained and supplied and include: Turning Point Rutland, Turning Point Rutland, AIDS Project of Southern Vermont and Kingdom Recovery Center in St. Johnsbury.

### **Department of Mental Health (DMH):**

#### **Vermont Psychiatric Care Hospital**

VPCCH census remains at 23, due to acuity associated with one patient on its 4-bed unit. The hospital petitioned the court for an involuntary medication order for the individual and it was granted this week, with the patient receiving court-ordered medication 8/31. Staffing and overtime demands have started to improve, due to new mental health specialists and traveling nurses finishing orientation and entering the staffing counts.

The VPCCH monthly advisory meeting with public members met earlier this week. Members present were provided an overview of The Joint Commission (TJC) re-survey visit, findings and corrective actions, as well as patient acuity and staffing levels. The hospital's Plan of Correction for TJC is due September 11<sup>th</sup>.

#### **Emergency Departments**

This week saw 27 people in need of inpatient psychiatric hospitalization and 18 of them have been admitted as of this report. There remain 5 involuntary adults waiting for inpatient admission, 3 of the remaining 5 have been waiting less than 48 hours. The two who have been waiting longer will likely be admitted later today. There are currently 2 court ordered adults waiting for hospitalization. One will be placed later today and anticipate the other will be placed Friday or Monday; they have been waiting less than 48 hours. There are 2 voluntary adults waiting for placement and no voluntary or involuntary minors waiting at this time. The overall occupancy rate in the adult inpatient system of care has been averaging 95% occupancy, while the child and adolescent inpatient system of care has had an average occupancy of 79%.

#### **Vermont Gun Shop Project**

The Suicide Prevention Center (SPC) hosted a press conference at this week's meeting of the Suicide Prevention Coalition. Joined by coalition members, including the Vermont Federation of Sportsmen's Clubs, Gun Owners of Vermont, and Dr. Jay Batra from DMH, the press conference focused on the Zero Suicide and U Matter Initiative, as well as, the Gun Shop Project, the collaborative work on reducing suicides by guns, that has occurred over the past year. Members of news outlets were present and queried the Vermont Federation of Sportsmen's Clubs on potential legislation around divisive topics like mandatory background checks. Speakers were very effective in deflecting this line of inquiry and refocusing on the successful collaboration of these groups around common, shared values of preventing suicide by guns.

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

#### **Falls Free Vermont Raising Awareness and Action**

September is Falls Prevention Awareness Month. According to the United Health Foundation's *America's Rankings Senior Report 2016*, Vermont ranks 41<sup>st</sup> in the prevalence of falls among adults age 65. Falls can have a devastating health and financial impact on the individual, families and Vermont's health care system. Falls Free Vermont, a statewide coalition of public and private partners, estimates that over 5,000 Vermonters visit the Emergency Department for falls every year. It is working hard to educate individuals, health care providers and communities to take simple steps to reduce the risk of falls. Throughout the month of September, there will be free, individual screenings offered at various locations across the state. Once screened, individuals will be referred to additional resources, such as a local Tai Chi or other exercise classes aimed at building strength and balance.

Information about the screenings and other resources to stay healthy can be found at:  
<http://www.med.uvm.edu/centeronaging/researchresources/fallsprevention>.

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

#### **Hostage takers formally charged**

Leroy Hughes and Mehmed Devac, the 2 inmates who took a Correctional Officer hostage on 8/11/16, have been formally charged with Kidnapping and Aggravated Assault. They will be arraigned in Orleans County on 10/18/16.

#### **Population**

The Department's incarcerated population averaged **1779** for the previous week. Last year at this time, the average was **+85** over the current number.

The Department's incarcerated male population averaged **1633** for the previous week. Last year at this time, the average was **+71** over the current number.

The Department's incarcerated female population averaged **145** for the previous week. Last year at this time, the average was **+15** over the current number.

The Department's overall detainer population averaged **446** for the previous week. Last year at this time, the average was **-31** under the current number.

The out of state population is currently at **251**. Last year at this time, the out of state population was **+29** over the current number.

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

#### **Provider Enrollment**

In accordance with federal regulations, all participating Medicaid providers must be screened upon initial enrollment and all existing providers must be revalidated by September 25, 2016. DVHA is experiencing delays in processing. Over the last 6 months, 784 new providers have been enrolled to the participate with Vermont Medicaid. In addition, DVHA has revalidated about 9,000 out of 14,000 current Medicaid providers. Revalidation of current providers has taken a considerable amount of time to comply with new ACA standards; however, DVHA anticipates being in full compliance with the requirements (revalidating all providers) by September 25, 2016.

### **Other Agency Report Items for Consideration:**

#### **Agency of Human Services Secretary's Office:**

##### **Washington County - Statewide Addiction Treatment Coordination (SATC) Pilot**

AHS departments and community partners have a facilitated SATC conversation scheduled for September 26th to discuss how to optimize the process of coordinating substance addiction referrals and ensure that partners are all trained in, and using, approved substance abuse screening tools. This conversation will identify necessary changes in the Washington County system of care to help combat the opioid addiction scourge in the region. The SATC process is most germane to AHS departments but will also provide a springboard for continued collaboration across the addiction prevention, treatment, and recovery system of care in Washington County. Moving forward, SATC work will

dovetail with other addiction treatment-focused work being done by the Washington County Substance Abuse Regional Partnership and Project SafeCatch.

#### Lamoille County - Emergency Shelter and Affordable Housing Project

This process is moving along nicely and inspections will take place on 9/1 to ensure that the units are suitable for section 8 vouchers. Once that's confirmed, partners will craft a business plan and begin building coalitional funding.

#### **Vermont Department of Health (VDH):**

##### Vermont Veterinary Medical Association (VVMA) Participates on Opioid Prevention

The Department of Health worked with the VVMA to provide critical information on the topics of safe prescribing, safe disposal and diversion of prescription medications. Earlier this week, information packets were sent to vets statewide. The President of the VVMA, Dr. Millie Armstrong, signed the introduction letter that outlined the scope of the public health problem resulting from prescription opioid misuse, abuse and overdose. The packets also contained materials from the Vermont's Most Dangerous Leftover campaign, a supplemental letter with information pertaining to diversion, contact information for the Vermont State Police Drug Diversion Unit, the DEA's Valid Prescription Requirements, Safeguards for Prescribers, and Disposal of Controlled Substances.

#### AIDS Project

Brattleboro District Office is involved in ongoing work with the AIDS Project of Southern Vermont. In recent months, Megan Lynde, Public Health Nurse, has partnered with Sue Conley at the AIDS Project to give monthly presentations on HIV and Hepatitis C to clients of Habit OPCO, a methadone clinic in Brattleboro. The presentations include information on what HIV and Hepatitis C are, transmission, how individuals can reduce their risk of contracting HIV and Hepatitis C, free testing and basic treatment information.

#### Tobacco Use

VDH recently published a data brief on [Tobacco Use Among Adults and Youth in Vermont and United States](#). Overall, smoking and other tobacco product (OTP) use in Vermont is not substantially different than across the country: youth, males, those with less education and lower income tend to have a higher prevalence of smoking or OTP use. The disparity in smoking prevalence by education and income is particularly pronounced in Vermont as compared to the U.S. Additionally, racial or ethnic minorities in Vermont tend to have higher prevalence than white, non-Hispanic adults and youth, whereas the converse is true in the U.S.

#### Screen Time Among High Schoolers

The YRBS data brief on Screen Time among High Schoolers has been posted on the Health Department web site

([http://healthvermont.gov/research/yrbs/documents/data\\_brief\\_2015\\_screentime\\_hs.pdf](http://healthvermont.gov/research/yrbs/documents/data_brief_2015_screentime_hs.pdf)). This data brief examines health risk behaviors and social behaviors by the number of hours of screen time use and found that the less time Vermont high schoolers spent engaged in screen time the more physically active they tended to be, the better their diets were, and the better they did in school.

#### CDC Grant Awarded for Zika Impact Surveillance System

The Research and Statistics Unit received a grant from the CDC to collaborate in a national program to understand the impact of Zika virus during pregnancy on adverse birth outcomes. The funds will be

used to assist the Vermont birth defects program in establishing a rapid, population-based surveillance system to identify cases of microcephaly and other birth defects that may be related to the Zika virus.

**Department of Corrections (DOC):**

**High Risk Law Enforcement Notification**

Scott Myers (DOB 2/28/1970) will be released on furlough status on 10/3/2016 and will be supervised by CSS Billado out of the St. Albans office. Myers case was centrally staffed on 8/24/2016 and was approved for release to an appropriate residence/plan. Myers will be residing at 36 Kingman Street, St. Albans. This is the transitional house for the St. Albans area through the Justice Center. Myers will be released compliant with treatment as he is scheduled to complete the VTPSA program prior to release. Myers will be required to engage in sex offender programming in the community upon release. DM Caforia will be sending out the notification to local law enforcement agencies and CSS Billado will be following up with the agencies to make sure they received the notification and to answer any questions they may have.

**Department for Children and Families (DCF):**


**DCF Brings Financial Skills to Low-Income Vermonters**

The Consumer Financial Protection Bureau recently announced 30 new partners nationwide that would be working with them to expand a program known as “Your money, your goals toolkit.” This program serves low-to-moderate income consumers in managing personal finances. This is a train-the-trainer approach that will help clients identify financial challenges and goals; information on savings and spending plans; help understanding credit; debt management; and consumer protections. Vermont is proud to announce that DCF’s Office of Economic Opportunity and Economic Services’ Reach Up unit are working together as one to partner with CFPB which will bring financial understanding and resources to low-income Vermonters.



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

**CONFIDENTIAL AND PRIVILEGED**  
**MEMORANDUM**

TO: Governor Peter Shumlin   
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: September 2, 2016

---

**Emerging Issues**

**Letter to testing consortium with cc to delegation/testing costs**

Please see attached draft letter that I propose to send next week, and to cc to Senator Sanders' office. We are starting to see a pattern in which testing companies and consortia are making decisions about pricing structures for federally required tests that are extremely disadvantageous to small states like VT. In short, the testing industry has successfully lobbied to have a variety of tests required on an annual basis, and we are now seeing dramatic increases in testing costs for a number of these assessments, at the same time as the federal government is cutting back on funding for these tests. This is a serious problem for us. The greater proportion of our federal funding that must be spent on testing, the less we have available for other purposes, including technical assistance, school quality reviews and school improvement. A related issue is that we have a lot of state statutes with respect to accountability, assessment and school improvement that are completely unsupported by state funds, and which we are currently only able to address by dual purposing federal funds. This also jeopardizes every unfunded state initiative, including staffing for dual enrollment and early college, as we just would not have staff left to support those efforts.

**Home Study**

I understand this issue has reached the Gov's office, since someone on your staff has been calling one of our junior employees on this. We have approximately 2000 homeschool students, all of whom are required to file a home study plan with us, and all of whom are required in statute to provide at the end of the year a final evaluation or evidence of academic progress and grade level performance. Of these students, approximately 20 students live in families that relied on and paid a single teacher who provided these families with evaluations that are virtually identical and which provide no evidence that would even substantiate that she looked at the students' work. The pattern did not become evident to us until we had already approved several applications. We hope that the quality of the learning for many of the students has been exceptional; Our problem is that we have no evidence of learning to meet our statutory obligation.

We have offered all affected families a range of options to address this problem. They can submit the work directly to us, or, we will subpoena the teacher and have her go through the work with us again. Parents are concerned that we intend to suspend their programs. We have provided extensions for all families to continue until they can provide us with an acceptable assessment.

## **Media Contacts:**

**Gaen Murphree, Addison Independent:** Gaen asked for the minutes for the SBE's August 23<sup>rd</sup> meeting to write about the ANESU Act 46 Study Committee and the alternative structures information. Haley sent the link to the RETN video since the minutes were not yet ready. She also asked for the date of the September meeting. Murphree requested the minutes again on Thursday, which were not posted yet.

**Jess Wisloski, Williston Observer:** Jess requested more detail on the SBAC results for Williston Schools and CVU. She said the new results are much harder to navigate than previous measures. Michael Hock sent her the data in two different formats including an Xcel spreadsheet upon request.

**Josh O'Gorman, VSBA:** Josh asked when the SBAC scores would be released. Haley told him the state level scores would be released August 30, and the school level data will be released the week of September 19.

**Rebecca Sananes, VPR:** Rebecca hoped to talk to Secretary Holcombe about her memo regarding the 5<sup>th</sup> circuit case. Haley scheduled a time for her to talk with the Secretary, but had to cancel because she was sick. Haley sent Sananes the best practices document, the Secretary's op-ed and memo about transgender bathrooms, and explained that the most recent memo to administrators was a reminder that there is a carve-out for states with laws that protect students based on gender identify. Vermont law protects students from discrimination in schools, including students who identify as transgender. We do not anticipate any change in practice in Vermont, based on the recent injunction.

**Mike Faher, VTDigger:** Mike emailed asking for confirmation that the state had expressed concern about WSESU scheduling their merger vote for the November 8 election. Haley told him that the timing of the votes is the study committee's decision, but there was discussion about whether having the votes on the same day could be confusing for voters. It is not the state's role to advise study committees, but to provide factual information about the law.

**Kirsten Hinck, Fordham Institute:** Kirsten sent a copy of a draft profile about Vermont's accountability systems and the attention the state gives to high achieving students. The report gave Vermont a zero out of four stars, the same score the institute gave Vermont for K-8 high achieving students. Amy Fowler provided a statement for the previous report that Haley used for this again: "Vermont is currently developing our state plan for ESSA in collaboration with stakeholders. We are focused on looking forward and on our future accountability efforts under ESSA. We don't have time to spend looking backward and reviewing your report on the NCLB accountability system, as that is quickly becoming obsolete. We regret that we will not be able to review this document given those other priorities."

**Kyle Midura, WCAX:** Kyle asked if the best practices regarding transgender and gender nonconforming students is "state policy." Haley checked with Clare and provided the following information: The Best Practices are not "state policy." As you know, in Vermont we have rules and statutes, and these best practices are considered neither. Because the federal law is not settled, we cannot make policy, but we can offer advice. Vermont law protects students from discrimination in schools, including students who identify as transgender. Every school can decide how they want to

proceed (i.e. creating a separate bathroom or other intimate facility). Our guidance is based on Vermont statute, so we do not anticipate any change in practice in Vermont, based on the recent injunction. Haley also sent Kyle the most recent memo to administrators on this topic.

**Molly Walsh, Seven Days:** Molly asked for the SAT report for the most recent year, a list of in-state and out-of-state schools receiving Vermont public dollars under tuitioning and the dollars, student numbers, etc. for those schools, and to talk to Secretary Holcombe about the proposed independent school rules. Haley sent her the documents and referred any questions about the proposed independent school rules to the SBE.

**Tiffany Pache, VT Digger:** Tiffany asked to talk to Laurie Colgan about CEP. Laurie was out of the office so Haley directed Tiffany to the website to get the answers she was looking for about the program, how to apply, who qualifies, etc. She later called to ask about the SBAC data and why this year should be treated as the baseline. Pache repeated her request to talk with Laurie on Thursday morning about FRLs and the CEP program that, she said, has expanded to 56 schools this year. Laurie called her Thursday afternoon.

**April Burbank, Burlington Free Press:** April asked to speak with Michael Hock or Secretary Holcombe about the SBAC results. Michael agreed to chat with her.

**John Kiernan, WalletHub:** John asked Rebecca to write a column on whether college should be free. She declined, but offered to connect him to Jeb.

August 31, 2016

Dear Governing Board of the DLM Assessment:

On August 23, 2016 a meeting of DLM members was held during which time a vote was confirmed regarding the pricing structure for DLM moving forward. It is clear from the call that much prior discussion and work went into preparing for determining how we will share costs for the DLM.

We wish to express to the entire consortium our dissatisfaction regarding the manner in which the recent decision to alter the pricing structure transpired. Specifically, our concerns are as follows:

1. **Lack of Chief Involvement:** While state delegates were encouraged to speak to their leadership team, Chiefs were not notified in advance of this vote. A vote of this magnitude should involve direct communication with Chiefs.
2. **Lack of Transparency:** Based on the information provided, it is unclear how States cast their vote. In all other consortia to which we are a party, votes are conducted by roll-call.
3. **Lack of Participation:** The votes cast via survey on August 12, included 9 votes and no response from 7 members. It is unacceptable that a decision of this magnitude is being made with nearly half the members' opinions missing.

In addition, the webinar also had a lack of participation. Thirteen of 18 member states were on the call to "affirm or reject" the vote. Of these, six states made a clear statement as to their preference, two abstained and five issued no opinion to the audience. Vermont wishes to acknowledge the work of Alaska's representative in trying to help other states understand the extraordinary pressure this vote places on small states and to reconsider the vote. If you were not party to the webinar meeting, we encourage you to view the video of the webinar. (Slide deck for service rate discussion begins at approximately minute 52). You will need a password to view the meeting, which your state lead can provide. Here is the link:

Webinar: <https://vimeo.com/180052551>

4. **Lack of clear information and equity:** In the materials provided, there is no clear estimate of how each cost structure would actually impact each of the members. If members administer both the ELA and Math DLM to the estimated number of participants recently reported by the consortium, the costs vary greatly between the largest and smallest states across the three Scenarios<sup>1</sup>. Table 2 shows the differential effects of the cost scenarios based on the projected number of participants using the consortium's current estimates.

---

<sup>1</sup> There were a 4<sup>th</sup> and 5<sup>th</sup> option that were not discussed at the webinar.



Currently, the cost structure is on a per test basis and is most similar to Scenario 3 as proposed. This would have increased costs to all states for each assessment.

Two other scenarios were considered and both would have charged members a membership flat rate and then an additional cost per test. For modeling purposes, we have attached a spreadsheet to assist in understanding the differential impact of the three proposals.

Scenario 1 would have increased Vermont's costs by 53% per test while under Scenario 2 would increase it by 447%. Every state that made a clear indication of their vote on the call, voted with their pocketbooks- we understand, we did too.

However, we don't think our sister states believe that our tests should be nearly 7 times as expensive as those given to students in large states; we don't believe that they intend for us to be so severely harmed by this vote. We think if they were aware, a great many more states would have opted for Scenario 1 which would still have increased our burden but would not have been so untenable.

Certainly the most vulnerable youth of Vermont deserve the same instructional supports as those in more populous states; to divert the resources from instruction to assessment in this manner is inequitable to youth in small states. The members of this consortia have a long history of being committed to equity; we presume this is about equity on all dimensions and not just for those with cognitive disabilities.

Table 2: Differential Impact of DLM Cost Scenarios

Implications of Phone Conference Validations	Member State	Total Students (DLM FY2017)	Scenario 1		Scenario 2		Scenario 3
			Per Student Cost (ELA + Math)	Change in Per Student Cost Relative to Scenario 3	Per Student Cost (ELA + Math)	Change in Per Student Cost Relative to Scenario 3	
unclear	Miccosukee	5	\$ 4,514	5277%	\$ 37,106	44100%	\$ 84
Scenario 1 or 3	Vermont	460	\$ 128	53%	\$ 459	447%	\$ 84
absent	North Dakota	639	\$ 115	37%	\$ 347	313%	\$ 84
Scenario 1 or 3	Alaska	692	\$ 112	34%	\$ 324	286%	\$ 84
absent	New Hampshire	760	\$ 109	30%	\$ 300	258%	\$ 84
absent	West Virginia	2,582	\$ 89	6%	\$ 128	53%	\$ 84
unclear	Kansas	3,105	\$ 89	6%	\$ 127	51%	\$ 84
abstain	Iowa	2,648	\$ 87	4%	\$ 116	39%	\$ 84
abstain	Utah	4,493	\$ 85	1%	\$ 98	17%	\$ 84
Scenario 2	Wisconsin	7,343	\$ 84	0%	\$ 90	7%	\$ 84
Scenario 2	Colorado	5,554	\$ 83	-1%	\$ 83	-1%	\$ 84
unclear	Oklahoma	6,904	\$ 83	-1%	\$ 82	-2%	\$ 84
Scenario 2	Missouri	7,743	\$ 83	-1%	\$ 81	-4%	\$ 84
Scenario 2	New Jersey	10,638	\$ 82	-2%	\$ 74	-12%	\$ 84
unclear	Illinois	11,433	\$ 82	-2%	\$ 73	-13%	\$ 84
unclear	New York	22,401	\$ 81	-3%	\$ 65	-23%	\$ 84



5. **Insufficient Process:** While we concur that Scenario 2 received the most 1<sup>st</sup> choice votes, we do not understand why other ranks were not considered. If you combine all the ranking into a point system, Scenario 3 is the clear favorite (see table 1 below). We believe the consortia intended to know the summary support for each scenario and are perplexed as to why it was not referenced or attended to.

Table 1: Price Scenario Rankings

Ranking & Points	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
1 <sup>st</sup> =5 points		5 x 5 = 25	4 x 5 = 20		
2 <sup>nd</sup> =4 points	4 x 4 = 16		1 x 4 = 4	3 x 4 = 12	
3 <sup>rd</sup> =3 points	3 x 3 = 9		1 x 3 = 3	1 x 3 = 3	1 x 3 = 3
4 <sup>th</sup> =2 points			1 x 2 = 2	3 x 2 = 6	1 x 2 = 2
5 <sup>th</sup> = 1 point		1 x 1 = 1			3 x 1 = 3
<b>Total</b>	<b>25</b>	<b>26</b>	<b>29</b>	<b>21</b>	<b>8</b>

Vermont recognizes that we are a small state and that we have limited resources to deploy or shape national conversations. Having said this, we have been stalwart supporters of DLM and its fine work on behalf of students with the most severe disabilities. We maintained our commitment to our participation and have faithfully upheld our responsibilities and members of this consortium. We ask the consortium to immediately:

- Survey all member State Chiefs to determine the following:
  - Does the State intend to continue if Scenario 2 is the pricing structure?
    - If no, would the State stay if the pricing structure were Scenario 3?
  - Is the State comfortable remaining with Scenario 2 if it meant that 4 or 5 states may need to leave the consortium?
- Provide all member State Chiefs with a cost analysis with the results of Scenarios 2 and 3 based on the answers to those questions.

We can say unequivocally that we will not remain in the consortium if Scenario 2 stands as the new pricing structure. We anticipate members such as Miccosukee, North Dakota, Alaska, New Hampshire, and West Virginia will join us in seeking other partners; while our numbers are not great, this would lead to a reduction in revenue of \$3 million for the consortium; if Iowa and Kansas also leave you are looking at a loss of \$4 million. Vermont is currently exploring our options to work with a different provider due to this vote. As we pursue other options, we will gladly share the resources and materials we find with any state who is interested. Please contact Linda Moreno at [Linda.Moreno@vermont.gov](mailto:Linda.Moreno@vermont.gov) if you would like to be included.

Sincerely

Rebecca Holcombe, Ed.D.  
Secretary of Education, Vermont

cc: Member Chiefs  
Member Representative  
Consortium Team  
Senator Sanders Office



OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Chris Cole**  
**DATE: Friday, September 2, 2016**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**Middlebury Tunnel**

I made a call this week to G&W COO to request that he intercede in the negotiations between New England Central Railroad, a G&W subsidiary, as NECR staff were not negotiating in good faith and had no interest in getting to yes. We now have a solid counter proposal from NECR on what it would cost the State to reroute VRS rail traffic on the NECR rail line for an 8-week closure of the rail line. We should have an agreement shortly which will reduce impacts to the Town of Middlebury from the tunnel project. If we can pull this off, it will generate significant local public support for the project.

**Public Transit**

The Burlington Downtown Transit Center will have its ribbon cutting ceremony on October 13 at 1:00. Senator Leahy will be in attendance as will Mayor Weinberger. I will also be attending representing the State of Vermont. Let me know if you would like to attend and say a few words about your administration's investments in public transportation.

**Missisquoi Bay Scoping Report**

VTrans and ANR staff are meeting to prepare for the North West Regional Planning Commission TAC meeting on October 13 and then the full Board Meeting on October 26. The proposal is to remove a portion of the causeway, approximately 330 feet, and monitor the impacts to the turtles before making any decisions on whether additional causeway can be removed.

**NOTES FOR STAFF**

**RPC Board Outreach**

Chief Engineer, Kevin Marshia and Policy and Planning Director, Michele Boomhower met with the Windham Regional Planning Commission on August 30 to update the

Commission on a variety of VTrans initiatives, programs and project updates. The Commission appreciated the updates which were well received.

#### **Lamoille County PC**

The Town of Morristown Selectboard has voted to leave the RPC. Until the municipality can meet the statutory requirements for affiliating with another RPC effectively the vote has no bearing on VTrans relationship with LCPC or the Town/Village. This move does place in jeopardy their designation as a downtown in the ACCD downtown program.

#### **TMDL Outreach Meetings**

I presented the Agency activities planned for the implementation of the TMDL plan at the South Burlington, St. Albans and Rutland meetings. The meetings were well attended but not as many people as the initial meetings of last year.

#### **Pavement Condition Customer Level of Service Project**

The field survey was put on-hold until next spring for this project. The consultants were working on a tight timeframe to launch the public opinion survey this fall. VTrans decided to hold off until spring 2017 to avoid a busy public opinion poll season over the next several months.

#### **Aviation and ANR Permitting**

VTrans and ANR permitting staff met to discuss how to better prepare in advance for the permitting of state aviation projects. Aviation staff will be setting up quarterly meetings with ANR and VTrans permitting staff to review planned and advancing projects. Discussed ANR Stormwater permit implications regarding ongoing maintenance of Avigation Easements at State Airports with VTrans Environmental Director; will be planning outreach meeting with ANR staff to advance discussion of allowance for this activity.

#### **Aviation Preclearance & Customs**

I met with Chris Saunders of Senator Leahy's office regarding aviation preclearance and the matter of customs clearance for Aviation in Burlington and Newport.

#### **Railyard Enterprise Project**

The Steering Committee met on September 1 to further refine the scope and evaluate project risks. VTrans and City staff will meet with VRS on September 7 to review the Scope and discuss the project. The City Council will be briefed on September 13. The Stakeholder Committee will be meeting on September 22. The project is expected to finalize in June of 2017.

#### **Sec. 1111 - US 2/US 7 at Mountainview Drive (Costco, Colchester)**

Costco's engineer has scheduled a meeting for September 22 to discuss the requirements and timing of their Section 1111 permit (yet to be applied for) to do improvements required prior to the gas pump expansion. An internal agency meeting

has been scheduled for September 16 to discuss the financial/logistical impacts involved with the Costco gas pump construction.

### **Town of Barnard**

The Mapping Section has received a request from reporter Curt Peterson of the Vermont Standard regarding roads in the Town of Barnard, which the Selectboard feels are town highways, but the Mapping Section has not received documentation showing legal establishment through the statutory process or “dedication and acceptance.”

There is an issue between ANR Game Wardens, ATV riders and the Town regarding the roads and because the roads are not shown on the Town Highway Map of Barnard, the VTrans Mapping Section has been pulled into the issue. There is a fundamental question on whether the roads are town highways or not, and documentation has not been provided to VTrans showing legal establishment; thus the roads have not been added to the Town Highway Map.

### **Rail**

Inspection of Bridge 305 in Montpelier has resulted in identification of timbers that deteriorated at a faster rate than anticipated and has resulted in the closure of the WACR Montpelier and Barre until further details can be investigated and reviewed. This rail line moves little goods and a full review is being undertaken to ascertain whether continued investment in this line warrants further State participation.

### **Aviation**

- **Rutland** - Received \$4M grant to construct the north segment of taxiway A at Rutland. This is phase II of a three-phased, multi-year project.
- **Bennington - Met with Windham county EDC, RDC, Town Manager and Selectboard** to talk next steps on the airport development. Working with the Town's planning commission to update the Town Plan and incorporate various items like airspace, zoning and infrastructure needs.

### **Human Rights Commission (HRC) – New Charge of Employment Discrimination:**

#### **Disability**

A VTrans employee has filed a new charge of employment discrimination (disability) with the HRC. The complainant asserts that VTrans discriminated against him following his return from extended medical leave. The HRC has asked VTrans to file a response by September 9, 2016. We are awaiting a decision from the AG's Office as to who will provide legal representation for VTrans in this matter.

1 National Life Drive  
Davis 2  
Montpelier, VT 05620-3901

Tel: (802) 828-1294  
Fax: (802) 828-1250

[www.anr.vermont.gov](http://www.anr.vermont.gov)



Deborah L. Markowitz  
Agency Secretary

Trey Martin  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Deborah Markowitz, Secretary, Agency of Natural Resources**  
**Date: September 2, 2016**  
**Subject: ANR Weekly Report**

---

**Governor Level Issues:**

**PFOA Updates:** The drinking water well test results for Shaftsbury were received this week. Of the twenty-four wells tested, 15 were non-detect. Eight of the 24 wells had low level detections ranging from 3.75 – 15.6 ppt. All were below 20 ppt! In Bennington, further PFOA detections have been found on Chapel Road. In Chittenden County, two drinking water wells were sampled in the vicinity of the IBM/Global Foundries facility. A shallow drinking water well in Essex Junction was non-detect for PFOS, PFOA, and PFNA. The bedrock drinking water well tested in Williston, PFOS and PFNA were non-detect and PFOA was present at 2.6 ppt.

---

**EVERYTHING ELSE:**

**Press Issues/Releases:**

**Now is the Time to Spot Shorebirds in VT:** The final weeks of August and beginning of September mark a unique birding opportunity in VT. Shorebirds such as plovers and sandpipers are migrating through the state on their southern journey from northern Canada to the Caribbean and beyond. One of the best places to spot shorebirds this time of year is at Dead Creek WMA in Addison, VT. The VTFWD lowers water levels on Dead Creek in late summer to provide habitat for migrating shorebirds and other species. Bird-watchers have also reported spotting shorebirds around Sandbar WMA in Milton this year.

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

**Vermont Infrastructure Protection and Resilience Plan (VIPR):** Drinking Water program staff participated in a meeting held at Vermont Emergency Management to review the draft VIPR. The discussion was led by the Critical Infrastructure Coordinator for Vermont Emergency Management which has a goal of having a signed plan in place in October.

---

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of Planning and Policy (OPP)**

**Ranger Solar Coolidge:** The OPP director facilitated a call Tues, Aug 30, amongst DEC Air Quality and Climate staff, FPR forest carbon staff and Ranger solar's greenhouse gas lifecycle modelling consultants to discuss the scope of a GHG lifecycle analysis for Ranger's proposed 20MW solar project in Ludlow. The project proposes clearing of roughly 40 acres of mixed age hardwood. Given the size of the project – nearly 10 times that of a typical standard offer project – and the extent of clearing, Agency staff are asking Ranger to perform a lifecycle analysis of GHG's to determine the carbon deficit associated with site preparation, construction and the emissions embodied in project componentry, and when the project will overcome that deficit and begin to yield carbon reduction benefits by displacing fossil fuels. Ranger was initially reluctant to perform the analysis, but parties were able to reach conceptual agreement during the call by limiting the scope of analysis of the various project components, but maintaining a high level of site specific data with regard to tree species, distribution and soil carbon associated with the forestland clearing. ANR awaits a revised proposal/scope of work from Ranger. The GHG analysis is the last major unresolved natural resource issue with this project; if Ranger can satisfy staff with the scope and timing of the GHG analysis, the Agency will be positioned to negotiate an MOU that could be filed with the PSB.

**New Applications for the Week of August 22:** OPP received 4 new Act 250 applications and 1 new Section 248 petition.

### **Environmental Conservation (DEC)**

**Free Leak Detection for Municipalities:** The Drinking Water Capacity Development Program is offering free leak detection surveys to public community drinking water systems. So far this year, eighteen systems have received leak detection services, approximately 147 miles of distribution lines have been surveyed and thirty-six leaks identified. An estimated 236 gallons per minute (340,200 gallons per day) of drinking water was being lost through these leaks. The systems with the identified leaks have already starting fixing them. Another six systems, along with some follow-up surveys, are scheduled for later this summer and fall.

**Mercury Management – Thermostats:** The Solid Waste Program issued Stop Sale Notices to fifteen companies who are not currently participating in the mercury thermostat product stewardship program. Companies that have manufactured mercury thermostats and sold them in Vermont are prohibited from selling any thermostat in the state, and are required to participate in a takeback plan. The plan provides a \$5 bounty to individuals or contractors for turning in an old mercury thermostat, thereby keeping mercury out of the waste stream. Based upon the thermostat brands turned in at existing Vermont thermostat collection locations, the companies contacted may not be in compliance with the law. The Stop Sale/Mandatory Manufacturer Stewardship Notices informed the companies of the thermostats collected, provided information about how to comply with the requirement, and the possible consequences of non-compliance.

**A New-to-Vermont Aquatic Invasive Animal:** Asian clam was confirmed in Lake Bomoseen, August 23. Asian clam is known to occur in the Lake Champlain canal and Lake George in NY but not Lake Champlain. The Lake Bomoseen population is the first confirmation of this species in a Vermont water body. A meeting of the Lake Champlain Basin Aquatic Invasive Species Rapid Response Task Force was scheduled for August 29 to make recommendations for action, per the LCB Aquatic Invasive Species Rapid Response Action Plan. ANR is the lead agency on the Task Force. (F&W covers this.)

**Stormwater Program:** We are on track to file our proposed Stormwater Management Manual Rule with ICAR August 30.

**CSO Rule passed LCAR:** The Combined Sewer Overflow Rule passed LCAR this week. This is a 2016 deliverable under the Lake Champlain TMDL.

### **Fish & Wildlife (FWD)**

**Stream Alteration Bad for Fish in Bruce Brook:** Staff attended a site visit to observe any potential fish stranding due to the diversion of Bruce Brook stream flows into a small private pond located in Newfane. The landowner has successfully diverted one hundred percent of stream flow into his pond resulting in roughly 1,300 linear feet of dry stream bed. Although staff contacted enforcement last week, to date, the situation has not been rectified.

**Muskie from NY:** Staff traveled to NYDEC's Chautauqua Hatchery in western NY to collect 6,300 surplus muskellunge fingerlings for stocking into Missisquoi River and Missisquoi Bay. Staff also coordinated and helped stock these muskie into VT waters. Since 2008, over 50,000 of these fish have been stocked into the Missisquoi River and Missisquoi Bay in an attempt to restore a viable muskellunge population to Lake Champlain. Lake Champlain is the only lake in New England to which muskellunge are native. Staff also coordinated with Steve Smith from the ECHO Lake Aquarium and Science Center to provide five muskie fingerlings for their display, to help educate aquarium visitors about Lake Champlain's fish community. After a quarantine period the fish will be put on display along with accompanying educational material that Department staff with help develop with ECHO staff.

**Great Reproductive Year for Rattlesnakes:** Staff are having some luck documenting what appears to be a fairly successful reproductive season for rattlesnakes this year. The warmer summer may have helped. This field work will continue through a good part of September.

**Newly Certified K9 Team!** Senior Warden Watkin and K9 Ramsey have completed their 6 week K9 school and are now a certified K9 team. Congrats Rich and Ramsey!

### **Forests, Parks and Recreation (FPR)**

**Land Transactions:** The Department closed with the buyers of the former Lafreniere Homestead parcel in Bolton last week. The new owners are excited about this opportunity and plan to begin work on the house immediately. The net sale proceeds from this transaction (approximately \$34,000) will be used to further stabilize the historic barns located on adjacent state lands. We are making progress on both the Bullard and Backus Forest Legacy easement projects (the two remaining parcels from the Northern Greens Forest Legacy project grant) and hope to close on both of these easements before the end of the calendar year. We are working through some title issues on the Bean Pond acquisition which will likely delay the closing of this project. Work continues on numerous other priority land transactions, including transfer of state lands to the Town of Duxbury for use as a town forest, transfer of Woodchuck Mountain parcel to the Town of Newbury, Davidson donation, and other Forest Legacy easement projects.

**State Parks Visitor Numbers:** State Park visitation is still 6% behind 2015 to date. But, there are essentially no campsites available for the upcoming Labor Day weekend.

**Contractor Chosen for Stone Hut Project:** A contract has been awarded to Donald P. Blake, Jr., Inc. of Morrisville for rebuilding the Stone Hut on Mount Mansfield. The Purchasing Division of BGS did an outstanding job expediting the contract review process so work could begin within a very few days from bid opening.



---

**State of Vermont**  
**Department of Public Safety**  
103 South Main Street  
Waterbury, Vermont 05671-2101  
[www.dps.state.vt.us](http://www.dps.state.vt.us)

**To:** The Honorable Peter Shumlin  
**From:** Joe Flynn, Deputy Commissioner of Public Safety  
**Date:** September 1, 2016  
**Subject:** Weekly Report

---

Priorities:

Work continues with the Department of Children and Families (DCF) concerning fingerprint requirements for Act 166. Based upon fingerprint certifications received at the beginning of this week it appears that an increase in volume is now being seen due to the program (on Monday approximately 500 certificates were received, a much higher volume than usual). As a limited-time modification to our workflow, returns for DCF will be held at DPS rather than sending via the state mail service to assist DCF with timelier processing. Discussions have also continued with DCF staff reiterating the inability of records to be directly shared with Agency of Education (AOE) or School staff due to FBI regulations.

The State Police will be realigning troop areas to correspond with current field operations. These new areas will reflect changes we have made over the past year, including the reduction of field stations from twelve to ten, a reduction of troop commanders from four to two, and a reduction of PSAP centers from four to two. The target date for switchover will be January 1, 2017. The new troops will be aligned as follows:

Troop A

Williston – A1  
St. Albans – A2  
Middlesex – A3  
St. Johnsbury – A4  
Derby – A5

Troop B

Westminster – B1  
Royalton – B2  
Shaftsbury – B3  
Rutland – B4  
New Haven – B5

## Administration

We submitted the SEFA (schedule of expenditure of federal awards) report yesterday which is one of our more complicated year end reports. One more big time consuming report on accounts receivable due in mid-September.

Working on putting together the narrative and supporting information that will accompany our initial budget submission due on September 20. The Vantage budget system was supposed to be ready to work in on Monday, August 29 but is still not available today (August 31) due to issues with the data uploads. There will be a very quick turnaround to get the salary/benefits information that is uploaded reviewed and corrected so we can submit the budget by the 9/20/16 deadline.

KPMG is scheduled to begin our Single Audit (Homeland Security Program) the week of September 12 with the opening conference scheduled on September 6.

We submitted our FY17 indirect rate proposal to the Federal Agency of Health & Human Services (HHS) for approval as per usual back at the end of December. HHS informed us they do not feel as though they could complete our rate approval so they have returned our application to Homeland Security/FEMA. Danielle Unger of FEMA says that FEMA legal is still working on some of the issues that came up in our rate proposal, so we are still waiting. Still no response as of 8/31/16!

We have been instructed by Finance & Management to use the Excess Receipt Request process for spending authority in the RERP fund to manage spending under the new MOU. We are working on putting together that request right away.

## CJS

### Forensic Lab-

The contract with NMS Labs for drug testing (expires 9/30/2016) has been extended through 12/31/2016, according to AOT (who currently holds the contract). AOT, as previously reported, has asked DPS take back the administration of the contract (funded through GHSP). DPS posted an RFP 8/23 which closes 9/9.

### Backlogs (as of 7/31/2016):

- Blood Alcohol (0)
- Drug Chemistry (747)
- Serology (82)
- DNA (casework) (148)
- DNA (CODIS) (168)
- Firearms (34)
- Latent Prints (510)

### Communications-

Working with Sovernet Communications in Westminster on their network issues.

Working with VSP to combine the legacy Rockingham and Brattleboro radio channels into a "super channel" for the region. As part of this work, we are updating all VSP mobile and portable programs.

The shop is working on the radio encryption project for Chittenden County. Currently the Williston State Police mobile and portable radios cannot communicate with other agencies in Chittenden county area when they are operating encrypted. The radio shop is in the process of modifying VSP radios to accommodate the encryption technology.

The FirstNet outreach team held the Public Safety Broadband Commission meeting on August 24. PSBC members were briefed on the challenges of VoLTE and compliance with E-911 requirements. The commission also reviewed maps of the fiber optics cable network provided by the Agency of Transportation. Preparation work continued on organizing a January statewide FirstNet meeting and technology demonstration, which is being planned for the Chittenden County area or central Vermont.

#### VCIC-

The vacant Deputy Director Search Committee has completed interviews and reference checks on the preferred candidate are being conducted before a final recommendation is forwarded for review.

The Marijuana Registry reclassified position list has been routed and resumes are being reviewed to determine interview candidates, and the vacant Criminal Record Specialist position has been posted with over 70 applications submitted to date.

There may be outreach from the Agency of Agriculture (Ag) concerning the ability to possess marijuana provided by the dispensaries and hemp farmers for testing (as the primary difference between these categories is the level of THC contained in the plant). There appears to be ongoing concern about Ag Lab employees being out of compliance with possession statute(s) should such an operation be initiated.

A question was submitted by Ron Shems (husband of Representative Grad) concerning the ability of a non-profit agency which is eligible to receive criminal history information to be share with the subject of the query. Due to conflicting language additional research continues on this front.

#### DEMHS

Media coverage of Irene Fifth Anniversary, featuring signing of the Silver Jackets Charter signing in Barre City on 08/26, was generally favorable.

Director, COS, and Ops Chief met with Dep. Director of Military Support to further develop curriculum for presentations to be delivered in Senegal in September.

Enosburg's Tyler Branch Culvert HMGP application was awarded by FEMA Region 1 for \$96,750 on 08/24.

FEMA Region 1 approved a \$3k cost overrun on 08/29 for two Barre City buy-outs.

Public Assistance Officer and R+M Chief Reviewed and ranked the five responses received from the Contingency Debris Management RFP. They also drafted Scope of Work for a Contingency Debris Monitoring RFP and forwarded to BGS and ANR. Tentative target is to award a contingency debris monitoring contract by end of calendar year 2016.

VT ALERT notifier training provided to the town of Duxbury on 29-August-2016 and the town of St. Albans on 1-September-2016.

At the request of the LEPC 10 Chair, DEMHS provided representation (G. Herrin) at the VT Resiliency Fair on Saturday, 27-August-2016. The purpose was to promote VT ALERT and assist with account sign up.

PIO submitting op-ed to all Vermont news outlets regarding Hazard Mitigation Grant Program progress and future in the five years since Irene.

2016 Local Emergency Operations Plan submission rate is currently at 87%. This matches the submission rate for all of 2015.

CI Planner met with Attorney General's office on 9/2 regarding Cyber Crime Reporting.

State Senator Alice Nitka and state Representative Sarah Buxton were at the VT Resiliency Fair and stopped by the VT ALERT table. Both were familiar with VT ALERT and had good things to say about it and its applicability to preparedness. They had no questions.

### Fire Safety

The Division received \$7.6 Million in new plan review construction valuation collecting \$62,000.00 in permit fee revenue.

This month (August) we received \$850,000 in revenue which I think is a record. We unexpectedly received \$109,000 in cigarette revenue.

The HazMat team responded to 2 incidents this past week to assist the VSP. One was the suspected clan lab and the other one was the incident in Colchester.

The fire academy has put out a much needed solar education class to the fire service and we were actually able to offer it to a couple of fire departments free of charge.

Division staff started working on the legislative report for the Office of Professional Regulation.

The new codes will be adopted with an effective date around the 15th of October.

The Williston Fire Department approached me to discuss a possible inspection agreement. I met with the Chief this week. We take in about \$160,000 a year in plan review and purchase and sale inspection fees in Williston. I told him we would have to discuss further because we cannot afford to be giving out any more money in fees. If it was not for the \$500,000 carry forward in 2015, I would have been short at the end of FY16. These are real preliminary discussions and a couple years out at best.

The fire safety trailer has been at the Champlain Valley Fairground this week and many people have stopped in.

### Vermont State Police

A Troop-

FF

26 Total Arrests, 7 DUI

There has been a dramatic increase in vandalism in the north patrol area. It appears that a small caliber gun was used to shoot car windows out. BCI assisting.

11 - Agency assists for A1.

Troops assisted Essex PD with apprehension of subject with warrant in residence.

Assisted NIU operation, 3 subjects apprehended, Chittenden County.

Huntington, report of stabbing. Found to be 3 subjects in an argument over female subject, one subject either slashed with knife or was from breaking glass when he punched window. All 3 uncooperative, victim transported for non-life threatening injuries. Investigation continuing.

Request for bomb squad assistance by Colchester PD, subject was making Molotov cocktails in apartment. HazMat also responded.

Executed 2 search warrants with one being a large response for a reported clan lab.

The gathering at the Statehouse for the Graham Rally went without incident.

BCI

Assist to Troy Fire Dept. with a truck fire.

Clan lab activation for team members in Westfield.

Arson unit interviewed male who intentionally set fire to his tractor.

Assisted Uniform with a 12 year old juvenile that ran away from his residence. Juvenile returned home during a search of the property.

Assault case at CRCF. Veronica Lewis assaulted her case worker and another CO. The SA's office has a large case folder for Veronica and this will be another charge.

Assisted Uniform with a number of vehicles that were shot with what appeared to be a 22 cal. firearm. Multiple residences within a well confined area. Uniform keeping the case.

Suspicious death case in St George. 59 year old male found unresponsive in his bedroom naked. Nothing completely suspicious on scene. Male was transported to OCME for autopsy where a number of injuries were located. Possible injuries to include injuries consistent to strangulation. Case continues to be investigated. D/Sgt. and D/Tpr. working case together.

D/Tpr. attended Human Trafficking investigations training in Rhode Island.

Clan lab activation in Alburgh. Search warrant for two residences.

Arson unit continues to assist Stowe PD with multiple arsons. Working with Border Patrol to place motion cameras on suspect's residence.

NUSI assigned case of a 19 year old male who inappropriately touched and kissed a 14 year old family friend.

14 year old female alleging she has been having a consensual sexual relationship with a 32 year old male. All assaults appear to have happened in Maine and Upstate New York. NUSI continues to investigate as crimes could have happened in Vermont.

Late report of a sexual assault from a 7 year old female who alleges she was assaulted when she was 5 by a then 18 year old male. NUSI assigned.

NUSI assigned case of a 33 year old female alleging she was sexually assaulted when she was 14 living with her foster family while she was in DCF custody.

Training in Burlington regarding Trauma informed Sexual Assault Investigations for D/Tpr.

Six month old infant came home after daycare and would not put weight on his leg. Baby was brought to the ER and x-rays showed a broken tibia. D/Tpr. assigned. Injury believed to have occurred at daycare.

Death investigation of a 30 year old male in Waitsfield. Death appears to be a suicide. Awaiting autopsy report.

Investigation of a male who stumbled out of the woods and collapsed in a parking lot at the Rock of Ages Quarry in Barre Town. Male was identified and interviewed. Male reported he was beat with a hammer by his drug dealer and stripped naked In the middle of the night. Male stated he believed the dealer was going to kill him. D/Sgt. assigned and working with NIU on the case and identifying all individuals involved.

B Troop-

FF

21 Total Arrests, 8 DUI

Developed information related to an individual possessing property stolen from area residences and businesses. After reviewing the property recovered, it was determined by Tprs. that some property came from a few of their burglary investigations. The offender was arrested Burglary and Possession of Stolen Property.

Conducted a public speaking event at the high school.

Troops responded to Derby for a report of an intoxicated subject. They arrested subject for 1 degree agg. domestic assault and keeping persons from emergency services.

Troops arrested subject for violating an active RFA order.

Trooper developed information of a residence in Westfield where occupants were processing and cutting heroin with fentanyl and other products. As a result of the investigation and information available Tpr. wrote and was granted a search warrant for the residence. Tpr. worked with the Task Force, Clan Lab and the state Hazardous Material Response Team to mitigate the health risks to responders and those executing the warrant. On 8/25/2016 the warrant was executed safely and multiple labeled bags were found inside the residence. There was also evidence of the subjects branding their own packages with their own stamp.

Fentanyl was found in the residence and at least one bag labeling in the residence is linked to a recent OD death. Trooper has identified the occupants and will continue her investigation.

BCI

Attempted suicide in Holland, VT. Male shot himself – Non-fatal.

Assist Uniform with Wanted subject.

Child Luring case Newport Ctr. 18 yr. old male sexting a 3 yr. old female trying to arrange for meeting to have sex.

Child endangerment intake from DCF- anonymous report of drug activity at a residence with children.

Sex offender Registry check.

Mental Health assist.

Fire investigation in Irasburg, VT – accidental.

Truck Fire in Groton - Not suspicious.

Fire Investigation in N. Troy - Flooring Factory - not suspicious.

Fire investigation in Lowell - Car found burnt – Arson.

Report of Sex Assault that happened two weeks ago. Determined to have occurred in NH. Transferred to NHSP.

Assisted St J Troops with Search warrant.

Male reporting that he was sexually assaulted at a mental health residential treatment facility.

Sexting case. Mother of 13 yr. old female reported her daughter was sexting with an older male who possibly resides in NJ.

Death Investigation.

Charleston, VT – 73 yr. old female with COPD – Natural.

Concord, VT – 50 yr. female with cardiovascular disease – Natural.

C Troop-

FF

6 Total Arrests, 3 DUI

Arrested a male for aggravated domestic assault. Accused attacked his care giver with a golf club.

Investigated a burglary in Rutland Town with a significant amount of property stolen and vandalized.

Tpr. investigated a serious injury crash in Killington resulting in a DUI.

Presentation to a Driver's Education class in Middlebury.

Cruelty To Animals arrests.

Visited the Maple Street School and spoke with administrators about school safety and emergency plans.

BCI

Trauma kit training.

New Case /Assist AG's investigator with interviews in obstruction of justice case.

New Case/Dead body investigation in Wallingford; determined natural death of a forty-four yoa female.

New Case/Dead Body investigation in Wallingford; determined natural death of a seventy-seven yoa male.

Instruct Narcan Training.

Background.

Case follow up on elderly woman with suspicious wound – no evidence of neglect.

2 day - Trauma Informed Sexual Assault Training in Burlington.

Rutland MDT Meeting.

Assigned new case: Missing 17 year old from Wells. Subject located.

Assisted Bennington PD with follow up on a second degree murder case (overdose death). New information was obtained during an interview.

Clan Lab activation in Derby area for a possible Fentanyl lab.

Phone interview with Dale Koenig reference locating witness on sex offense.

Attended Deposition on Leicester Robbery.

Arrested Herbert Fagans III for assault on a correctional officer and disorderly conduct at Marble Valley Correctional Facility.

Case Follow-Up: Sex Offense. Town of Fair Haven. It was reported a 7 year old girl and an 8 year old girl were sexually abused by their 15 year old neighbor. Case Completed.

New Case: Dead Body. Town of Ferrisburgh. 73 year old male subject died of unknown causes. Not suspicious. Autopsy Pending. Case completed.

Case Follow-Up: Dead Body. Town of New Haven. 90 year old male subject died. The results stated the cause of death was a self-inflicted gunshot wound to the head and the manner of death was suicide. Case completed.

Case Follow-Up: Dead Body. Town of Wallingford. 51 year old male subject died. The results stated the cause of death was a Subarachnoid hemorrhage due to cerebello-medullary region arteriovenous malformation (seconds) and the manner of death was natural. Case completed.

Case Follow-Up: Sex Offense. City of Rutland. It was reported a 9 year old girl and a 13 year old girl may be being sexually trafficked. Case Completed.

New Case: Sex Offense. Town of Castleton. It was reported a 9 year old boy was sexually abused by an unknown subject. Case Completed.

Fire Investigation in Irasburg (Accidental).

Fire Investigation in Guilford (Suspected act of arson).

Telephonic interview with NYC Law Firm relating to 2013 Fire Investigation.

Working on Background.

Follow up on new case. Attempted Cellebrite on complainant's phone.

D Troop-

FF

8 Total Arrests, 3 DUI

Arrested one for Excessive Speed and Negligent operation on Route 5 in Dummerston – subj was operating at 100 mph in a 50 mph zone.

Tpr. is investigating a fatal motorcycle crash in Weathersfield.

Troopers responded to a report a 17 year old that had fallen over Hamilton Falls in Jamaica; victim was air lifted from the scene and later died from his injuries; BCI is following up.

Troopers received a report an individual shooting at a residence on Hi Lo Biddy Road, in the Town of Putney, Vermont. The investigation revealed that Jason Robison was in an altercation with Robull Bryant and Alfred Spellman in which Robison shot at Bryant and Spellman who returned fire. Spellman and Bryant were arrested at on Hi Lo Biddy Road and subsequently arrested for Reckless Endangerment. Robison was located driving his vehicle nearby. At the time of his arrest, it was determined that he was operating his vehicle while under the influence of alcohol. He was arrested for DUI and Reckless Endangerment. Jason Bunch, who was at the residence at the time of the shooting was arrested on an outstanding Federal Arrest Warrant. Bryant also had an active Federal Arrest Warrant. The investigation is still ongoing by BCI.

Troops were incident command for the memorial for Firefighter Justin Beebe's memorial in Bellows Falls.

BCI

Arrest for Exc. Speed/C&N US 5 Dummerston.

Write up - Suicide Bethel.

Case Review CAC – Brattleboro.

Interview Inmate at SSCF-Re: drugs in the facility & CI potential.

Accidental Death-Hamilton Falls, Jamaica.

Assist to Arson/Sutton w/suspicious fire in Guilford.

Two DRE Evaluations reviewed.

“Start by Believing” Training – CAC Brattleboro.

Evidence – Royalton.

Trauma Kit Training – Westminster.

File on Q Training – Westminster.

Week long Windham Jury Trial - Three month old with broken leg.

Shooting investigation in Putney (reckless endangerment). Collaboration with NIU and FF resulting in four arrests, two federal drug arrests, and three search warrants.

TOPS-

CV Fair Detail.

Assist to NIU.

Crash class at VPA.

POLYGRAPH-

1 Pre-employment polygraph for OPD

Meeting with ST Johnsbury PD regarding criminal case of a suspicious death. Suspect believed to have poisoned his wife with her own medication.

Criminal polygraph for Hartford PD. Examiner failed a suspect on a child abuse case after a polygraph. Examiner then interrogated the female which resulted in a confession of the child abuse. Mother admitted to breaking her infant's legs.

MAJOR CRIME-

Vreeland Homicide: Continued review of 260 jail calls received from accused Jeffery Ray's account.

O'Hagan Homicide: Continued follow up.

Hart Homicide: Two interviews conducted.

Smith Homicide: Phone call from Jen Simard, family update and more phone work completed.

Cold Case: Milizia Wire warrant completed.

Worked on HQ cages with BCI B Troop – Derby.

Assigned Special Investigation.



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

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

*Justin Johnson, Secretary*

## **PRIVILEGED AND CONFIDENTIAL MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Justin Johnson  
**DATE:** September 2, 2016  
**SUBJECT:** Confidential Report to the Governor

---

### **BUILDINGS AND GENERAL RESOURCES**

#### **Issue Updates:**

RUSF – Ice Rink on State House Lawn – Capital Complex Commission – Judy to schedule a meeting with the City and Risk Management for Capital Complex Commission to meet after any Risk Management issues have been addressed and the City has submitted a proposed MOU – that includes BGS conditions. This needs to be reviewed by BGS/legal.

RUSF - Revision of SH Lawn Guidelines – Revisions were sent to project participants on February 26<sup>th</sup>. Two items need legal clarification and four items for discussion/resolution.

State Facilities Rules – Firearms Exception Request & Firearms Signage – Sent history of the discussions to Paul McManus on August 29<sup>th</sup>. Was action ever taken on this? On March 15<sup>th</sup> we received a request from VTrans for exception to State Facilities Rules at State airports.

Exit 7 – Berlin – Public/Private Partnership – The Maplewood Travel Service Center sanctioned by the State at Exit 7 on I-89 is scheduled to open on September 2, 2016. VICD staff will be assisting with travelers beginning September 2<sup>nd</sup> through the foliage season. The highway signage has not yet been installed and VTrans is working on it. Ed, Lisa, Penny are collaborating with Maplewood.

### **FINANCE AND MANAGEMENT**

Nothing new to report.

### **HEALTH CARE REFORM**

Nothing new to report.

## **HUMAN RESOURCES**

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

Green Mountain Care Board nominating committee meeting held at DHR. We are assisting Board as they vet candidates/conduct interview for upcoming vacancy on the Board. Process appears to be running smoothly. VTDigger inquired about the Green Mountain Care Board nominating process, specifically seeking the number of candidates interviewed and the number submitted to the Governor. We coordinated the response with the Governor's office which received similar requests.

Received inquiry from Auditor re: any measures that have been put in place post-Deeghan (trooper who padded retirement with large amounts of overtime- occurred several years ago). Connected with Treasurers office regarding retirement calculation piece.

Working with BGS on their very large public records request from Jeff Lively (GC recently terminated).

## **INFORMATION AND INNOVATION**

Nothing new to report.

## **LIBRARIES**

Nothing to report.

## **TAXES**

Nothing new to report.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Patrick Delaney, Commissioner**  
**Date: September 2, 2016**  
**Re: Weekly Report**

**Vermont Department of Liquor Control**

Legislative Issues/Contacts/Updates: Review of S250 is nearing completion. This project is being addressed in a more comprehensive manner than past regulation proposals. The bill language is being cleaned up, simplified and vetted for contradictory language by a lawyer, Deputy Commissioner Gary Kessler. This approach was intended to be more consistent with the goals of our larger project ahead, the modernizing of Title 7.

Press Issues/Releases/Contacts:

The Bennington Banner had a photographer and a reporter present at our ribbon cutting to cover the official opening of the Pownal store. We anticipate a photo of the ribbon cutting and a brief story on the opening of the store. This is a great looking store in a key retail location. Very excited to have press coverage to announce the opening.

Significant Events/Meetings:

The Department's new web site's 802 Spirits section is still being updated. However, the new site is a tremendous upgrade and is a tangible indication of our plans to start re-imaging the Department in many areas.

Summary of Key Department Activity:

*Agency Issues:*

The Pownal Liquor Agency had its grand opening September 1.

We anticipate a change to Agents soon in Danville, and possibly Stamford.

We had 2 electronic fund transfers bounce this week. One in Chelsea and one in Stamford. Both agents have been contacted regarding resolution. May be a precursor to changing agents in both locations.

*Staffing:*

The Job Class reclassification requests for Liquor Warehouse 1 and 2 positions were submitted August 30. The expectation is that this should improve our competitive position in retaining employees.

We are in the process of re-classifying a warehouse 2 position to a supervisor position. This must be tabled until the current, singular Warehouse Supervisor position has been reclassified.

The Department has received many applications for the Principal Assistant / Director of Marketing position. August 25 was the final day for applications to be submitted, so application reviews have commenced, to be followed by scheduling of first round interviews.

The Temporary Warehouse Driver position recruitment is now closed, with decisions being made as to an offer.

*Warehouse Reorganization:*

The last phase of labeling the new shelving locations to manage inventory is under way.

**Commissioner's Commentary:** Significant progress was achieved this week in the planning and preparation for two national industry events that will raise the profile of the State of Vermont and its Department of Liquor Control.

At a national event in mid-September, located in Detroit, Mi. the Department will present to a group of national suppliers and articulate the new operational policies and procedures that we are implementing to improve our department performance levels and profitability.

Burlington will be the host to a national control state organization's administrator's conference. This event will allow the Department to showcase Vermont's beauty and introduce 300 attendees to the culture of the State and it's many compelling attributes

**116 STATE STREET  
MONTPELIER, VERMONT 05620**



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

**Chuck Ross, SECRETARY**

**STATE OF VERMONT  
AGENCY OF AGRICULTURE**

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** September 2, 2016

Secretary Ross presented information at the cross-agency TMDL hearings held in St. Albans, Burlington and Rutland this week. These hearings allowed the public an opportunity to ask questions about how the various agencies will work to reduce the total load flowing into Lake Champlain.

Secretary Ross and Deputy Secretary Bothfeld spoke with NADSA Public Policy Director Nathan Bowen regarding Canadian milk issue as it relates to working group at the Tri-National Accord being held in Ontario October 24-26.

Secretary Ross and Deputy Secretary LaClair attended the Agricultural Hall of Fame Luncheon on Wednesday, August 31. Inductees for 2016 were Gordon Booth, Anne C. Brown, Ralph McNall and Walter & Shirley Goodrich.

Produce Program Coordinator Kristina Sweet participated in the 1<sup>st</sup> National Specialty Crop Block Grant (SCBG) Program Coordinators Conference in Portland, Oregon. USDA awards SCBG Grants to the 50 States, the District of Columbia, and U.S. Territories annually to enhance the competitiveness of U.S.-grown specialty crops, including fruits and vegetables, tree nuts, horticulture, and nursery crops. The Oregon Department of Agriculture and USDA organized the conference to share program priorities state by state, provide information on implementing federal financial standards, discuss monitoring grant sub-recipients and expenditures, share strategies for managing the application process, and promote successful program outreach.

116 STATE STREET  
MONTPELIER, VERMONT 05620



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

**Chuck Ross, SECRETARY**

**STATE OF VERMONT  
AGENCY OF AGRICULTURE**

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** September 2, 2016

**Significant Meetings:**

Assistant State Veterinarian is attending the National Poultry Improvement Plan biennial conference in Washington State. The National Poultry Improvement Plan was established in the early 1930's to provide a cooperative industry, state, and federal program through which new diagnostic technology can be effectively applied to the improvement of poultry and poultry products throughout the country. At the biennial conference, a group of experts provides recommendations on proposals that have been submitted by industry, academia, or State and Federal Animal Health Officials to amend the NPIP portion of the CFR.

Stephanie Smith, Chief Policy Enforcement Officer, VAAFM attended the Vermont Association of Planning & Development Agencies meeting on September 1. She informed the regional directors and associate members about the Agency's new role in energy facility development review before the Public Service Board under Act 174, and its efforts in assembling a program to participate in this process and criteria for making defensible decisions about its engagement. She also shared upcoming meetings where the Agency will discuss policies and programs governing land use and maintaining the working landscape (NNECAPA, 9/9; F2P Farmland Access Work Group meeting, 9/21; VLCT 11/2).

Produce Program Coordinator Kristina Sweet participated in the 1<sup>st</sup> National Specialty Crop Block Grant (SCBG) Program Coordinators Conference in Portland, Oregon. USDA awards SCBG Grants to the 50 States, the District of Columbia, and U.S. Territories annually to enhance the competitiveness of U.S.-grown specialty crops, including fruits and vegetables, tree nuts, horticulture, and nursery crops. The Oregon Department of Agriculture and USDA organized the conference to share program priorities state by state, provide information on implementing federal financial standards, discuss monitoring grant sub-recipients and expenditures, share strategies for managing the application process, and promote successful program outreach.

**Evolving Issues:**

Animal Health Section monitored livestock and poultry for import paperwork at the Champlain Valley Fair. Staff also tested poultry at the poultry show for Pullorum and collected samples for avian influenza surveillance. Once exhibitor entered 50 birds in the poultry show – primarily for sale not for show. These birds upon arrival were visibly ill and two died or were dying. These birds were spent hens the owner purchased from an egg laying facility in South Hero. Animal Health staff reacted quickly and notified the poultry superintendent and informed the participant that he needed to take his birds home. Staff worked with the poultry superintendent on proper cleaning and disinfection of the cages the birds had been placed in. CVE did have a private veterinarian checking in livestock but not the poultry.

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

### **Agricultural Development:**

#### **Land Use:**

- Vermont Center for Geographic Information provided an update on the statewide parcel mapping project being managed by AOT and VCGI. Parcel mapping will be complete by selected contractors initially in towns that want parcel map updates. To complete parcel mapping for the entire state will take about three years. In year two, VCGI will have a plan for managing and maintaining the data in place. Also VCGI hired a new Director, John Adams, who formally worked for the Department of Housing and Community Development.
- The Agency of Natural Resources outlined a schedule of meeting dates to address forest integrity, in regional and municipal planning from now until mid – November, and deadlines for comments on the proposed DEC stormwater rule.
- The Health Department is developing resources for a variety of audiences in promotion of a new campaign to bring awareness to the most prevalent causes of death in Vermont and how to reduce occurrences of these diseases. The Department is assembling actions/resources that towns, schools, etc can take in this effort. One of the suggestions is to encourage a healthy lifestyle and create opportunities for community gardens – and conveniently there is land that is set aside through the Act 250 process expressly for the purpose of farming. The VAAFM will reach out to the Department to share the location of mitigation land and to integrate use of these lands into this guidance, if appropriate.

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

#### **Animal Health:**

- Animal Health Field Staff attended the weekly livestock auction at the Addison County Commission Sales to monitor Animal Disease Traceability compliance and complete the livestock market report.

#### **Consumer Protection:**

- Henry Marckres, Chief, Consumer Protection, served as a maple judge with Janis Connor of the New Hampshire Department of Agriculture at the Lancaster, N.H. Fair on Tuesday. This fair is a joint effort between Coos County, N.H. and Essex County, Vermont.
- USDA Country of Origin Labeling inspection were concluded for 2016 this week. 12 follow up inspections and 2 new inspections were done by Henry Marckres and Scott Dolan of Consumer Protection.
- Marc Paquette, Weights and Measures Specialist, Mike Larose, Consumer Protection Specialist and Henry Marckres, Chief of Consumer Protection met on Monday with Tony Cairns of Champlain Oil to discuss credit card skimmers on fuel pumps. The Agency will participate in the Fuel Dealers meeting this fall, and the Industry and Agency are cooperating in checking for these devices throughout Vermont.

#### **Dairy:**

- Dairy visited two new processing plant start-ups this week. One in Westfield (bottled goat milk & cheese), one in Norwich (a variety of cow milk products).
- Three dairy reps attended the retirement luncheon for Stephen Pierson our Regional FDA Milk Safety Specialist. Steve has been our specialist for 28 years and retired 8/31/16. Steve has certified all our current State Rating Officers.

- Dairy is investigating a Farmers Market product complaint received 8/31/16.
- Most of Dairy section has received updated computers.

### **Meat Inspection:**

- Public health vet is conducting humane handling reviews at slaughter establishments.
- Ongoing preparation for the annual self-assessment by FSIS.
- Moving into 2<sup>nd</sup> interviews for Food Safety Specialist I opening.
- Ongoing work with Admin Public Relations staff for an updated presentation for the education and outreach piece of the updated statutes for on-farm slaughter 6 VSA 204 § 3311(a).
- Helping to review changes to the VDM laboratory sampling request form.
- Spoke with representative of Mountain Meadows farm in Sudbury VT concerning the possibility of some Agency support for VT Slaughterhouses to help them meet requirements of 3<sup>rd</sup> party audits for larger out of state grocery chains, such as Whole Foods, in order to spread VT product to the larger cities
- Consulted with several producers concerning on-farm slaughter regulations for both red meat and poultry and the applicable exemptions from inspection, review of bacon formulations to meet restricted ingredients regulations
- Reviewing blueprints for proposed state inspected processing establishment in Charlotte
- Supplied rationale to USDA representatives for request for more funds from USDA, FSIS to meet financial needs to finish the federal fiscal year

### **Compliance:**

- Two notices of warnings issued for temperature abuse of meat and poultry products being offered for sale at farmer's markets.
- Information received from a Vermont federal plant about misbranding of ready to eat meat and poultry sticks being sold at a local health food store. Information was transferred to USDA compliance.
- Mislabeled and misbranded containers of products from a Lebanon, NH restaurant was detained during a routine retail inspection at a Norwich, VT firm.

### **Agricultural Resource Management:**

#### **North Lake Contractor Initiative:**

- Activation letters continue to come in and have been submitted for signature and several others are currently under review.
- Staff continue to coordinate with North Lake contractors as projects move forward.
- Onsite visits continue with North Lake Contractors, farmers and AAFM staff.
- Staff continue to meet every other week for status updates. NL contractors will be invited to call in to these meetings if they wish to discuss programmatic or farm specific issues.

#### **Small, Medium and Large Farm Operation (SFO, MFO and LFO) Programs:**

- Staff are continuing to develop and test the FoodSafety Water Quality database.
- Staff continue to review 5 applications for LFO permit amendments or applications to become an LFO.
- Staff continue to analyze data for developing territories for the SFO program.
- Inspection report write-ups on Medium and Large Farms are numerous and ongoing.
- Staff continue to attend GIS trainings.
- Staff continue to attend WQ Communications meetings
- Additional meetings have been held with staff concerning the enforcement process and developing protocols
- Organizing priority farm list for collaboration with partner Agencies with staff continues.

- Staff continue to develop RFP program deliverables and framework for Alternative Phosphorous management
- Staff members continue to review inspection reports to be submitted to the enforcement team; these meeting will be ongoing throughout the field season.
- A joint inspection with DEC was conducted on a medium farm transitioning to a large farm in Franklin County.
- Two MFO inspections were conducted by staff in Essex and Orleans County
- Three compliance checks were conducted by staff on SFOs in Rutland County
- Staff attended NMP review training for farm inspections
- Several staff provided comments on Basin plans
- Several field days were held by UVM Ext covering a variety of topics; VAAFM staff attend and provided the latest VAAFM informational handouts to attendees.
- Staff met to continue to come to agreement on assessments of streams as it relates to top of bank.
- Staff met to discuss aspects of LFO individual permit rules

### **Vermont Agricultural & Environmental Laboratory**

- VAEL has submitted RFRs for the Scientist AC: Microbiologist and Chemist series, as well as for the lab supervisors and the lab's 'Administrative Services Coordinator, Alison Farnsworth.
- VAEL's technical director in the Nutrients Section, Dan McAvinney, will be taking a Water Quality training course, building expertise in that area of the lab.
- VAEL will be posting a job opening for a chemist to work in the lab's Metals and Nutrients sections.
- VAEL and the business office have submitted purchase orders for two pieces of equipment that will help strengthen the nutrients and DNA detection sections of the lab.
- VAEL has received approval from BGS to trade-in two large instruments used for metals analysis. This step allows the lab to replace these instruments at a discount with state-of-the-art equipment and will help VAEL expand the services offered.
- The lab's two temporary workers have finished up their term in the lab and are now back at UVM taking classes. They made significant contributions to a successful summer season at the lab; thanks much to Natasha and Tommy!

### **Water Quality Program**

- A Large Farm Operation in Derby will receive a Corrective Action Letter for failing to pay their Large Farm Operating fee of \$2,500. All other LFOs have paid the operating fee.
- A Medium Farm Operation in Stowe received a Corrective Action Letter for violations of the Medium Farm Operation General Permit. A number of fields managed by the Farm were found to have insufficient vegetative buffers, less than 25 feet in width, between row crops and the top of bank of adjacent surface water.
- A Small Farm Operation in Morristown received a Corrective Action Letter for violations of the Required Agricultural Practices Regulations (RAPs). The Farm manages a heavy use / animal holding area directly adjacent to a neighbor's property. During rain events, waste runs from this area, across property boundaries, and onto the neighbor's land.
- A Small Farm Operation in Randolph Center received a Corrective Action Letter for violations of the Required Agricultural Practices Regulations (RAPs). The farm had recently expanded the manure storage structure, but failed to do so according to NRCS standards. In addition, the structure has a small

pervious area near the top of the structure's berm through which manure can leak onto the outside of the structure's berm, so the structure is not being managed to prevent the runoff of wastes to surface water.

- A Small Farm Operation in Irasburg received a Corrective Action Letter for violations of the Required Agricultural Practices Regulations (RAPs). The Farm pumped liquid manure onto a field next to the manure storage structure, as opposed to land applying it at agronomic rates, and the manure ran off down gradient and impacted a neighbor's dug well.

### **Pesticide Program**

- A Letter of Warning for violations of the Vermont Pesticide Regulations was issued to a structural pest control company for making applications of a pesticide to an apartment building and failing to leave the appropriate post-application paperwork with the customer.
- A Letter of Warning for violations of the Vermont Pesticide Regulations was issued to a property management company. An employee of the company made an application of a pesticide to an apartment building without being properly certified as a pesticide applicator, and without the company having a pesticide company license.
- A Letter of Warning for violations of the Vermont Pesticide Regulations was issued to a landscaping company for making a pesticide application to the property of a commercial building and failing to properly post the area (incorrect information was used on the posting signs). The company also failed to inform the client of what pesticides would be used, and failed to leave an invoice listing the products used following the application.

### **Secretary's Report:**

Secretary Ross presented information at the cross-agency TMDL hearings held in St. Albans, Burlington and Rutland this week. These hearings allowed the public an opportunity to ask questions about how the various agencies will work to reduce the total load flowing into Lake Champlain.

Secretary Ross and Deputy Secretary Bothfeld spoke with NADSA Public Policy Director Nathan Bowen regarding Canadian milk issue as it relates to working group at the Tri-National Accord being held in Ontario October 24-26.

Secretary Ross and Deputy Secretary LaClair attended the Agricultural Hall of Fame Luncheon on Wednesday, August 31. Inductees for 2016 were Gordon Booth, Anne C. Brown, Ralph McNall and Walter & Shirley Goodrich.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Sept 02, 2016**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

Next week we begin rearrangement of shipping work area and stations to improve access to product. We should complete this project within two weeks. This will increase our area for staging of current games and likely reduce costs a bit further.

**Legislative Issues/Contacts:**

none

**Press Issues/Releases/Contacts:**

Brief story by Channel 5 on lottery profits press release put out on Monday.

**Significant Events/Meetings:**

none

**Evolving Issues:**

none

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

Our second version of The Walking Dead scratch ticket goes on sales today. This includes various zombie images for point of sale, and will follow with TV ads starting in two weeks. We re-used the same ad from 2014 with slight updates. A few complaints were received as expected but nothing of significance.

We promoted our primary customer service employee, Amanda French, to an open position and will post her position. We have been working with temps for two months while we developed Amanda but their availability and skills are reflective of the low unemployment rate. We also expect to make an offer today for our web marketing position.

The Vermont Lottery has joined together with 5 other lotteries to form a new game group with a new game that we expect to start in April. We have completed governance rules and game rules documentation with the assistance of all of our AG's offices or staff counsel. We plan to begin the VT rules process in Sept.

**Executive Director's Commentary:**

I am very hopeful to get a few of our open positions filled now so we can get back to normal staffing.

## DEPT. of LABOR WEEKLY REPORT

### Issues of Note:

Paid Sick Leave Rules were filed with ICAR on 8/30/16. I have presented a preliminary draft to a few people outside the Department to review, including Frank Cioffi. There were sections of the statute that were clearly incorrectly written (i.e. No definition of timeframe for counting number of employees on payroll; another section provides that an employee provides PSL for employees who work less than 30 hours per week, but employees working 30+ do not). We've had a pretty difficult time putting the rules together, but think the final draft is a good one. I will forward that to you for FYI or review. In addition, we are statutorily required to do the Small Employer Survey, which we are working on finalizing. I believe that there will be significant adjudication of disputes in the first 2 years, regardless of how allegedly "smooth" Connecticut did in implementation. What we have researched with CT is that they have 12 Wage and Hour Field Auditors who are mediating and adjudicating these disputes informally in the field, so that they are not making their way to the formal process. Vermont Wage and Hour is supported by a \$240K General Fund Appropriation, and we have 1 FT, 1Temp, and part-time help from 1 administrative assistant and 1 attorney. We have been "underwriting" the Unit's work through UI, on the theory that W&H violations are connected to less UI tax collected.

I am extremely concerned about the workload that may hit VDOL come January.

We are still struggling to get the UI Modernization Consortium (Vermont, Idaho and Iowa) contract finalized and signed. I reviewed and signed off on the latest version of the contract last night; now we wait and see if DII will come up with more last minute issues.

Our new television commercial on Misclassification is airing. These are paid for by a substantial grant from USDOL. The next meeting of the Governor's Misclassification Task Force is September 19<sup>th</sup>. I have received acceptances to attend from about 40 people. Doug Hoffer is back at me on the misclassification report. I really don't have time to be harassed by him again.

We filed 3 WC Rules, including Medical Fee Schedule; Opiate Rule; and VR Services and Counselor Fees. I think we have good support for these.

I helped BGS write the Prevailing Wage MOU, and their guidance to contractors and their posters. I am concerned that this is all going to become very much more difficult as they have some brand new people involved in this process who clearly don't know a thing about PW.

Dan Mulcahy from Building Trades has filed a PW complaint against the State of Vermont BGS for work at the Waterbury Complex and is alleging wage and hour violations too. Frankly, he has been awful to work with and is not an accurate reporter of the facts, so this is going to get very complicated. I suspect that you will get a call from Mickenberg to meet with Building Trades, and if so, please invite me to the meeting so they don't get away with complaints that are not based in fact.

USDOL and WIOA continue to frustrate me beyond words. After a 2-year delay in issuing the WIOA final regulations, they are still dragging their heels on answering key questions about

implementation. BUT, it is clear to me that the Vermont's fight to have the WIOA rules changed to stop the "competitive bidding" of our WIOA work, has been lost. Therefore, we are proceeding with the work to draft the RFP for the WIOA Adult and Dislocated Workers services. Eileen Illuzzi heads up the SWDB Youth Committee, and has worked with that group to recommend VDOL continue to provide those services. This recommendation has to be presented to the SWDB Operating Committee on 9/15 and the full Board on 9/27. My goal – and Frank Cioffi as Chair of SWDB shares this – is to have this RFP process and document voted on at the 9/27 meeting; issued the next day; and back by 10/27, for review and awarding of the contract by 11/1/16, while I am still Commissioner and you are still Governor. Otherwise, I believe privatization of these services is a real risk. Some of the folks who might bid against us include Maximus, Lockheed Martin, Goodwill Industries (recently written up for massive wage violations and discriminatory employment practices against people with disabilities!), and VABIR (you know, the no-bid private contractor who shuffles state VR money, duplicates services, charging the State General Fund for the same work that USDOL sends us federal money). You can't make this stuff up.

We finalized the revisions on the WIOA State Plan Rules. VDOL staff (Abby Shepard in particular) did the vast majority of the work on behalf of VDOL and Vermont SWDB and the Unified Plan Partners (VDOL, Agency of Education, Vocational Rehabilitation, Division for the Blind and Visually Impaired). Considering that Vermont had to write the State Plan (300+ pages) without the federal regulations in place (a practice in "just guess"), as states did not receive the USDOL final WIOA regulations or the required plan revisions until June 30<sup>th</sup>, the Vermont State Plan Unified Partners had only had 8 weeks to collaborate and coordinate the revisions. We are very pleased/proud to have submitted final revisions on all but 2 issues, and those are under action planning, and will be submitted separately. Additionally, USDOL Region 1 Administrators were here for 2 days this week for an in-depth status review of our WIOA Implementation work. Frank Cioffi, Rose Lucenti, Michele Kupersmith, Maureen Tivnan, Donna Nobrega, Diane Dalmasse, Hugh Bradshaw, Kathy Terami, Danielle Kane, myself and other VDOL staff participated with USDOL and the other federal agencies who called in by conference phone for this review.

#### Unemployment and Wage Division

We just finalized the determination for Employer's Taxable Wage Base, effective January 1, 2016, and the TWB will increase from \$16,800 to \$17,300. Senator Mullin has already been asking about this and I suspect the issue will become somewhat politicized in the upcoming weeks. Below is the pertinent part of the email in which I responded to Senator Mullin's inquiry. He had copied other legislators on his email to me:

*Senator Mullin asked about the overall health of Vermont's UI Trust Fund, and when Vermont employers might see some positive changes in their UI taxes.*

*First, it is important to note that each employer's three-year history of total employment, terminations and layoffs is a critical determinant in their tax rate. For example, smaller employers' rates suffer greater impacts when they layoff or terminate employees, since even small numbers of adverse incidents can greatly impact their experience rating, i.e. they cannot absorb the impact against their total workforce numbers as well as large employers.*

*In response to the question about current projections that might positively impact Vermont employers, the following information may be helpful, with the caveat that the information provided is based upon best*

*available information at this time, and forecasts are subject to revision based on changing state and national economic conditions.*

*Under the UI Trust Fund “stabilization reforms” legislatively established in 2010, several changes to the UI system were made to pay off the deficit in the fund/federal loan, which was \$77.7 million dollars in January, 2011. The fund went into a negative balance during the last economic downturn, in part due to a 20+ year period during which Vermont workers’ wage-levels increased, but the employers’ taxable wage base did not (i.e. remained at \$8K), and, in part due to the pressures created by the great recession that lasted longer and recovered slower, and resulted in significant job loss in Vermont and nationally. To resolve this deficit, both business and labor made sacrifices, and to date, all the agreements collaboratively reached in 2010 have been upheld.*

*The 2010 reforms, coupled with the improved national and state economy, and excellent money management by the VDOL UI Division, allowed VDOL to stop borrowing in April 2011, and pay off the loan in June 2013 – 18 months ahead of the earliest projected payoff date.*

*While the balance in the UI Trust Fund is currently 260+ Million, it is still not considered by USDOL to be fully solvent (i.e. to withstand a significant recession. Full solvency is estimated at \$350+ M.*

*The following information is intended to respond to Senator Mullin’s question:*

*The Tax Rate Schedule: Vermont employers are currently assessed at Tax Rate Schedule 5, which is the highest rate. VDOL forecasts have consistently predicted July 1, 2017 as the date when the Tax Rate Schedule would change to Schedule 4. This forecast is still on track. Looking further into the future, it is also forecasted that the UI Trust Fund will have a sufficient balance to reduce the Tax Rate Schedule 3 on July 1, 2018. Tax Rate Schedule 3 is important as this is the “equilibrium” schedule which indicates adequate levels of funds in reserve. It is also important because the 2010 law sets Schedule 3 as a trigger to lower the Taxable Wage Base by \$2,000.*

*The Taxable Wage Base (TWB) was legislatively-increased from \$8,000 to \$16,000, and increased over the course the past few years. After reaching the level of \$16,000, Vermont law then requires the Taxable Wage Base to increase by the change in the average annual wage for UI-covered employment. On Jan 1, 2016, the TWB was increased by 2.3% to a level of \$16,800. Current projections predict the TWB to increase to \$17,300 on January 1, 2017 (this is an estimate, not official). If Vermont reaches Tax Rate Schedule 3 in 2018, as described above, the Taxable Wage Base will decrease by \$2,000 on January 1, 2019.*

*The one-week waiting period will sunset on July 1, 2017 as per law. After this date, UI claimants will not have to wait a week before receiving benefits.*

*In summary, the UI Trust Fund has been nearly restored. As such, the rate of increase to UI Tax Rates is abating. The decline to Tax Rate Schedule 4 will help lessen the cost of the upcoming increase to the Taxable Wage Base. The change to Tax Rate Schedule 3 will provide additional relief in the form of a lower rate schedule (July 2018) and lower taxable wage base (January 2019).*

**Our new federal Vet Rep is Will Roy, and I met with him twice this week, along with Donna Nobrega who was recently promoted and will now be working out of New Hampshire.**

**Mat Barewicz and I have been asked by Frank Cioffi to give a presentation to Sue Minter and Phil Scott on the facts-vs-fiction regarding the state workforce, occupational projections, skills gaps, etc., at a meeting Frank is scheduling. Mat and I are also working on the Employer Needs Survey, and are involving ACCD in this process.**