

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

**Sent:** Tuesday, December 10, 2013 11:18 AM

**To:** GPS

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

**Subject:** Weekly Reports - Executive Privilege 12 6 13.pdf

**Attachments:** Weekly Reports - Executive Privilege 12 6 13.pdf; ATT00001.txt

sorry forgot to send this. Gov, note Doug's comments if you haven't yet reviewed. some other highlights included.

# WEEKLY REPORTS

## Checklist

12/6/2013

Elizabeth Miller/Aly Richards

- ☒ Agency of Commerce and Community Development – Lawrence Miller
- ☐ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Armando Vilaseca
- ☒ VT Commission on Lottery – Greg Smith

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

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

**To: Governor Peter Shumlin**  
**From: Lawrence Miller, Secretary - Agency of Commerce and Community Development**  
**Date: December 6, 2013**  
**Re: Weekly Report**

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Monday South Burlington will be doing a presser at the Chamberlin school talking about the municipal planning grant they just go, which will help to address noise abatement issues near the airport. Joint project with Burlington. Lawrence will attend with Miro, Joel Clark, Kevin Dorn, Pam Mackenzie. South Burlington sends thanks to GPS.

Windham County CEDS was released Thursday night. Planning done, action steps now. Seveds.com

**Turmak, Ankara, Turkey 11/24 to 11/28/2013:** Brent visited the President and his executives to perform due diligence and discuss why they should locate their first USA factory as well as their North American headquarters in Vermont. Their green technology removes previously unrecyclable plastic from the waste stream and creates products to reduce use of trees and other commodities. The technology is real; they are already selling to Europe and are building a factory in Saudi Arabia. Working with Kiersten and Fred on recruiting them to headquarter and build their 1<sup>st</sup> U.S.A. factory in Vermont.

**Aero-Montreal Forum 12/01 to 12/04/2013** Together, they recruited 9 Vermont companies to attend. B2B meetings with tier 1 and 2 aerospace companies were scheduled, informational seminars held and a MOU signed between Aero Montreal and the Vermont Chamber of Commerce. Good sector growth.

At their December 5 monthly meeting, the VEPC Board took the following actions: Rescinded the Initial VEGI Application approved for AF Cell, Waterbury. No Final Application was filed and the project is cancelled.

Terminated VEGI incentives for Ask-intTag, Essex and Terry Bicycle, Burlington. Both projects are occurring, but 2010 performance requirements were not met by end of 2012. **NOTE: These are both prime examples of why the statute should be changed to extend the performance requirement “grace period” out one year, or give the Council review authority and discretion to extend the grace period under certain circumstances.**

Approved Final VEGI Applications for the following projects commencing in 2013 **(NOTE: Employment and capital investment data are confidential):** Dealer.com expansion, Burlington: \$1,201,850. 200 new jobs, \$12 m in new payroll, and \$6.8 m in capital investment between 2013-2015. Biotek Technologies expansion, Winooski: \$325,111. 50 new jobs, \$2.7 m in new payroll and \$2.3 m in capital investment between 2013-2015. Farmer Mold and Machinery relocation from Florida, No Clarendon: \$258,518. 20 new jobs, \$856,000 in new payroll and \$775,000 in capital investment between 2013-2017. (Location subject to local zoning variance approval). JBM Sherman expansion, Bennington: \$136,744: 13 new jobs, \$575,000 in new payroll and \$1.2m in capital investment between 2013-2017.

**Porter Medical Center:** Beth Demers has been working with Jean Cotner of Porter Medical Center in Middlebury. The medical group is undertaking a large leadership and process improvement training that will last approximately two year. The Vermont Training Program has committed \$85,100.00 toward the cost of training employees across the medical departments in the first year.

**Signage:** Met with AOT Secretary Searles and other AOT reps along with Dale, John, Chris and Leanne to discuss changes to sign law. After discussion, we determined to focus on modifications for signage in designated downtowns and village centers as part of the benefits to downtowns. Clarifications would include banners, signs across streets and sandwich boards.

**Sunset Farm Mobile Home Park:** Work with DEC and Shires Housing continues as the language of an enforcement order is finalized. The goal is for DEC to file the order within the next week or so. It will ask that Shires Housing be appointed as a receiver enabling it to fix and maintain the water system and manage the park while working with residents to relocate them. Meanwhile Lisa Ryan is providing guidance to Shires and the Town re: VCDP funding for relocation costs.

**Tax Credits:** Worked with the tax department to estimate the revenue implications of the proposed \$500,000 increase (tax credits cannot be claimed until the project is complete; therefore claims are spread over multiple fiscal years). The analysis showed that about half the credits are claimed within the fiscal year they were granted -- with the residuals spread out over the next four fiscal years.

**St. Johnsbury:** Jamie and General Counsel Dale Azaria attended the Act 250 hearing to consider an amendment to the previously permitted design for the Cramton Dormitory project at St. Johnsbury Academy. The applicant submitted a request to amend a previously permitted design that DHP originally argued would have adverse effects on a historic building and the surrounding historic district and, based on the recently submitted amendment application, DHP again determined that the current alterations proposed by the applicant would create further adverse effects and alter critical conditions of the previous permit. The Division has requested reasonable mitigation to offset the adverse effects, however the Academy is unwilling to agree, citing economic obstacles. The Commission is considering the merits of this case and will issue their ruling in the near future.

**12 ski resorts were open for Thanksgiving,** which broke the previous record! Crossing our fingers for a LONG SNOWY season.

**Web Design Proposal Review:** Nancy and DII Web Services finished reviewing 15 proposals for pre-qualification for website design. DII has compiled the score sheets, and 12 of the applicants met the pre-qualification requirements. DII will finalize contracts with each of the selected firms and will be “keeper of the list” of pre-qualified web vendors. They will also develop sample Statements of Work and will work with any state agency needing a web contractor to write the specific project SOW and help select a capable vendor for their projects.

**CMO Outreach:** Nancy and Heather are meeting this week with DMV and DCF to introduce the CMO’s office and let these departments know what we offer and how we can help. These are the first in a series of introductory meetings that we will be scheduling with departments throughout state government. We’re planning a broad outreach to non-MAP agencies, prioritizing those departments that have the most contact with the public. (MAP agencies include Economic Development, Agency of Agriculture, Historic Preservation, Agency of Transportation, Forest, Parks & Recreation and Fish & Wildlife. While non-MAP agencies are “second-tier priority” for the CMO team, we believe we still have some capacity to help, whether it’s something as simple as plain-language writing in letters, to improving their websites. For example, after setting up the introductory meeting with DCF, they told us they’re interested in discussing how to get a new website on the state template.

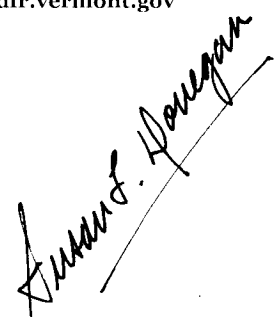
**Statewide Marketing Contracts:** Nancy has implemented a new CMO policy to close the feedback loop on approval of marketing contracts over \$15,000. This policy is voluntary (i.e. not a requirement of the Secretary of Administration) but will help the CMO be a more informed resource for state government. The new policy asks for any agency or department executing a marketing contract over \$15,000 to follow up with the CMO after that contract is approved, with copies of their “deliverables” (TV ads, brochures, websites, any work produced) as well as copies of all invoices from their marketing contractor. This will help Nancy keep an accurate inventory of the quantity, quality and cost-effectiveness of marketing work, with the goal of writing a “best practices and recommendations” report after a year’s worth of review. This will also allow the CMO’s office to build a library of marketing work samples done for the state, which will be helpful to agencies and departments in vendor selection. Nancy sent these instructions out to the State of VT Marketing Group via email, to all pre-qualified marketing vendors via email, and posted the same information on the CMO’s website.

**State of Vermont**  
**Department of Financial Regulation**  
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For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
[Banking] 888-568-4547  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: December 6, 2013**  
**Re: Weekly Report**



Commissioner Susan Donegan will attend a series of national meetings between December 9 and 23. First stop is the Conference of State Bank Supervisors in Washington, DC, a supervisory conference of all state bank commissioners with their federal counterparts including the FDIC and the Federal Reserve. Issues affecting the banking sector will be discussed especially those involving federal agencies and Congress. Deputy Commissioner of the Banking Division Tom Candon will also attend.

On Friday, December 13, the Commissioner and Deputy Commissioner of the Captive Insurance Division David Provost will meet with Michael McRaith, director of the Federal Insurance Office at the U.S. Treasury Department. McRaith requested the meeting to learn how Vermont regulates captive insurance companies, especially the Special Purpose Vehicles used by life insurance companies, which are currently under discussion at national and international levels. In addition, they will explain the value of Special Purpose Vehicles when regulated adequately and using Vermont's "gold standard" as a benchmark for best practices.

Lastly, the Commissioner, Provost, and Crosby Sherman, deputy commissioner of the Insurance Division, along with other staff members from the Insurance Division, will attend the National Association of Insurance Commissioners (NAIC) Fall Meeting, also in Washington, DC. Topics for discussion will include captive insurance Special Purpose Vehicles. The Commissioner will meet with representatives from National Conference of Insurance Legislators (NCOIL) and will chair the NAIC Corporate Governance Working Group.

During the Commissioner's absence, the deputy commissioner who is not attending a meeting will be in charge on a rotating basis. The Commissioner will be available by e-mail or phone at all times.

**Legislative Issues:**

Staff members from DFR met with members of the House Commerce Committee this week to present an overview of the department's legislative initiatives for the upcoming session. There is a brief amendment to the Captive Insurance Division for accreditation purposes but no other new initiatives. There are some matters left from last year's session remaining in this committee that need to be addressed.



### **Securities Division:**

Commissioner Donegan announced this week that Vermont will receive \$38,930 from RBC Capital Markets resulting from a multi-state investigation conducted by the North American Securities Administrators Association (NASAA). The investigation revealed that some RBC employees, who were not registered to sell securities, had been accepting orders. RBC has agreed to require all client service associates obtain the necessary licenses and comply with state registration requirements. It has also enhanced its computerized order entry system to automatically validate that the person entering the order is properly registered to sell securities in the state where the client lives. RBC Capital Markets is part of the Royal Bank of Canada, the fifth largest bank in North America. It employs more than 6,700 people in 15 countries and provides financial services to corporations, institutional investors and governments around the world.

**CONFIDENTIAL:** The Commissioner confirms that Michael Pieciak has accepted the position of deputy commissioner of the Securities Division. He will begin at the department February 3.

### **Insurance Division:**

Deputy Commissioner Crosby Sherman and several other Insurance Division employees attended the National Council on Compensation Insurance (NCCI) State Advisory Forum at Capitol Plaza this week. Sherman spoke to legislators, insurance agents and brokers and the public about the department, its duties and responsibilities, and explained that we strive to be partners with agents, brokers and the public to create better communications. He also talked about the online consumer complaint portal on the DFR website, which has recently begun to accept workers compensation complaints.



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

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: December 6, 2013

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**Secretary Transition:** Rebecca spent Monday at the AOE meeting with our finance managers and legal counsel, myself and our deputies; she also attended a legislative preparatory meeting with Louis Porter.

**General Counsel:** Rebecca and Deputies Fischer and Talbott will start interviewing candidates for AOE's General Counsel position next week.

**Statewide School Safety:** This week Commissioner Flynn and I met with Secretary Spaulding and Aly Richards to discuss the importance of a *contracted, Statewide School Safety Coordinator position*, funded in equal parts through AOE and DPS.

**School Visits:** Wednesday I visited some teachers and students at Allen Brook School in Williston.

**Personal Leave:** I will be out of the country starting December 13 and return to the office on December 19. I will be accessible via email and cell phone during most of that time. During this time I am assigning responsibility to Deputy Commissioner John Fischer and Deputy Commissioner Bill Talbott. If the need arises for another step in the order of succession, Stephan Morse would be that designee.

**The Hour of Code:** The *Hour of Code* is a one-hour introduction to computer science, designed to demystify "code" and show that anyone can learn the basics. Monday morning I will start the day at Colchester High School (CHS) to participate in their Hour of Code awards ceremony. Their plan is to have every CHS student participate in an hour of computer coding next week. Based on this plan, they were selected to receive \$10,000 worth of computer hardware and accessories. This is a great accomplishment and will give help to ensure that CHS is ready to teach foundational 21<sup>st</sup> Century skills.

**Media Contacts:** YCN Now interviewed me about the state of education in Vermont. We discussed pre-K, poverty and the achievement gap, how Vermont's education system is funded (statewide property tax system), CCSS and Smarter Balanced Assessment. The segments will be aired in mid-December as YCN Now will be launching its nightly news program on Comcast (channels 20 and 21).

**Education – Join the Conversation:** At November's roundtable discussion several Vermont educators were given the opportunity to talk about the Common Core State Standard for Mathematics and English Language Arts (ELA) and to describe changes in classroom practice that are helping students to reach these new expectations. Roundtable participants included Pat Fitzsimmons, CC Implementation Coordinator, AOE; Alysia Backman, Literacy Coach, South Burlington High School; Corrie Sweet, Math Specialist, Fairfield Center School; and Ryan Parkman, Principal, Northfield Middle and High School. This episode is now online: <http://bit.ly/1b14UOZ>.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Dec 6, 2013**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

n/a

**Legislative Issues/Contacts:**

n/a

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

n/a

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**Summary of Key Agency Department Activity:**

Normal work. Still collecting info from a few other states about their approach to funding problem gambling. Dept of Health is involved as well. We have been asked to consider other plans that what we do now.

**Executive Director's Commentary:**

We will be communicating the agent incentive commission to agents within the next two weeks. We have one more presentation of the lottery vending machines for bars & restaurants and are mailing a letter requesting their interest in acquiring one for their business. I will bring forward a recommendation in the next few weeks.



OFFICE OF THE SECRETARY  
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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, December 6, 2013**

**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**House Appropriations Committee on BAA**

Scott Rogers, Lenny LeBlanc and I testified before the HAC yesterday on our proposal to extend 38 Limited Service Positions created after T.S. Irene for another two years. These positions, which are primarily a combination of technical and engineering jobs, have been working on state and local damage sites related to damage from Irene and other storms, including the more than 300 damage sites added in the spring of 2013.

The committee seemed very supportive with several members providing anecdotes about the help VTrans is providing to their towns and how important it is to them. We did not broach the subject of making some of these permanent, nor were we asked about that possibility. Our goal was to get this extension done early to help with our efforts to retain the employees we have hired in the last two years.

We also met with Shap Smith later in the day to brief him on our legislative priorities, which are the level-funded capital plan with no new revenues and the Fair Share idea on the policy front.

**City of Burlington v. Megabus**

The City of Burlington sent a letter to Dattco, parent company of Megabus, advising them that they were withholding permission for their buses to serve the City due to some arrests of passengers on that service who were transporting drugs.

The brass of Dattco was extremely upset and, thankfully, called us about this instead of going public. It is not legal for the City to restrict the service which is certified by the USDOT and the ICC to do the business they're doing. This service is carrying more than 100,000 people annually on the Burlington run and the company is not responsible for a handful of people carrying illegal drugs. Further, there are drugs coming into Burlington in numerous different ways.

h m m

Chris Cole has carried the message to City Hall that we will not support this action and the Mayor has agreed that it is a drug problem and not a transportation problem so I think this one is over. But in case it comes up, I wanted you to know where we stand.

### **State Plane**

Repair work is now complete and the plane will undergo 10 hours of flying without passengers to ensure airworthiness. Weather has been a problem in completing those 10 hours but we don't anticipate it will be too long before the plane is ready for use.

oh  
good  
...

### **Federal Highway Trust Fund**

In response to the prospect that the HTF will run out of money in September of 2014, Rep. Earl Blumenauer (D-OR) has proposed a temporary, phased-in 15 cent federal gas tax increase. Called the UPDATE Act, the tax would shore up the HTF and expire in 2024 during which time a longer-term solution based on Vehicle Miles Traveled would be considered.

FYI  
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The bill has the support of the U.S. Chamber of Commerce, the American Automobile Association, the American Trucking Association and several unions. It is also rumored that there will be a Republican co-sponsor although that person is currently remaining anonymous.

### **Champlain Parkway Update**

An all-day mediation session yesterday between City of Burlington and the last holdouts, Fortieth Burlington, LLC, and GP Burlington South, LLC, who are owners of the former General Dynamics plant and the parking lot across Lakeside Avenue, resulted in an order from the mediator, Rich Cassidy, for the two sides to exchange new settlement offers next week in an attempt to reach a settlement in advance of the next mediation session scheduled for December 16.

Short of a settlement, we will be headed into a court hearing before E-Court Judge Thomas Walsh on January 8, 2014.

### **NOTES FOR STAFF**

#### **Vermont Transportation Board**

The Attorney General has agreed with VTrans that the recent decisions in two cases that the Transportation Board can assert original and not just appellate jurisdiction over contract claims is worth further review. Therefore, VTrans has on November 27 instituted two legal proceedings seeking Superior Court review of those decisions, both involving claims by Winterset, Inc. I will be meeting with Bill Griffin on Monday concerning this case.

In the case at issue, the T-Board ruled that the VTrans Director of Program Development had erred in dismissing Winterset's claim as untimely. However, rather than remand the claim to the Director for an initial determination of its merits, the Board announced that it

would take it upon itself to decide the merits of the claim because the Director had “hung his hat” on dismissing the claim based on timeliness.

Under Vermont’s transportation statutes, the T-Board’s jurisdiction over contractor claims clearly is appellate in nature – not original. Thus, VTrans’ appeals seek an order from the Superior Court confining the T-Board to its proper statutory jurisdiction. If VTrans is successful, the T-Board will be required to remand the Winterset claim to VTrans so that the Construction Engineer can render an initial decision on the merits of the claims. If still aggrieved, Winterset could then appeal that decision to the Director and, eventually, to the T-Board.

I have also had a private conversation with T-Board Chair Moe Germain. I was careful not to discuss specific cases but did express my concern about the direction of the Board.

### **VTrans Likely To Be Fined by ANR**

On October 31, 2013, one of our paint crews applied line striping to VT Rt. 4A in West Rutland and it failed to dry before a rainstorm washed it away. Although the paint we use is non-toxic, it did go into a nearby stream.

ANR Enforcement has told us that we can expect an environmental ticket for the illegal discharge into the waters of the state. Although we have not completed our investigation into why the paint was applied with rain in the forecast and whether the paint itself was sub-standard for drying time, it really doesn’t matter in terms of the facts of the case so we do not intend to contest the ticket.

### **Another Sign Issue**

Since we are dealing with literally dozens of these annually, I thought I’d point this one out as an example of how much some people are conflicted about signs.

The Waitsfield Village Store has a sign in front of it that encroaches about 12 feet into the state’s right of way on VT 100. The sign goes back years and we have not treated it as an enforcement priority.

At its October 14 meeting, the Waitsfield select board rejected a \$369,500 grant from VTrans that would have funded an extension of a sidewalk on the west side of VT 100 through the village. Board members were concerned that the proposed sidewalk project would force removal of the illegal sign.

ha!

### **I-91 Bridge Project Update**

I will be reporting from time-to-time on this major reconstruction of four bridges on I-91 over Rt. 30 and the West River in Brattleboro. This is the largest bridge project in Vermont’s history and will take more than two years.

Traffic will be reduced to one lane in each direction until fall 2015. The demolition will occur over the next several months and will involve night work Sunday through Thursday. Route 30, under the demolition zone, will be reduced to one-lane regulated by

flaggers intermittently. Further, Route 30 will be closed for a two-day period between December 16 and 22 with the actual closure dates communicated 72 hours in advance to the public in response to favorable weather reports.

### **Vilas Bridge Update**

This is the bridge between Bellow Falls and Walpole, NH that has been closed since 2009 due to its condition and the rehabilitation of which has been resisted by NHDOT. The NH legislature would like to see substantive changes in the funding split on Connecticut River bridges, which are statutorily linked to the state line. They have proposed legislation, meaningless to us, that changes the split on this bridge from 93%-7% to 50/50.

I have proposed to NHDOT Commissioner Chris Clement a plan that would have VTrans fix the bridge in a non-precedent setting agreement that would call for the return of NH share through the reduction of the VT share of the next 2-3 bridge projects.

In the meantime, we have negotiated an agreement with NHDOT to demolish the historic Guildhall-Lancaster bridge on Route 2, using the rehab of the Vilas Bridge as mitigation. However, the agreement on the former cannot be consummated until there is an agreement for funding on the latter.

I was notified by Commissioner Clement yesterday that "I am not certain this issue will get resolved in the short term".

I am not advising that we give in to NH concerning the funding of this bridge. We have gone as far as we should go with the offer of a front of the money for Vilas. It seems that some from NH would like to extort money from us to help solve their transportation funding issues.

FH1

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** December 6, 2013

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**Position Sweep:**

As you know, the Secretary of Administration has “swept up” dozens of vacant positions throughout state government, including in AHS, to build the staff needed for the Berlin hospital without adding any new positions to state government. Many of the eliminated AHS positions were already filled, about to be filled, had interviews scheduled this week or otherwise were in active recruitment. The positions open more than 6 months are often critical positions that require special qualifications and are hard-to-hire positions. In order to get them back, we have been told that we can transfer other currently vacant positions. This process does not allow us to work strategically to achieve your goals.

This has been a demoralizing blow to your appointed managers in AHS, myself included. We are problem-solvers and are always ready to turn our attention to addressing an issue as an integral part of your team. The positions sweep process that notifies your Secretaries and Commissioners only after the positions have been deactivated precludes the team from functioning effectively. The reaction requires hours and hours of time to explain the situation to staff, work with human resources processes to move back to adequate staffing and threatens our ability to attract and hire top-quality employees. The position sweep as it was just carried out sends a message to the appointed managers that their work as part of the team is not valued.

It doesn't have to be this way. If I had been told that I needed to give up positions to staff the new hospital by later next spring (when they are actually needed), I could have done that in a thoughtful and strategic way, looking at upcoming retirements, for example, and evaluating how we could cut positions without hurting priority operations and keeping AHS running smoothly. Instead, we are scrambling, negotiating, arguing and wasting time trying to minimize the damage. It is frustrating to have been put in the position of fighting the Agency of Administration over positions in order to do our work instead of working in partnership to solve a problem.

I am asking you to reverse this decision, and let us start over to solve the problem in front of us. Thank you.

**Vermont Department of Health (VDH)**

**Community Training on Substance Abuse Prevention Underway:**

A series of prevention trainings are serving the workforce engaged in addressing substance abuse in their communities.

- Substance Abuse Prevention Skills Training - Increases skills in community mobilization on health promotion and substance abuse prevention.
- Rocking Horse Facilitator Training - Serves pregnant and parenting women living in poverty and affected by their own or a family member's substance abuse.
- Enforcing Underage Drinking Laws Training - Focuses on the prevention of early alcohol use and safe party dispersal techniques for law enforcement officers, campus security officers, and community organizers.

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

### House Appropriations:

Commissioner Dupre mentioned at House Appropriations that the Central Vermont Medical Center (CVMC) was not currently in a position to contract ancillary services with the Central Vermont Psychiatric Hospital (CVPH). This created some consternation from the Committee. Commissioner Dupre was simply using this as an example of variables that are not in DMH's control as they work towards a speedy opening of the CVPH.

### Legislative Committee on Administrative Rules (LCAR):

Commissioner Dupre met with LCAR to review the letter from my office requesting that LCAR reconsider their denial of DMH regulations on Emergency Involuntary Procedures. LCAR's decision was to uphold their previous denial.

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

### Single mom lands job after 134 months on Reach Up :

Vocational Rehabilitation (VR) Services Manager Karen Blake-Orne reported a success story this week worth repeating. Thanks to the yearlong efforts of a dedicated VR Reach Up Counselor (Liz Harrington), a woman with co-occurring mental health and substance abuse problems who has never had a paid job, is now beaming with pride at her new found success - including the purchase of the first new pair of boots she's ever owned as an adult. Over the years, many case managers have tried to get and keep her engaged but it was the combination of yeoman efforts to secure stable housing and the outstanding counseling skills and unwavering support of her VR Reach Up counselor that finally made the difference. Hats off to this dedicated employee and a VR culture that never gives up.

Lisa  
Liz  
Visit  
Joe  
Story

### Revera President promises immediate management change and improvements at Rowan Court:

As reported two weeks ago, Rowan Court in Barre had 23 days (now <2 weeks) to correct the problems that contributed to a finding of immediate jeopardy or face loss of certification. The Centers for Medicaid and Medicare Services (CMS) has also imposed a stiff fine amounting to nearly \$80K and ordered the hiring of an outside administrator to manage the facility. The violation stems from the facility's failure to provide the required care to a resident who subsequently died after a fall. Revera Corporation, a Canadian company based in Connecticut, owns and operates 7 facilities in Vermont; Rowan Court is the only one currently facing compliance issues. The president of Revera met with Commissioner Wehry and staff this week

to re-affirm Revera's intention to correct the deficiencies and continue to serve the 75 people who live at Rowan Court.

#### Developmental Services rescission underway:

Designated Agencies' plans for dealing with a \$2.2M rescission are due December 15<sup>th</sup>. Julie Tessler and the Mental Health/Developmental Disabilities Council have been silent. Rep. Martha Heath has indicated that she will want the Commissioner to update the Appropriations Committee in early January on the plans.

#### Choices for Care reinvestment plan raises no new concerns:

As required by last year's Big Bill, DAIL Commissioner Wehry presented a proposed reinvestment plan during budget adjustment testimony before the House Appropriations Committee on Thursday. DAIL proposes to reinvest \$3.0M of the available savings to address unmet needs for seniors and persons with disabilities known as MNG, or moderate needs group. DAIL's decision not to invest the remaining \$2M in new initiatives was challenged by three committee members. No decision on the plan will be made until the legislature reconvenes.

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

#### Vermont Public Radio (VPR):

On Monday, Commissioner Pallito was on VPR with host Jane Lindholm. The purpose was a general corrections update. One question arose about culture change within the DOC. Commissioner Pallito explained that recent data shows that staff in the field are changing the way they manage people under supervision. Graduated sanctions are issued to offenders in the field for behaviors that are violations, but are not new crimes. Graduated sanctions can include GPS and Secure Continuous Remote Alcohol Monitoring (SCRAM) Units, curfews and incarceration. We have been encouraging staff to use lesser sanctions and only use incarceration when necessary. In FY2000, 31.6% of all graduated sanctions resulted in jail time for an average of 20 days in jail. In FY13, 20.3% of all graduated sanctions resulted in jail time for an average of 6.4 days. Clearly staff have been more creative while still holding people accountable.

#### DUI Victims Remembrance:

On Tuesday, the DOC, in cooperation with the Vermont State Police (VSP), hosted the annual tree lighting and remembrance ceremony in the well of the State House. About 30 victims' families were present.

#### Population

The department's incarcerated population averaged 2,091 for the previous week. The incarcerated male population averaged 1,931 with 373 being presentenced inmates. The incarcerated female population averaged 160 with 50 being presentenced inmates.

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

#### The Dual Role of Child Care (CC) Licensors in Emergency Situations: Supporting Safe, Healthy Programs and Protecting Children from Harm:

On October 23<sup>rd</sup>, a fire damaged the College Street Congregational Church, impacting the home of one of Burlington YMCA's infant and toddler child care programs. Suddenly, 30 families in

Burlington faced a child care crisis. The YMCA's newsletter reported "We feared that getting licensing and permit approvals alone would keep us from opening for weeks. But, our community partners rallied behind us in an amazing way." The CDD's CC Licensing Unit was contacted by the YMCA the morning of the 23<sup>rd</sup>. CC Licensing Specialists worked side by side with the YMCA staff, meeting that same day at a proposed new location and quickly facilitating the necessary authorizations to allow the program to provide care again on October 28<sup>th</sup> in the new, temporary, but safe and healthy site.

In a separate instance, the CDD Licensing Unit received a report from law enforcement officials in Randolph on November 19<sup>th</sup> about a registered Family Child Care Home. An adult son of the child care provider had been using drugs in the home, overdosed and died, while children were under the provider's care. Unsecured weapons were found in the young man's room when the state police arrived and their report indicates that the provider was in an unresponsive state when they arrived at the home the evening of the death. CDD further uncovered that a second son, prohibited in a stipulated agreement with the CDD from residing in the home or being present while children are in care, was once again living in the home. Licensing Supervisors completed the investigation within 24 hours and delivered a suspension notice with intent to revoke the provider's license. All parents were informed that the Family Child Care Home was no longer regulated or authorized to provide services, and all families participating in the Child Care Financial Assistance Program were assisted in making other arrangements.

Extraordinary Relief Request from Child Care Owner of Creative Minds in Newport Center:

On July 29, 2013, Jody Marquis, owner of Creative Minds Children's Center in Newport Center, applied for \$100,000 in Extraordinary Relief Funding. This was Jody's third request for Extraordinary Relief. In August of 2012 she was granted \$45,000 to stabilize operations and was advanced an additional \$20,000 as a no-interest loan in April 2013. The new request was precipitated by an unanticipated loss of Head Start partnership funding due to federal sequestration. The sustainability plan Jody had proposed in her first application was compromised by this loss. The DCF audit team carefully reviewed the application and performed an in-depth on-site fiscal and program review in October 2013. In the interim, DCF provided Creative Minds with \$16,000 of Extraordinary Relief Funding to sustain operations during September and October pending a decision.

The audit team found that it was not possible to determine an actual need for funds to balance this year's budget for Creative Minds due to the co-mingling of two other lines of business with the child care business. The team also questioned whether the sustainability plan, if relief was awarded, was sufficiently developed as a viable and realistic business plan as this is a legislative condition authorizing emergency relief funding. On this basis, Jody's application was recently denied.

Jody's plan included relocation to Derby where she believes the need for services and level of community support for a high quality early learning and development program is greater. She has contacted Commissioner Yacovone and requested an extension of the interim extraordinary relief while she provides further information and documentation to substantiate her original request for help. At this time, DCF is offering Jody \$18,000 in additional funding as a no-interest loan to sustain operation through January 2014 while she makes her case.



Able Bodied Adults Without Dependents (ABAWDs) Information Sent to VT Digger:

We updated you recently about a sensitive evolving issue regarding ABAWD and the Food and Nutrition Service requiring all recipients to do volunteer service in order to receive 3Squares. Vermont Digger recently did a Freedom of Information Act (FOIA) request on this topic and we expect this to become a news item soon. We are still very much in the middle of discussions with the Regional Food and Nutrition Service Office in Boston on this and hope to be able to reduce possible significant penalties (our staff estimates \$960,000). In December approximately 4,700 3SquaresVT beneficiaries will receive a notice informing them that in order to continue receiving benefits they will have to do community service work, starting in January.

Department of Vermont Health Access (DVHA)

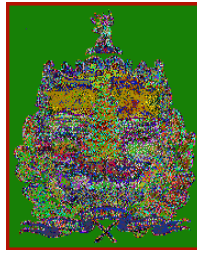
Hospital Provider Tax Update:

Attorneys with the AG's office met briefly on Monday, with Jeb Spaulding, Jim Reardon, Robin Lunge and others, regarding the status of briefing and risks involved in the hospitals' appeals of their respective SFY 2013 provider taxes. It was confirmed that the State's response briefs are due December 20<sup>th</sup>, the hospital's reply briefs are due January 17, 2014, and that the earliest that we can expect a decision is mid-February; however, because of the complexity of the issues it is likely to take much longer.

While we remain confident in the State's position, there are risks in any litigation. The hospital briefs are well written and their attorneys have outlined decent arguments. We put the odds at 60-40 to 70-30 in favor of the State. Also, irrespective of the outcome, there will be an appeal to the Vermont Supreme Court of the Judge's decision. That process could take over a year to complete. The total SFY 2013 refund sought by the hospitals is \$37 million, plus any federal financial participation that may be affected if the State is ordered to refund tax revenue to the hospitals.

have asked  
whether we  
should be doing  
more...

116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** December 6, 2013

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**Secretary's Top Issues**

**Plastic Milk Bottles** - Plastic Technologies of Vermont, also known as Shelburne Plastics, has been purchased by Consolidated Container Company. Greg Lockwood, Dairy Product Specialist IV & Brian Young, Dairy Product Specialist III worked to prepare the plant for inspection and US Public Health rated so that the plant could continue to produce plastic containers for our fluid dairy plants. Agency is encouraged by the new owner's commitment to keeping the business in Shelburne & potential capital improvements for the facility. Majority of our fluid milk processors rely on that facility for their single service milk containers.

**Mosquito Control Season Review** - Agency staff met with representatives of the Lemon Fair Insect Control District on the 21<sup>st</sup> of November to discuss the past mosquito control season & associated issues. Primary on the list of issues for the LFICD is funding. Expenses related to aircraft maintenance, insurance & administrative costs have made it difficult to maintain the district's finances. The State grant allows for up to "75 % or less of the project costs for the purchase & application of larvicide and required larval survey activities". Other costs, including capital costs, are used for the district's required 25% match. The LFICD would like to see the statute changed so that all expenses could be reimbursed by the state.

**Cannabis Pigs** -There is a producer feeding cannabis waste from a dispensary to their pigs, and labeling the product as "grass fed". Compliance is inquiring with law enforcement as to the legality of them using "denatured" product from the dispensary in the first place. Additionally, we are investigating what the denaturant is to be sure it is not toxic to the animals nor produces a chemical residue in the meat.

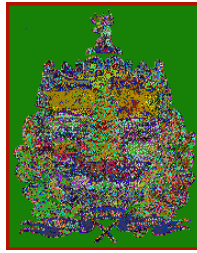
**Manure issues** - Staff responded to two complaints regarding manure spreading:

- One was on a LFO in Franklin County where manure had been spread so that it was running off of the field into ditches, and
- The other complaint was regarding a LFO in Orleans County that appears to have applied manure at an excessive rate & on snow covered ground. Both are prohibited under the LFO permit & NMP standards for LFOs. Winter manure spreading ban begins on December 15.

**Working Lands Enterprise Grants** - On November 26th the Working Lands Enterprise Board received a total of 84 Letters of Intent (LOIs) from the Service Provider & Capital & Infrastructure investment areas, accounting for almost \$5 million in requests

**Chronic Wasting Disease Testing** - Animal Health staff procured obex and retropharyngeal lymph node samples from a single female elk owned by a compliant Vermont cervid producer for Chronic Wasting Disease testing as required by state and federal rule. The opportunity to dissect and obtain samples from the elk head at 116 State Street provided an excellent training opportunity for staff involved.

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---

**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

**Significant Events/Meetings:**

**Plastic Milk Bottles** - Plastic Technologies of Vermont, also known as Shelburne Plastics, has been purchased by Consolidated Container Company effective December 2, 2013. Greg Lockwood, Dairy Product Specialist IV and Brian Young, Dairy Product Specialist III have been involved in getting the plant inspected and USPH rated so that the plant could continue to produce plastic containers for our fluid dairy plants. Agency is encouraged by the new owner's commitment to keeping the business in Shelburne operating. The new owners also discussed capital improvements they are planning for the facility. This is great news as most of our fluid milk processors rely on that facility for their single service milk containers.

**TMDL Meetings** - Agency staff have been attending TMDL public meetings this week. Three meetings have been conducted in cooperation with DEC and EPA (St. Albans, Swanton and Montpelier). Three more meetings are scheduled for next week.

**VT Emergency Management** - Dr. Haas and Anne MacMillan, SSF11 co-leads, attended a meeting this week hosted by Vermont Emergency Management/Homeland Security regarding potential upgrades to the State DisasterLan software application. The input received at the meeting will be summarized in a report that will be prepared by VEM and released in April 2014.

**Customs and Border Patrol cooperative event** – on Monday, December 2, Emilie Inoue, State Pest Survey Coordinator and Tim Schmalz, Plant Industry Section Chief assisted the Highgate CBP Agricultural Specialist staff with operation Camper Scamper, inspecting vehicles travelling into the US from Canada. The objective of the operation was to intercept regulated agricultural materials associated with cargoes and personal items before they entered the US. Our involvement was mainly observational and to build ties with CBP Ag, to foster long-term cooperative arrangements along our northern border. Items noted included prohibited citrus, firewood/kindling. Educational activities and outreach opportunities were included as part of the operation.

**2013 Pest Control Operators Meeting** – On Thursday, December 5, Alan Graham participated in the annual PCO training event in Montpelier. Alan presented programmatic material on the 2013 mosquito and arbovirus survey season, and the opportunities available to commercial pest control operations in Vermont relevant to mosquito control.

**Evolving Issues:**

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**Cervid Producer** - Animal Health staff and veterinarians continue to work with VAAFM legal counsel and the Department of Fish and Wildlife to bring a noncompliant cervid producer into compliance. The deer identification/inventory appointment scheduled by Animal Health at the producer property for this week was cancelled by the producer due to an inability on his part to lure the 200 head of deer into a smaller catchment area. This case also has Act 250 permitting implications.

**Livestock handling Courses** - Dr. Haas, State Veterinarian, is working with Jen Colby of UVM Extension to develop a series of livestock handling courses intended for producers and licensed livestock dealers/transporters. The first of these is anticipated to be held during the Grazing conference in January 2014. The Livestock Care Standards Advisory Council will be a partner in the development of future classes/workshops. The intent of this series is to provide Vermont animal ag business owners with resources needed to help ensure humane handling of livestock in the State.

**Tissue Residue Investigations** - Dr. Haas, State Veterinarian, received a referral from FDA for two tissue residue investigations that FDA staff is not able to respond to. This referral, in addition to the cases that the Animal Health section already handles under the current FDA contract, demonstrates the significantly high violative residue rate that Vermont has. Efforts are ongoing to lower the number of violations in Vermont as they represent a public health concern and negatively impact the Vermont Brand.

**Food Commodity Rules** - FSCP Director and managers and Deputy Secretary Bothfeld will be meeting with managers of the Vermont Department of Health Food and Lodging program in order to discuss food commodity rules that the Department of Health will be amending. The purpose of the meeting is to fill in inspection gaps between the two agencies as well as to ensure that the resulting rules are flexible enough to be compliant with FSMA once enacted.

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

##### **Administration**

**VAPDA** - The Agency, represented by Stephanie Smith, Chief Policy Enforcement Officer and Sylvia Jensen, Land Use Administrator, attended the Vermont Association of Planning & Development Agencies meeting in Montpelier. Shap Smith, Speaker of the House of Representatives, provided the legislative priorities of the upcoming session including affordable housing and infrastructure development to support Vermont's downtowns and villages. VAPDA's associate members, <http://www.vapda.org/Committees.html>, were present and reported on activities that had regional planning significance. The Agency briefly shared information on the statewide *Listening Sessions*, participation with ANR on the TMDL discussions, and our work with the Department of Housing and Community Development as a member of the Working Group on Farm, Food and Agriculture Enterprises. Suzanne Kelley, from the Vermont Department of Health, was invited to report on the department's efforts to support healthy communities. Its initiatives include education and promotion of the importance of a healthy diet and physical activity (*Vermont Healthy Community Design Resource, Complete Streets* manual), and engaging community members in its efforts with the creation of and funding for Community Coalitions for various regional projects that align with the departments mission.

**Agri-Mark Dairy Co-op Member Meetings** – Deputy Secretary Bothfeld attended the dairy farmer member meeting in Morrisville and Secretary Ross attended in Middlebury. Agri-Mark Dairy Co-op has had its 6 year with profits exceeding \$10 million. Approximately half of the profits are paid to farmers and the remainder are held as equity contributions from farmers for the cooperative. Markets are strong for Agri-mark for Cabot Cheese and dairy products, sales of bulk milk to other dairy processors and for the dried whey products from the Middlebury plant – especially for export. New products being introduced – whey protein powder for sports enthusiasts in pound bags and new cheeses – alpine blend, oak aged and reserved cheddar.

##### **Agricultural Development**

**VAAFM awards Farm to School planning and implementation grants to local schools**

- VAAFM just finished reviewing the Vermont Farm to School Grant Program proposals for FY 14.

- This was an extremely competitive year with 26 applications (16 planning and 10 implementation grant proposals) received requesting a total of \$220,000. Agency was able to fund approximately 1/3 of the proposed projects with \$75,000 of legislatively appropriated funding.
- Planning Grant recipients:
  - Newbury Elementary School: \$5,000
  - Walden: \$5,000
  - Barnard Academy: \$3,391
  - Vergennes Union High School: \$5,000
- Implementation Grant recipients:
  - Orleans Southwest Supervisory Union: \$18,900
  - Charlotte Central: \$10,000
  - Middletown Springs: \$10,000
  - Hiawatha, Fleming, Summit, Westford, ADL, Essex, CT Essex: \$20,000

### **Working Lands Enterprise Board**

- On November 26th the Working Lands Enterprise Board received a total of 84 Letters of Intent (LOIs) from the Service Provider and Capital & Infrastructure investment areas, accounting for almost \$5 million in requests, specifically:
  - Forty-two Service Provider Letters of Intent (\$2.5 million in requests) were received – 31 for agriculture projects (66% of total investment area in \$ requests), 8 forestry/forest products/recreation (27% of total investment area in \$ requests), and 3 ag and forestry related LOIs (7% of total investment area in \$ requests).
  - Forty-two Capital & Infrastructure Letters of Intent (\$2.4 million in requests) were received – 29 for agriculture projects (67% of total investment area in \$ requests), and 13 forestry/forest products projects (33% of total investment area in \$ requests).
- The Working Lands Enterprise Board and selected external reviewers are in the process of reviewing the LOIs and will invite selected applicants in late January to submit a full application.

### **Vermont Agricultural & Forest Products Development Board (VAFPDB)**

The VAFPDB hosted a meeting on Wednesday, December 4th, at the Patricia Hannaford Career Center in Middlebury, VT, where VAFPDB chair Lynn Coale resides as superintendent. The focus of the meeting was around the complex issues surrounding compost regarding the production, distribution, use, sales, taxable status, and Act 148. A panel of experts from varying perspectives were brought together to discuss the issues in a moderated 1.5 hour session: Pat Sagui, Director, Composting Association of Vermont; Jim Leland, Director, Agriculture Resource Management, VT Agency of Agriculture; Cary Giguere, Agrichemical Management Section Chief, VT Agency of Agriculture; and Thomas Moreau, General Manager, Chittenden Solid Waste District. Panel questions were targeted around three issues that House Agriculture & Forest Products Committee chair-woman Carolyn Partridge tasked the VAFPDB to investigate and weigh in on:

1. The Vermont Tax Department considers compost to be subject to sales and use tax, even when used for agricultural production.
2. Composters are faced with difficult resource/input challenges, in part because of the presence of persistent herbicides, specifically clopyralid and aminopyralid, which are found in horse manures and food scraps. ( Most specifically in the hay imported from out of state for horse feed).
3. Act 148 of 2012 requires that all organic materials be removed from our waste stream by 2020, and by extension, compost becomes a critical part of our solid waste planning solutions.

The panel provided a sophisticated conversation that identified possible solutions and barriers. Preliminary next steps include bringing the panel dialogue to legislators in January, 2014.

### **Renewable Energy Updates**



- 1.) Thursday before Thanksgiving, staff from the Agricultural Development Division met with Green Mountain Power to outline a project to grow oilseeds, probably sunflowers, in the Rutland area, at least some of which on GMP property, for processing into biodiesel. Existing capacity in the Rutland area will be available, at least initially, to harvest and crush the seeds, and likewise a biodiesel reactor is locally available. The biodiesel would be used in GMP fleet vehicles.
- 2.) On 12/4, staff from the Agricultural Development Division met with Vermont Gas to discuss farm-based renewable gas production. The “renewable natural gas” (RNG) could then be injected into the pipeline or used in vehicles. Staff will provide Vermont Gas with a non-pinpoint map of potential farms.

**ACT 148** - Deputy Secretary Bothfeld and Sr. Ag Development Coordinator DePillis traveled to Massachusetts to met with representatives from Green Mountain Power, Casella Organics, Mayor of Rutland, VT and the owner operators of a methane digester located on a farm that is utilizing food wastes as well as manure. 45 tons per day of food waste and 25 tons per day of manure to generate electricity and heat. With ACT 148 implementation on the horizon, existing and or new methane digesters on farms will become an outlet for food wastes. Work needed in VT to determine any issues with potential pathogens from food waste (meat especially) if digester by-products are used for animal bedding.

**Agricultural Conservation Issues Meeting** – Deputy Secretary Bothfeld, Land Use Planner Jensen and Chief Policy Enforcement Officer Smith attended a VHCBAg Conservation Issues Committee meeting. Policies being developed for activities on conserved farming operations for renewable energy and water quality/flood resilience. Renewable energy policy will be sent to the board of directors for December meeting and water quality/flood resiliency will be edited by staff.

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

### **Animal Health Updates**

- Animal Health reports that they consumed a lot of good food and got some hunting in over the Thanksgiving holiday break.
- Darryl Kuehne, Animal Health Program Coordinator, attended the Addison County Commission Sales for ADT compliance and completion of the Marketing report.
- Animal Health completed dairy biosecurity surveys in Addison County, Randolph, Guildhall, West Berkshire, Enosburg and Fairfield.
- Darryl Kuehne, Animal Health Program Coordinator, negotiated a settlement between a Vermont Livestock Auction Facility and an out of state slaughter facility regarding the reporting of tissue residues of cattle purchased. The auction facility is required to report which farm the residue came from to FSIS. As a result of Kuehne’s efforts, the auction facility will now report violators directly to resident FSIS veterinarian via dedicated fax or email.
- Animal Health completed several livestock dealer facility reviews and inspections. Inspections have revealed compliance with the new ADT rules.
- Darryl Kuehne, Animal Health Program Coordinator, met with the new owner of Santa’s Land in Putney to review the new federal cervid requirements. The owner is interested in working with the Animal Health Section to get facility in compliance.
- Animal Health facilitated two shipments of cattle from a TB quarantined herd in West Haven directly to slaughter. The inspector traveled to the destination to verify animals had been slaughtered. The owners of slaughterhouse were cooperative and provided documents needed to verify. This type of technical assistance provided by Animal Health enables the farmer to continue to ship cull calves and cows during a lengthy quarantine period.
- Animal Health will be assisting USDA/APHIS in collecting samples at local slaughterhouse for scrapie surveillance.
- Animal Health staff procured obex and retropharyngeal lymph node samples from a single female elk owned by a compliant Vermont cervid producer for Chronic Wasting Disease testing as required by state

and federal rule. The opportunity to dissect and obtain samples from the elk head at 116 State Street provided an excellent training opportunity for staff involved.

- Animal health Specialist Zach Bartlett responded to a livestock animal welfare call in Thetford.
- Animal Health staff delivered needed supplies to several veterinarians and licensees in Vermont.

### **Meat Inspection**

- Interview dates have been set for a number of candidates for the Food Safety Specialist Trainee position
- Compliance is working on cases for un-sanitary conditions at a retail location and for misbranding and distribution of exempt poultry as well as several other cases
- Animal welfare case investigated by meat inspection is under review by the AG's office. We were informed that an investigator had been out to see one of the people we got a statement from.
- There is a producer feeding cannabis waste from a dispensary to their pigs, and labeling the product as "grass fed". Compliance is inquiring with law enforcement as to the legality of them using "denatured" product from the dispensary in the first place. Additionally, we are investigating what the denaturant is to be sure it is not toxic to the animals nor produces a chemical residue in the meat.

### **Agricultural Resource Management**

**Compost** - Cary Giguere, Pesticide Program Section Chief and Jim Leland, Director of Ag Resource Management Division attended the Vermont Agricultural and Forest Products Development Board meeting on December 4<sup>th</sup> to provide information regarding issues relative to compost including herbicide contamination, tax exemptions and the impacts of Act 148. The board was appreciative of the information provided in assisting their efforts to respond to the House Ag Committee's questions about these subjects.

**Mosquito Control Season Review** - Agency staff met with representatives of the Lemon Fair Insect Control District on the 21<sup>st</sup> of November to discuss the past mosquito control season and associated issues. Primary on the list of issues for the LFICD is funding. Expenses related to aircraft maintenance, insurance and administrative costs have made it difficult to maintain the district's finances. The State and the grant allow for up to "75 percent or less of the project costs for the purchase and application of larvicide and the costs associated with required larval survey activities". Other costs, including capital costs, are used for the district's required 25% match. The LFICD would like to see the statute changed so that all expenses could be reimbursed by the state. Due to low acreages treated by the LFICD this year income for the district was low. Other issues that the LFICD shared with Agency staff included treatment population triggers, application rates and product storage requirements.

**Lab Feasibility Study** - Laboratory Feasibility study meetings continued this week. Agency staff and DEC staff met with SLAM collaborative staff regarding business and governance models on December 3<sup>rd</sup>. Subsequent meetings are scheduled for December 13 and 19<sup>th</sup>. The draft final report is scheduled for completion by December 20<sup>th</sup>.

### **Plant Industry**

**Governor Christmas Tree cutting event** – Tim Schmalz had the honor of attending the annual Governor's Christmas tree selection and cutting event this year. In 2013, the event was held at Elysian Hills Tree Farm in Dummerston. Mary Lou and Bill Schmidt, longtime friends of Governor Shumlin and owners/managers of the farm hosted the event, which was well attended by radio and print media from the lower Connecticut Valley (Brattleboro Reformer, Rutland Herald, WTSA, others). Governor Shumlin selected a fine Vermont balsam fir tree for the Pavilion Office Building, and delighted the audience with his expert chainsaw handling skills.

**2013 Northeastern Mosquito Control Association meeting** – Alan Graham and Nik Nikbakht will be attending the 2013 NMCA meeting in Hull, Massachusetts Monday, Tuesday, and Wednesday (December 9 to 11). There they will be presenting the activities and results of the Vermont arbovirus survey and control

program in 2013, and sharing vector control ideas and procedures with government, private, and academic vector control professionals from across the northeast.

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

- Staff conducted 5 inspections on MFOs in Franklin County. These inspections included a total of 10 separate production areas associated with the MFOs. The inspections were conducted as part of a coordinated training effort with the newly hired SFO water quality inspector.
- Staff responded to two complaints regarding manure spreading:
  - One was on a LFO in Franklin County where manure had been spread so that it was running off of the field into ditches, and
  - The other complaint was regarding a LFO in Orleans County that appears to have applied manure at an excessive rate and on snow covered ground. Both are prohibited under the LFO permit and NMP standards for LFOs.
- Staff also received additional manure spreading complaints in Orange County and questions and concerns regarding manure spreading in Addison County. Staff are promptly conducting site investigations and providing responses to questions as appropriate.
- Staff conducted two compliance follow-up inspections in cooperation with ANR-DEC on two MFOs in Orleans County.
- Staff conducted one enforcement case follow-up visit to a farm in Grand Isle County. The farm has failed to submit paper work related to the MFO permit program and multiple attempts have been made in attempt to assist the farm so that the Agency can close the enforcement case.
- Staff conducted two technical assistance (TA) visits on MFOs in Franklin and Essex Counties. The Essex County visit was a joint visit with the new ARS in Essex County to evaluate silage leachate and the Franklin County visit was an outreach visit to discuss the MFO and LFO programs with the new owner of a recently purchased farm that was previously a MFO.
- Staff participated in a prehearing conference for a MFO regarding an enforcement action for silage leachate runoff.
- Staff conducted one enforcement/compliance follow-up inspection on a MFO in Franklin County regarding silage leachate and one enforcement/compliance follow-up inspection on a MFO in Essex County to verify that the farm is preparing to have the appropriate storage capacity in their pit to ensure storage through the winter spreading ban (December 15 – April 1).
- Staff attended a Lake Memphremagog Steering Committee meeting in Newport.
- Staff are drafting the first individual permit for a MFO in Franklin County. The farm was a LFO and has requested to change their operation and manage the farm as a MFO. This led the Agency to have the farm apply for an individual permit and will also include a public meeting.
- Staff are developing an implementation verification strategy for the Capital Equipment Assistance Program (CEAP) to verify equipment purchases as well as field implementation and equipment usage.
- Staff is processing Farm Agronomic Practices (FAP) grant program payments for farms that implemented winter cover cropping.
- Staff are working with colleagues in house and with partners to design and implement water quality BMP projects on MFOs and LFOs. The construction season is ongoing and we are working to implement projects until conditions do not allow for construction.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on becoming LFOs.

#### **Conservation Reserve Enhancement Program (CREP):**

- Met with MFO farmer in St. Albans to look at field erosion concerns possible to address via EQIP, but looked at what could be done to reduce runoff in short term.



- Met with contractor, farmer and NRCS engineer at small farm in Swanton to perform “walk through” of remaining items to be completed on farm bridge construction before contractor leaves site.
- Performed field visit on small farm in East Johnson with NRCS soil con, VT DEC basin planner, VACD, and USFWS Partners for Fish and Wildlife staff to inform CREP and EQIP planning and assess whether or not a River Corridor Easement would be a priority for DEC if landowner is interested.
- Attended a VHCB Conservation Issues Committee meeting where the initial draft of VHCB’s Water Quality Protection and Flood Resilience strategies was discussed. This document is largely in response to language added to their “enabling statute” last year that adds “the protection of surface waters and associated natural resources” to their list of “eligible activities” they are tasked to perform while “creating affordable housing and conserving and protecting important Vermont lands.”

### **Water Quality Enforcement**

- A small farm in Craftsbury has been issued a corrective action letter for violations of the AAPs. The farmer has been emptying his manure pit by siphoning the contents over the edge of the pit with a hose. Surface water is approx 400 feet away from the pit. The pit is not being managed in such a way as to prevent the runoff of wastes to surface water.
- A small farm in Lyndonville has been issued corrective action letter for violations of the AAPs. A neighbor dispute has led to the farmer placing his pig pen next to the property line, and allowing manure to accumulate in the pen so that it has become a manure storage area within 100 feet of the property line. He has also penned his boar in a wet area that has a stream running through it. The area is devoid of vegetation, making it likely that waste will run off to the stream, and the streambanks have been trampled.
- A large farm in Bristol has been issued a Notice Violation with administration penalty for violations for the Large Farm Operations Rules. The Farm built two new manure storage structures without notifying the Agency; they have two feedlots that are not being managed to prevent the runoff of wastes to water; and, they have failed to submit the required structure certification documentation for a manure pit following its modification during the construction of the Farm’s manure digester. The farm has requested a hearing on the Notice. ARM will plan a pre-hearing settlement conference for some time in January.
- A Notice of Violation with Administrative Penalty has been sent to a small farm in Bakersfield. In the recent past, the Farm was issued both a corrective action letter and cease and desist order for discharges of manure from the pit to the nearby stream. When the third discharge was observed, ARM issued a Notice of Violation. Following a pre-hearing settlement conference, the Agency and Farmer entered into an Assurance of Discontinuance (AOD) that required the farmer to maintain the manure in the pit at a level of three feet below the top of the pit due to the presence of a weep hole 3 feet down from the top, through which manure was discharging. On Nov. 20, ARM staff inspected the farm and found the level of manure to be near the top of the structure – in violation of the Assurance. The Notice of violation imposes a penalty that had been suspended in the AOD, and imposes a separate penalty for the violation of the AOD itself.

### **Land Use / Zoning**

- A variance approval was issued to a sugarmaker in Richford for the placement of a shed to house maple sap collection vacuum equipment within 25 feet of a side property line on a piece of property he rents in Montgomery. The shed’s location is dictated by an existing corn field and farm road. The property line is shared with the Montgomery Community Gardens.
- A variance approval was issued for the construction of a barn within Randolph’s 200 foot setback to side property lines. The barn will be constructed at 50 feet from the property line. Adjacent property is all wooded. Location is dictated by the existence of water and electrical

service, existing driveway, and the fact that it is the only remaining level land appropriate for construction on their property that is outside of the floodplain.

**Secretary's Comments**

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** December 6, 2013  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Moretown Landfill Cell 4:** Advanced Disposal submitted the Cell 4 application this week. DEC staff are immersed in the documents and meeting internally to address some process issues. We also requested and received an electronic version to facilitate posting the documents for public review.

**Integrated Energy Solutions Proposed Digester (Salisbury):** Integrated Energy Solutions, Inc. is proposing a large scale digester project for generation of pipeline quality renewable natural gas for sale to Middlebury College. The project will be located in Salisbury and connect via a private pipeline to the proposed Vermont Gas Systems (VGS) pipeline in Middlebury for transmitting the gas to Middlebury College. Since the gas will be input to the VGS pipeline, it will need to be cleaned up to pipeline natural gas specs, which means removing the carbon dioxide (CO2) and hydrogen sulfide (H2S).

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**EVERYTHING ELSE:**

**Legislative Issues/Testimony:**

**Wild and Scenic Rivers Designation:** On Nov 21, the US Senate Energy and Natural Resources Committee passed legislation to designate the Vermont portions of the Upper Missisquoi and Trout Rivers as part of the National Wild and Scenic Rivers system. The Committee passed the bill by Sen. Bernie Sanders, a committee member, and co-sponsored by Sen. Patrick Leahy. Companion legislation sponsored by Rep. Peter Welch was introduced

earlier this year in the House of Representatives. Wild and Scenic designation would highlight the unique cultural, scenic and recreational qualities of these rivers. It would also empower communities along the rivers to protect the resources. Most of the land along the rivers is privately owned, and a committee made up of local representatives would be responsible for management of designation.

### **Press Issues/Releases:**

**Lake Champlain:** There were a series of news reports about the TMDL meetings. Overall the coverage was very positive.

**GHG report:** We issued our annual progress report on Vermont's GHG emissions. We did a little better than the last reporting year but are not yet on track to meet our state goals.

**New Fishing Opportunities in 2014:** Fish & Wildlife announced new fishing opportunities that begin in January when a recently enacted regulation goes into effect. Eleven new river sections will have catch-and-release trout fishing with artificial flies or lures outside of the normal trout fishing season, opening over 70 miles of river to year-round trout fishing.

**Vermont Muzzleloader and 2nd Archery Deer Seasons:** Vermont's hunters will get one final chance for a deer this year during the muzzleloader deer season and the second part of the archery deer season. The two seasons run at the same time, Dec 7-15. A muzzleloader hunter may take one legal buck anywhere in the state. An archery hunter may take a legal buck anywhere in the state, provided they didn't take one in the earlier part of archery season. An archery hunter may take an antlerless deer except in WMU-E in the Northeast Kingdom.

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

**Morrisville Water and Light:** Justin Johnson and Brian Fitzgerald met with Jeb Spaulding, Louis Porter and representatives of Morrisville Water and Light at the request of the utility. Morrisville continues to seek relief from Clean Water Act/Vermont Water Quality Standards requirements to provide bypass flows at the Morrisville and Cadys Falls developments. The utility's arguments are essentially unchanged – there will be significant impacts on project economics. Unfortunately the Clean Water Act does not allow us to take that into account. The principal message we tried to convey to Morrisville's representatives is that flows that support aquatic habitat are a legal requirement. We urged them to have their consultant prepare a flow proposal. They indicated that they would like to hold a follow-up meeting with ANR staff in December.

**Connecticut River Hydroelectric Project:** Staff organized a conference call with other resource agencies to discuss the upcoming technical meetings organized by FERC on the effect of Vermont Yankee decommissioning on the 21 aquatic resource studies associated with the relicensing of the TransCanada and FirstLight hydroelectric projects on the lower Connecticut

River. TransCanada and FirstLight are scheduled to begin the studies in 2014, the last year of VY operation, with a second year in 2015.

**Meeting with AG's Office on Environmental Enforcement:** Gary Kessler with DEC's Compliance & Enforcement Division met with the head of the environmental division at the Attorney General's office this week. The purpose of the meeting was to discuss mutual priorities for environmental enforcement in the coming year. The meeting was productive and follow-up on a number of issues will take place in the coming weeks.

**Climate Change Workshop:** Sandra Wilmot, FPR's Forest Health Specialist and Climate Change Coordinator, was instrumental in organizing a two-day workshop, held Dec 3, at Vermont Technical College in Randolph and presented by the Northern Institute of Applied Climate Science and ANR. The workshop was for natural resource managers, who face the tremendous challenge of developing and implementing management actions that help ecosystems respond to climate change.

**Forest Policy Task Force Meeting:** The annual meeting of Associated Industries of Vermont (AIV) Forest Policy Task Force and the Sustainable Forestry Initiative (SFI) will be held in Montpelier on Dec 6. The meeting will be attended by AIV and SFI members, landowners, loggers, business owners, private foresters, and state and federal natural resource officials. Secretary Markowitz, Commissioner Berry, Commissioner Mears and Commissioner Snyder will all be featured speakers at this event, which is held yearly to discuss the full spectrum of state policies affecting the forest and wood products industries in Vermont.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Federal Incinerator Regulation Changes:** Air Quality & Climate Division (AQCD) staff sent a letter to all permitted crematory facilities notifying them of recent changes to federal incinerator regulations that could impose additional requirements if they intend to burn anything other than human/animal remains along with a suitable cremation container.

**PM2.5 Designation:** DEC staff sent a letter signed by Governor Shumlin to EPA Region I Administrator Curt Spalding recommending that all counties in Vermont be designated "Attainment/Unclassifiable" for the revised annual National Ambient Air Quality Standard for fine particles (PM2.5). The revised annual PM2.5 standard is 12 micrograms per cubic meter, while the most recent annual PM2.5 design values for our measurement sites in Bennington, Burlington, Rutland and Underhill were 7.0, 7.2, 9.6 and 5.1 micrograms per cubic meter respectively.

**Rutland Plywood Corp:** Air Quality & Climate Division staff have referred Rutland Plywood Corp. to the Compliance and Enforcement Division for formal enforcement action for failing to comply with several permit conditions.

**Waterbury Hydroelectric Project:** DEC Watershed Management staff shared draft 401 conditions with Green Mountain Power in anticipation of a meeting with the utility in early December.

**Stream Gaging:** We have finalized our joint funding agreement with USGS for stream gaging through June 30, 2014. The agreement covers 39 gages, including the endangered Champlain gages that are not funded through other avenues.

**Addison Natural Gas Project:** DEC staff are working on the WQ Certification for Phase 1 of the Addison Natural Gas project. The wetland permit application and draft stormwater permit are out on public notice, and a hearing has been set for Dec 18 in Hinesburg.

**Deerfield 401:** The Deerfield 401 Water Quality Certification is ready to be signed by DEC and forwarded to F&W for signature.

**Timber Creek 401:** The Timber Creek II draft 401 Water Quality Certification is out on 30-day notice. A public hearing is scheduled for Dec. 23, 2013.

### **Fish and Wildlife**

**Rifle Season News:** This was a busy week for the warden staff. There were a lot of posted property violations.

**Rare Species may have been bulldozed:** Staff discussed with a consultant a possible violation by a VTrans sub-contractor where an area adjacent to a very rare (S1) species was bulldozed without permission. There is no direct evidence that the plant was present, but potential habitat was present, and the site should have been inventoried first.

**Solar projects may affect rare species:** Staff participated in meetings with OPLA to discuss the proposed Northeast Kingdom Connector and Barton Solar projects. Staff reviewed submissions and provided comments on both projects. The Northeast Kingdom Connector will likely impact the very rare (S1) Oake's hawthorn while the Barton Solar could impact the state threatened, marsh horsetail

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

**Leases and Licenses:** New draft electronic communication license agreements for Vermont Public Television at Burke Mt (Darling State Park) and the FBI at Killington Peak (Coolidge State Forest) have been developed by staff and are currently under review by the licensees. Work continues on developing a comprehensive master license agreement for Green Mountain Power for their utility lines on FPR lands.

**Parks e-Newsletter** The early winter edition of the Vermont State Parks e-newsletter was distributed this week to over 22,000 recipients.

**Holiday Packages:** The traditional state park holiday gift package sales are increased over last year at this time. Each year, sales continue to grow.

**State Parks and Physical Education:** Director Craig Whipple, Sales and Service Manager Rochelle Skinner, and Recreation Coordinator Jessica Savage are meeting this week with the Department of Education's statewide physical education coordinator to discuss opportunities for collaboration.

**Backcountry Skiing:** Internal and external partners are being gathered this week and next to begin to formulate a program for managing backcountry skiing on FPR lands. This allowed recreation activity is increasing in popularity and is creating some management challenges, mostly related to unauthorized vegetation cutting. A major part of the attraction for the activity is the remoteness and isolation, which diminishes with increased use at any given area. Making more terrain available with appropriate vegetative management is an important part of the long-term solution.

**Timber Sale Bid Opening:** Bids were opened for the Lewis Creek WMA Northwest Passage timber sale. The sale is being administered by Matt Leonard who was ably assisted by Chris Olson, Mike Johnson, Gary Sawyer and Jon VanHollebeke. The sale offered 394.8 MBF of saw timber and 1602.92 cords of pulp/fuel wood spread over 232 acres. Seven firms/logging contractors submitted bids. The apparent high bidder was Mr. Douglas Edwards at \$182,928.00. Matt Leonard and Kim Conway, District III Administrative Assistant, are in the process of securing the contract with Mr. Edwards.

**CCC Road:** The section of the CCC road in Plymouth and Shrewsbury closed by Irene is repaired, just in the nick of time, before this week's snow.

**Fort Dummer State Park:** Aaron Hurst and Ethan Phelps met with contractors to go over special conditions on the complex Fort Dummer State Park campground thinning. This project will begin soon and involves harvesting and chipping within and adjacent to a campground. Invasive plant control has been conducted as part of the project. The project will be aesthetically "loud" and because it is mechanized will occur rapidly. There is a possibility for a public reaction from neighbor's who walk here off-season. The project is well "signed" and the work area will be closed during operations for public safety. Aaron Hurst is the FIC. Parks has laid out an alternative route for walkers in an adjacent area and posted it as such.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: December 6, 2013

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** We seem to be reaching a consensus among state agencies which is helping to coalesce our negotiations with VY. We are scheduled to provide a draft to Entergy today, and discuss on conference call with them on Monday afternoon.

**Regional Infrastructure Statement and Press:** Thank you and Liz for all your work on this with NH – in the end, we have a six-state agreement, and press was released yesterday afternoon announcing it, intending to be embargoed until 11pm. Maine broke the embargo and it was on NPR last night at 6. The states are meeting next week (12/10) to discuss next steps and quantities of hydro and gas they each feel they need. We are working on that as well.

**Net Metering:** Vermont Electric Cooperative did withdraw its tariff with the Board which would have changed the program and dramatically lowered the price paid for solar, which we did not support. We are continuing discussions with them and Washington Electric on the legislative proposal. Darren met with PSB to discuss idea in our legislative proposal of the Board helping



run a stakeholder process to design a new net metering program for 2017 and beyond, and the PSB is receptive. I spoke with WEC last week and hope we'll be able to bring them along still.

**Ryegate:** As I negotiated with ANR, we are meeting today with Ryegate officials to try to convince them to voluntarily adopt the harvesting standards negotiated with NSSEP. I am not hopeful, and at some point we'll need to tell ANR more firmly that we do not support filing with the board to require them to do so in the context of Ryegate's CPG application to add SCR pollution controls to the facility.

#### **Significant Meetings/Events weeks Nov 25 to Dec 6:**

**November 25:** Chris attends NE Regional Energy Infrastructure meeting at ISO-NE in Mass; Darren meets with Mary Powell

**November 26:** Chris and Darren participate on climate cabinet legislative call; Chris attends meeting at Governor's office re VY next steps; Chris attends VGS press conference in Vergennes

**December 2:** Chris attends day-long VY settlement meeting

**December 3:** Darren, Geoff Commons, and James Porter meet with PSB Chair Jim Volz, and Gregg Faber, June Tierney, to discuss legislative session

**December 4:** Chris visited with Tivoly at Derby Line and discussed their desire to connect to HQ power directly. He spoke to Lawrence the next day and will access options.

**December 5:** Darren attends fuel dealer and Efficiency Vermont press conference on EEE partnership; Chris and Asa attend entrance conference with auditor to discuss upcoming audit of energy improvements to state buildings; Chris participates on NESCOE conference call to discuss regional gas and electric transmission issues; Chris has several communications with five states in advance of issuance of Governors' statement; Chris attends dinner meeting in Boston with FERC Commissioner John Norris

**December 6:** Chris attends NEPOOL participants meeting in Boston; Chris and Attorney Jeanne Elias attend meeting with Ryegate and ANR; Darren speaks at AIV/SFI Forest Policy Task Force meeting.

**December 7:** Chris attends VECAN meeting in Lake Morey

#### **Significant events/meetings next week:**

**December 9:** Chris participates on VY settlement conference call; PSD/VEC net metering follow-up

**December 10:** Chris attends Regional Energy Infrastructure meeting in NH

**December 12:** Chris attends VT Connectivity Meeting

**December 13:** Michelle attends legislative bill tracking/reporting meeting with Laura Gray

**Media:** Chris spoke with Susan Smallheer and Terry Hallenback on VY negotiations. Darren attended VFDA and EVT press event on efficiency program announcement.

## **Everything Else:**

### **PERD**

#### **Energy Efficiency Utility Activities**

- Staff participated in a meeting on developing a trilateral agreement between BED, EVT, and VGS regarding cost allocation for thermal efficiency programs. VGS and EVT have come to general agreement on most of the cost-sharing items (at least in principle if not on specific % allocations) except for allocation of some of VEIC's "Public Affairs" costs, which includes presentations at public forums and meetings and their work with legislators, government officials, and the media. VGS argued that they do this same type of work and that there isn't any incremental benefit to VGS ratepayers for this VEIC work so they shouldn't contribute to these costs. VGS also disagreed with EVT's proposal that they share in their "upstream work" with distributors, suppliers, and manufacturers of energy efficient products, especially without any information on how this directly benefits VGS ratepayers. EVT is to provide more detail on exactly what this work consists of and how this benefits VGS customers. DPS has been asked to "weigh-in" on any areas that they can't reach consensus on.
- Drafted and filed with the PSB reply comments with regard to the ramp down of geographically targeted efficiency programs in GMP's Susie Wilson substation area, which is no longer forecasted to need a reliability upgrade in the foreseeable future (success!). Generally, a ramp down is appropriate, minimizing any marketplace confusion. VEIC had initially recommended a status report by March 30<sup>th</sup>, however we recommend a status report by January 31<sup>st</sup> and a recommendation by March 30 as to how the ramp down affects statewide programs and performance indicators.
  - Note that it is likely that GMP will recommend ceasing geotargeting St. Albans as well after 2014, also claiming success. This would leave no remaining geotargeted locations in the state.
- Demand Resource Plan (DRP) –
  - Staff continued internal discussions about VEIC Behavior program in the DRP modeling process. Staff continued organizing participants to attend a presentation by the vendor anticipated to be the service provider for the "home energy report" behavior program. Staff reached out its evaluators and Board staff to gauge interest. The meeting is taking place Dec. 5 and will focus on the 2014 OPower pilot. Staff may request an additional workshop on Behavior later in the DRP.
  - Staff received a proposal from VEIC related to the Monthly Peak QPI proposed by VELCO. VEIC suggests that the scope of work to measure Monthly Peak is considerable and not possible in the current DRP timeframe. VEIC recommends shifting this analysis to after the DRP and for it to be included in a process related to VEIC's "Strategic Electrification" concept. VEIC is due to file responses to Board questions on this topic Dec 6. There are possible parallels between work to measure monthly peak efficiency performance and work necessary for

future FCM performance if ISO-NE's performance incentive proposal for the FCM is accepted.

#### Renewable Energy Items

- Began drafting hydropower report for Legislature, due 1/15/14. This will be a major focus for the next month or so.

#### Total Energy Study

- Edited draft of Legislative Report. On 11/27, the Legislative Report draft was shared with Climate Cabinet staff and principals for feedback by 12/6.
- Sent an e-mail notice to selected TES stakeholders announcing the opening of the TES Public Comment period. Comments received by Dec. 2<sup>nd</sup> will inform the TES Legislative Report.
- Staff will present on the TES at the VECAN annual conference on 12/7.

#### ***Engineering***

##### VGS Transmission Pipeline Reinforcement Project

Vermont Gas Systems Inc. informed the PSB and PSD a construction project, which received a Certificate of Public Good via PSB Docket 7929, will not be able to be completed as proposed during 2013. This project consists of a 5 mile long 16" diameter, transmission pipeline segment installed in Georgia, adjacent to the 10" diameter pipeline which supplies natural gas to the Greater Burlington Area. The company's CPG proposal stated the project will "reinforce" the transmission system and is required to avoid a possible shortfall of 550,000 cubic feet/day during the 2013-2014 heating season. In addition, the completed project would also provide for some near future service expansion. The company's recent message states that VGS will temporally connect 2 miles of the newly-constructed pipeline segment this year, and will complete the remainder of the project during 2014. Representatives of the VGS Engineering Department have informed the PSD this plan will ensure adequate gas service to existing customers.

##### KCW Sound Monitoring Meeting

The Department met with GMP (Josh Castonguay and Steve Terry) and their sound consultant Eddie Duncan of Resource Systems Group to get an update on their efforts to comply with the PSB order for GMP to "undertake an investigation into the feasibility of continuous monitoring for the Project and to file a report with the Board within 90 days of the date of this Order. Thereafter, parties with standing on the issue of noise shall have 14 days in which to file comments on and recommendations in response to the report." GMP's submittal is due on December 24, 2013.

GMP offered the following comments: as to implementing 24 / 7 / 365 monitoring:

1. Only one or two companies can do the total package of instruments and analysis,
2. Most other companies would be joint efforts of equipment suppliers and a sound consultant.

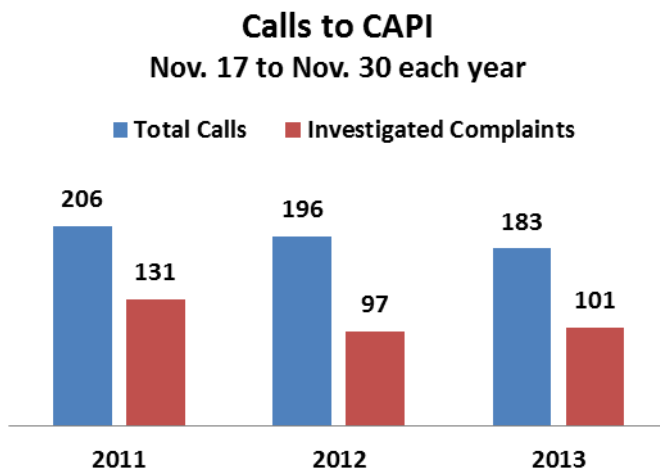
3. No firm dollar quotes yet.

GMP also expressed concerns related to cost, duration, necessity, and other alternatives. The Department indicated we would be glad to review and comment on GMP's report prior to submittal to the PSB.

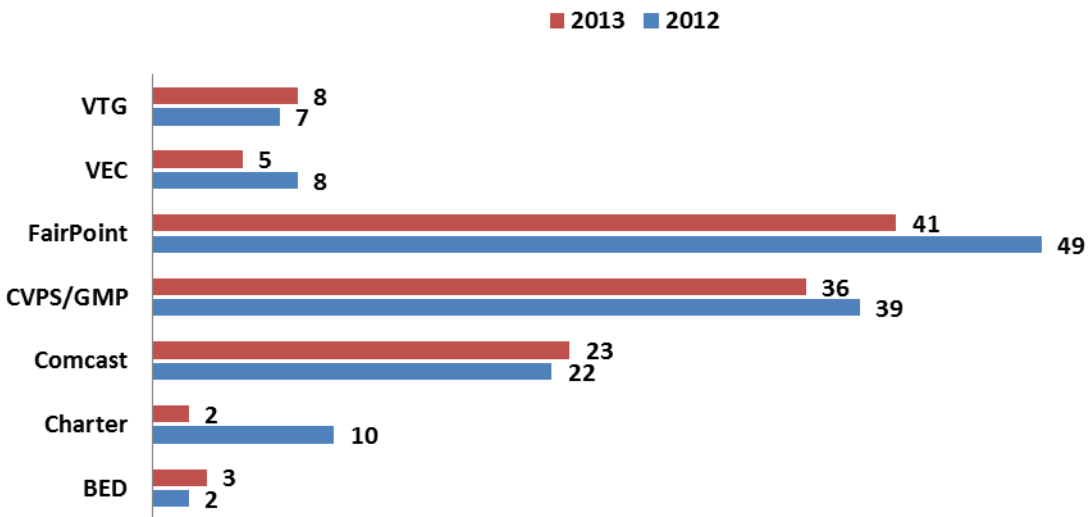
### **CAPI**

*Please note that this report covers activity from Sunday to Saturday, November 16 to November 30, 2013.*

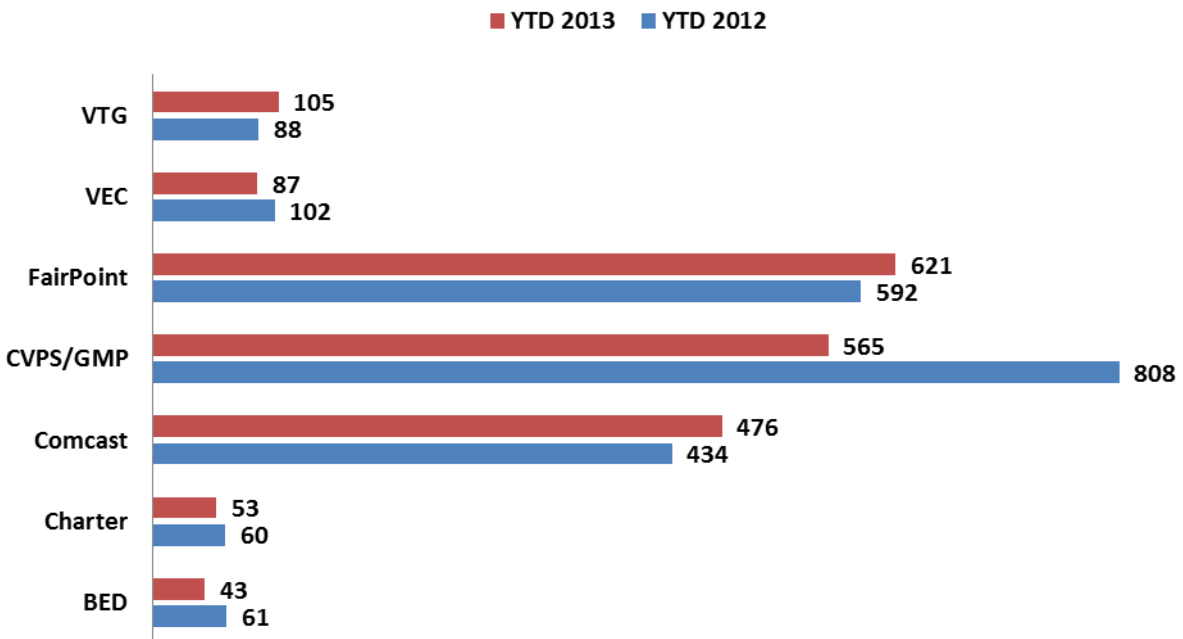
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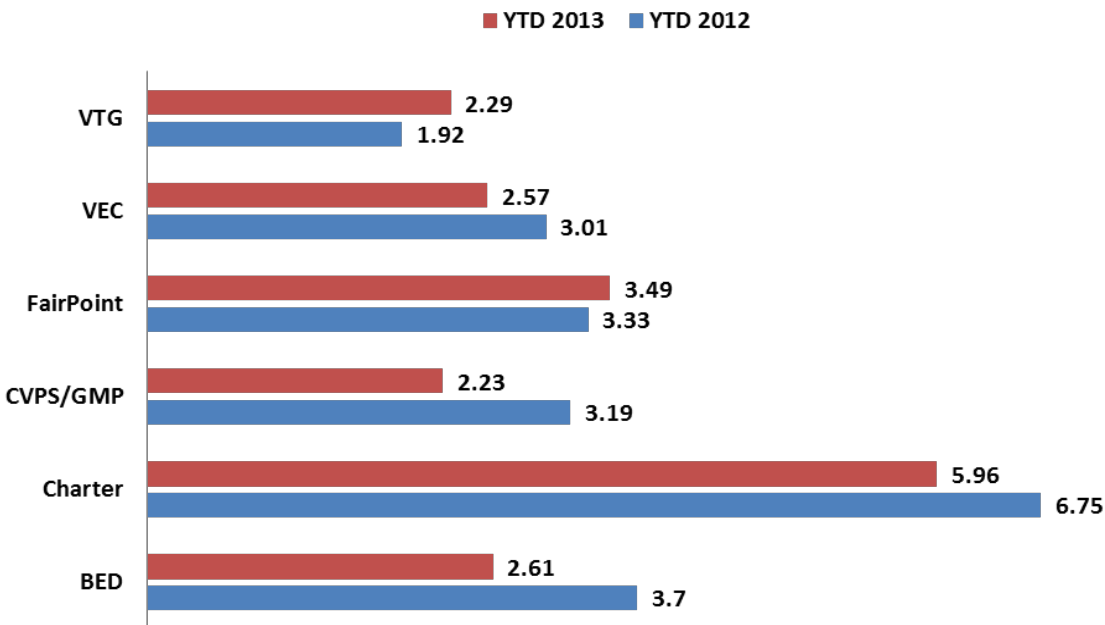
### Number of Complaints Investigated, by Company Same 4 weeks each year



### Number of Complaints Investigated, by Company Year to date



### Complaints Investigated, per 1000 Company Customers Year to date



#### **POST CPG WIND COMPLAINTS**

There were 8 noise complaints received during this time period:

- One regarding Georgia Mountain Community Wind
- Two regarding the Lowell Wind turbines (from late October and earlier November)
- One spanning two days regarding GMP's net-metering turbine located in Vergennes
- Four noise and health-related (mostly sleep deprivation) complaints regarding Sheffield/First Wind

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

Barton Solar – Docket 8148 – The Department reached out to the Barton Planning Commission to be certain their issues were being addressed and is actively working with the petitioner, informally as well as through formal information requests, to resolve issues. At the PSD's suggestion, the petitioner reached out to ANR at an early stage. The Department understands that the petitioner revised its project plans based on meeting with a number of ANR employees at the site. After the prehearing conference, the ANR attorney informed the petitioner (in PSD's presence) that the petitioner must have misunderstood the ANR employees or that the ANR employees were trying to appease the petitioner in opining on a number of issues, including where/if the petitioner could plant and where/if the petitioner could place panels.

The petitioner's attorney raised the possibility of an estoppel claim. The PSD would like to prevent similar future process failures. Toward that end, the Department has requested the petitioner memorialize its ANR contacts (names, dates and opinions received) in order to inform a possible conversation with ANR regarding how the PSD should advise petitioners regarding early interaction with ANR in future dockets.

Additionally, the petitioner filed a letter of support from the Town of Barton Select Board and also filed supplemental testimony addressing the project lay down area. The Department will attend the site visit and public hearing that is scheduled for December 5<sup>th</sup>.

Sale of Berlin Water Company – Docket 8118 – In a letter to the Board, the Town of Berlin has requested to become a co-petitioner in this docket. The Department issued information requests to the Town to identify and resolve any issues. Additionally, the Department continues to reach out to the attorney representing the City of Montpelier in order to be certain that any outstanding issues are resolved involving the water system's allegedly unpermitted interconnection and alleged unauthorized use of water (these issues are pending in Docket 8000, which the City initiated and then appeared to forget about). The rolling discovery period ends December 4<sup>th</sup>. PSD expects to support the sale.

SunGen Solar, LLC Project – Docket 7700 – In a letter, the petitioner informed the PSB that it has completed construction; has coordinated with GMP regarding all interconnection and testing requirements for the project; and intends to commence operation.

WEC ✓ Red Pines Development Water System – No Docket – In response to the petitioner's request for an 821% rate increase, the Department has offered a preliminary settlement proposal that includes changing the rate structure and requiring that related filings be made. One of the filings is a request that the PSB amend its CPG to reflect the sale of an interest in the water system by one of the partners, George Nash. The Department has been informed that this filing will be delayed since Mr. Nash will be selling his Christmas trees in New York until after the holiday.

Stowe Rate Investigation – Docket No. 8074 – A settlement meeting is scheduled for December 6, at which the Department and Stowe will attempt to agree to a final cost of service as well as the terms of a business process review (management audit). The parties are due to report back to the Board on December 20 as to the results of settlement talks.

WEC Net Metering – Tariff No. 8472 (Docket No. 8159) – WEC filed a proposed tariff that would allow it to continue to offer net metering above the 4 percent cap, but that would limit net metering to systems of 5 kW or less. The Board accepted the Department's recommendation to initiate an investigation into the tariff and has scheduled a prehearing conference for December 12 to discuss a schedule for briefing initial legal issues raised by the Department. It is possible that WEC will withdraw its tariff in advance of the prehearing conference, for reasons similar to VEC's tariff withdrawal.

GMP Earnings Sharing Filing – Tariff No. 8477 – On November 15, GMP filed its annual earnings sharing adjustment. While no earnings sharing adjustment is proposed, GMP does seek to include a new line item surcharge of 1.4845 percent (equating to just under \$9 million) to recover storm costs associated with 4 major storms in fiscal 2013. This recovery is under the Exogenous Events category in GMP's alternative regulation plan. The Department has served discovery on GMP related this filing and is reviewing responses received this week. A recommendation is due on December 16.

Swanton Rate Case – Docket No. 8024 – On November 27, the Board issued an order approving Swanton's proposal to spend approx. \$5,000 to modify its IT system to enable it to provide customer-specific refunds resulting from this rate case. Over the Department's objection, the Board allowed Swanton to deduct this amount from refunds due customers (\$5,000 from about a quarter million dollar refund). In the order, the Board signaled its intention to adopt a recommendation from the Department to establish a separate proceeding to determine whether municipal utilities have the capacity to provide refunds on a customer-specific basis.

TransCanada Hydro Office Building 248(j) CPG Proceeding – Docket No. 8093 – On November 27, the Board granted a certificate to TransCanada to construct a 5,000-ft control center and office space at TransCanada's hydro facility in Wilder. Because hydro facilities are exclusively regulated by FERC, the Board required briefing from all parties as to whether it had jurisdiction to address TransCanada's request in this proceeding. TransCanada, the Department, and ANR all determined that the Board should address the request and the Board ultimately decided to do so, though with some hesitation. After discussing the bases for accepting jurisdiction in this case, the Board issued a CPG for the facility.

Winooski One Rule 4.100 Proceeding – Docket No. 8010 – This case has been idle since the spring. Winooski One petitioned the Board to establish generic avoided cost rates for QFs pursuant to Rule 4.100. The Board ordered briefing on the scope of the proceeding (and parties briefed the issues). However, no subsequent order has been issued. Meanwhile, BED went to FERC to seek an exemption from the requirement to purchase the output of Winooski One at avoided cost. FERC granted the exemption and the Board subsequently ordered briefing on what, if any, impact the FERC order has on this proceeding. Winooski One has asked for an extension of time for briefing (until January 6), to which all parties consented.

North Springfield Sustainable Energy Project (Springfield Biomass) - Docket 7833 - All parties (NSSEP, DPS, NOSAG, ANR, VNRC, Town of Springfield and Southern Windsor RPC) filed comments on the Hearing Officer's Proposal for Decision, with NSSEP asking the Board to reject the Hearing Officer's recommendation and issue the CPG. PSD raised concerns regarding the analysis of need (§ 248(b)(2)), which the Hearing Officer found would be satisfied solely by the facility selling electricity into the regional market. Oral argument has been scheduled for 12/19/13.

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Programmatic Changes to the Standard Offer Program - Docket 7873, Vermont Supreme Court Case No. 2013-308 – Appellant Ecos Energy filed a Reply Brief on 11/27. The deadline to



request oral argument is 12/6/13. The Department will not be requesting oral argument but if Ecos Energy does, the Court will schedule it.

National Life 500kW Net Metering Project - Docket 8110 – The Board notified the parties that it intends to afford the petition streamlined consideration under 30 V.S.A. § 248(j) and that parties have until 12/19/13 to indicate whether they have significant issues on substantive criteria. The Department will be requesting additional time to retain an expert to conduct an aesthetics review in order to determine whether there is a significant issue with the 30 V.S.A. § 248(b)(5) aesthetics criteria.

Ryegate Biomass amendment of CPG for Selective Catalytic Reduction System - Docket 8129 – The Board notified the parties that it intends to afford the petition expedited consideration under 30 V.S.A. § 248(j) and that parties have until 12/23/13 to indicate whether they have significant issues on substantive criteria. The Department has reviewed the petition, which involves the construction of a building at this preexisting facility to house selective catalytic reduction equipment, and does not believe it raises any significant issues with the 30 V.S.A. § 248 criteria. PSD will likely file comments to that effect.

Washington Electric Coop AMI Plan – Docket 7810 – The Department is preparing for a Board workshop addressing technical shortcomings of the WEC AMI system, to be held on December 5, 2013. The Department has identified core issues of concern and has proposed a few broad technical solutions to ensure minimum functional requirements of the AMI system.

Georgia Mountain Community Wind – Docket 7508 – GMCW made a compliance filing with the Board, admitting that cooling fans at the facility were operational during background monitoring periods in the first three quarterly sound monitoring sessions. The Department is evaluating its options on how to proceed.

FairPoint PAP Proceeding – Docket 7506 – The Department filed a reply brief in response to briefs submitted by FairPoint and the CLECs regarding three issues left unresolved by the stipulation agreed to by most parties (the Department was not a signatory to the stipulation). The PSD argued that FairPoint should be able to continue to insert PAP penalty dollar waivers into commercial contracts with CLECs for unregulated services. However, penalty payments to CLECs waived by commercial contracts should be directed to the Vermont Universal Service Fund. Additionally, only penalty dollars actually paid to CLECs would count toward a \$2.5 million annual penalty cap in Vermont.

### ***Telecommunications***

USF high cost – PSD staff and the telephone companies are negotiating possible a high cost fund. The telephone companies have offered language that would require buildout at 4/1 speeds statewide, but would allow the Board to waive this requirement if the cost were demonstrated to exceed half of the expected funding.

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Comcast Waitsfield dispute – In 2012 the Board ordered Waitsfield to interconnect with Comcast, but allowed a period of time before Waitsfield was required to transfer phone numbers from its customers to Comcast. Now that this grace period has expired, Waitsfield is asking for this process to be more cumbersome than Comcast believes the industry practice to be (or what the pertinent documents requires). Comcast has requested PSD assistance in resolving the matter prior to initiating PSB action.

### ***Finance and Economics***

#### Electric

Rutland Regional Energy (RRE) has filed a 248j petition for approval to build the “City Solar Garden Project”. Staff has begun a review of the project to assess its financial and economic viability.

GMP-Depreciation Study-preliminary results. Staff held a teleconference where GMP presented the preliminary results of its depreciation study. The study indicates GMP’s depreciation rates are too high and need to be reduced. This will reduce depreciation expense and the revenue requirement by about \$4 million or more. This will undoubtedly assist GMP to meet its 2.5% cap commitment for its 2014 base rate filing. (GMP is now projecting a .8% rate increase for 2014.)

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GMP –Tariff No. 8477: Green Mountain Power Corporation Alternative Regulation Plan Earnings Sharing Adjustor Filing for twelve month period ending September 30, 2013. The filing requests a surcharge of 1.4845% to recover a portion of the storm costs associated with four major storms during fiscal year 2013. Staff is reviewing the filing. PSD recommendation is due 12/16/13.

GMP – PSB Docket 7585: GMP Modified Alternative Regulation Plan Power Adjustor Filing: Fourth Fiscal Quarter, 2013. The filing results in a downward rate adjustment of \$1,996,533. Staff has completed a review of the filing and has recommended that it be approved without a hearing or an investigation. The recommendation is due to the PSB by 12/14/13.

Stowe Electric Department – Docket 8074 Investigation into Stowe’s the existing rates. Staff continues its review of Stowe’s Cost of Service-- operating expenses, adjustments, and rate year calculations. Updated findings suggest reductions in Stowe’s proposed revenue requirement may range from \$500k to \$1.0 million. A PSB status conference was held on November 20, 2013 and a meeting with Stowe has been scheduled for Friday, December 6 to narrow the issues.

F-11  
Vermont Electric Cooperative (VEC) – Tariff 8476—Request for Approval of a Rate Increase of \$2,093,464 or 2.93%, effective January 1, 2014. VEC is seeking the rate increase largely as the result of increases in transmission costs which make up 84% of the revenue increase and storm costs. VEC was last in for rates over 3 years ago and this represents less than 1% per year. We have begun a review of VEC’s cost of service with our recommendation due by 12/12/13.

## Gas

Vermont Gas Systems (VGS)—Hedging Strategy---Pursuant to its Alternative Regulation Plan and MOU – Staff and Department consultant, Blue Ridge Consulting, has met with VGS to collaborate on developing a mutually agreed upon hedging strategy. Initial straw man drafts are being prepared that will be completed for review on December 16, 2013.

Vermont Gas Systems Inc.(VGS) – TF 8479--filed a quarterly PGA compliance tariff as per the Successor Alt Reg Plan. VGS requests an overall 2.08% decrease in firm gas rates effective with bills rendered on and after February 6, 2014. The rate change is largely due to changes in TransCanada Pipeline tolls and a decrease in the wholesale cost of gas.

FYI

## Water

Woodstock Aqueduct Company--Staff is supporting the company in its preparation to file a rate increase request.

## ***Regional Policy***

### Quarterly Meeting with Vermont Utilities

- On December 3 staff had a quarterly meeting with Vermont utilities and PSB staff to discuss regional issues.
- With respect to ISO-NE's Forward Capacity Market Performance Incentive proposal, the utilities all plan on voting against the PI proposal at the December 6 NEPOOL Participants Committee. The utilities agree that there needs to be some change to the FCM to require performance (although the definition of performance seem to vary widely among utilities), but do not believe that the PI proposal is the appropriate remedy. Utilities would like to take more time to develop a different proposal, either by continuing discussions of PI during the upcoming discussions regarding the introduction of a sloped demand curve or waiting to see if changes to the energy and reserve markets address some of ISO-NE's reliability concerns.
- With respect to Order 1000, VELCO intends on protesting the ISO-NE filing at FERC. VELCO's FERC counsel apparently claims that there is a chance of success. Also, VELCO has been communicating with the New Hampshire PUC to determine whether they should submit a joint filing.
- Staff also provided updates on:
  - Discussions with ISO-NE regarding an interim distributed generation forecast, ISO-NE's proposal to shift more cost; and
  - ISO-NE's upcoming proposal to shift more costs associated with deviations from the day-ahead and real-time energy markets onto load (ISO-NE will be presenting this proposal in early 2014).

### Administrative Pricing Rules in the Forward Capacity Market

- ISO-NE has filed with FERC proposed changes to the triggering mechanism and methodology for establishing administrative prices in the event that there is insufficient supply or insufficient competition during the upcoming Forward Capacity Auction.

- NESCOE agrees that the triggering mechanism should be fixed; however, it will file a protest regarding the proposed changes to the pricing methodology. ISO-NE's proposed methodology would set the administrative price at 1.1 times the Cost of New Entry from the last Forward Capacity Auction (or roughly \$7/kW-month). This compares to the New England Power Generator Associations proposal to use the cost of a new combustion turbine (or \$11/kW-month) and the existing rules which use 1.1 times the clearing price of the last competitive auction (or \$3.47/kW-month).

NECPUC has indicated that it will likely also file a protest at FERC and also support NESCOE's comments.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Jeb Spaulding**  
**DATE: December 6,, 2013**  
**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- Thank you for inclusion in the livable wage provisions of newly negotiated VSEA/SOV contract.

**Legislative Issues/Contacts:**

- Testified before House Appropriations, along with Lawrence Miller re: 2014 BAA, St. Albans
- Met with Senator Mazza and Dawn Francis to discuss the Colchester Lab impact fees
- District Heating Project overview and tour with Senator Sanders. Sanders is bringing Secretary of Energy to plant in next two months

**Press/Media Notes:**

- Sue Allen attended Senator Sanders Meeting
- Christmas Tree Lighting ceremony (both media and significant event)

**Significant Events/Meetings:**

- Village of Waterbury discussion of sale of Stanley and Wasson buildings with Bill Shepeluk, Village Manager
- 5 year space planning meeting with Michael Clasen (on Friday afternoon)

- Farmer's Market discussion with Secretary Spaulding, John Hollar, Lila Bennett and George Gross
- Employee monument meeting with sculptor Eric Oberg, Tom Ball, Shelley Martin, David Schutz

### **Of Interest to 5<sup>th</sup> Floor from BGS Directors:**

Mike Stevens: The EPA conducted an unannounced inspection today at the WSOC. The focus of the inspection pertained to the handling and abatement of Asbestos Containing Material. We are in the middle of various phases of at least 6 different abatement projects at this time. The inspector reviewed many aspects of the projects and found that some materials leaving the abatement project in 1, 2, 3 North were not adequately wetted. The EPA will be documenting this inspection and sending myself a copy of the report.

Ed von Turkovich - Bennington Welcome Center – Traffic & Signage Concerns: We have sent to the Commissioner's attention (and copied AOT) today the brutally honest comments by travelers relative to the access and signage at the Bennington Welcome Center. Some of these comments reflect our on-going concerns. It is our understanding that the signage changes agreed to in the October 29, 2013, site meeting (attended by VICD/AOT reps and some of the local delegation) have not yet been installed. We are concerned that the proposed signage changes may not be adequate and the signage strategy will need further attention to make sure it meets the needs of the traveling public. We pass this along to be sure it does not come as a surprise to anyone.



## **FINANCE AND MANAGEMENT**

### **Issues Update:**

The Financial Statement Audit is near completion. The goal is to have a signed opinion from the Auditors by December 16<sup>th</sup>. This will be the earliest in many years.

FinOps continues to meet with departments regarding time & labor and expenses to identify knowledge gaps and areas of opportunity. This week's meetings included Liquor Control, Public Service and Buildings and General Services.

Secretary Spaulding and Commissioner Reardon delivered the FY 2014 Governor's Recommended Budget Adjustment to the House Appropriations Committee on Monday, December 2<sup>nd</sup>. The Committee is taking testimony from involved Agencies and Departments this week.

Commissioner Reardon and Deputy Commissioner Clark continue to meet with departments regarding their FY 2015 budget requests. Recent meetings include: Department of Mental Health, Department of Aging & Independent Living, Department of Vermont Health Access, Education, Lottery and Libraries. Budget Director Matt Riven presented an overview of the pilot program to incorporate performance measures into the Vantage budget system to the Governmental Accountability Committee on Tuesday, November 26<sup>th</sup>.

## HEALTH CARE REFORM

### Status of Governor's Priorities:

Financing: We continue to make steady progress developing options to finance Green Mountain Care. I summarize our work on ERISA issues and on specific financing options below. The next major check in on these issues is the December 16 Business Advisory Council meeting.

ERISA: We remain focused on two major ERISA issues. (1) What approach is most likely to survive legal challenge? (2) How would any strategy to allow so-called ERISA employers out of Green Mountain Care affect potential revenue sources?

Legal Issues: Michael Costa pursued with counsel whether a finance plan could be designed so that ERISA employers could credit or deduct their health care expenditures against the tax liability imposed by Green Mountain Care's financing system. Permitting the costs of the employer's expenditures on employee health care to be deducted from or credited against the tax liability may be permissible and reduce the vulnerability of the state tax law to an ERISA preemption challenge.

Next, we explored whether the State could limit that credit or deduction to a sub-set of ERISA employers based on some criterion, such as firm size or their presence in multiple jurisdictions. The most easily defensible law would apply to all employers. From a policy standpoint, allowing only larger firms (by FTEs or payroll – that difference does not seem material for preemption analysis) to offset their health spending against the tax, seems sound because they are likely to have adequate coverage. But it does run the risk that smaller employers that allegedly want to maintain their own ERISA plans would challenge the law on the ground that they must pay for both the public program and their own plans. The practical likelihood that smaller employers (beneath whatever threshold the state sets) may oppose exclusion for only larger firms is something to consider as we continue to work with the business community.

It is important to note that any strategy that allows some or all employers to keep their insurance and not join Green Mountain Care carries substantial policy and cost implications that are not yet understood.

Financing Impacts: Michael Costa continues to work with LABOR to understand how much a payroll tax rate would need to be increased if large, multi-state ERISA employers were excluded from a Green Mountain Care finance plan that includes a payroll levy. We developed two approaches to obtaining this data, and he anticipates receiving preliminary data next week.

Payroll/Income Tax Split: Michael Costa continues to work with TAX and LABOR to refine our payroll and income data. Two specific projects are underway. First, we are developing an MOU to allow TAX and LABOR to share additional data, so that we could match payroll data with income tax filings. This would produce a new and sophisticated data set that would allow us to avoid double counting and target wage and non-wage income in a precise manner. Overall, this effort will help us understand tax impacts at the individual level and better calibrate tax rates. Second, we are working with JFO to begin projecting future Adjusted Gross Income so that we can calculate any potential income tax levy with more precision. AGI is not estimated for future years within the current revenue estimating process.



Fee: We made important, if rudimentary, progress on a fee based system. Progress includes a simple chart that demonstrates how a fee might work from the perspective of employers, employees, and the self-employed, for both primary and secondary Green Mountain Care coverage. Also, we developed an exhaustive list of questions that must be answered to make a fee system work. This seems mundane, but it provides an important touchstone for the rest of the work.

Consumption Taxes: Michael collaborated with TAX to refine our consumption tax analysis into four potential future options. These include expansion of the sales tax base to services, adoption of a transaction privilege tax, a gross receipts tax levied at the entity level, and an adaptation of New Hampshire's Business Enterprise Tax. I will provide more information next week, as I work with TAX to refine the revenue potential of each concept.

Retirees: We have worked collaboratively with the State Treasurer's office, their actuaries, and the UMASS report actuaries to better understand the impact of Green Mountain Care on state retiree health care obligations. The actuaries issued a draft report, and the initial results suggest an opportunity to create momentum for reform. We will know more in the next 2-3 weeks.

Revenue Range: We are basically in agreement with JFO on a revenue range to pay for Green Mountain Care. The Administration needs to consider how and when to discuss this range publicly.

Financing Future Work: Spent the better part of the Fall discussing with JFO how to structure and pay for future financing plan consulting work needed by the Administration and Legislature. It is now time to develop a specific proposal to pay for the future work required to complete a finance plan by January 2015 and have the capacity to adjust that plan during the session and in out years. Three major questions must be answered:

1. How much will it cost?
  - a. Rough estimate is \$1 - \$2 million
2. What is the right vehicle to pay for it?
  - a. You could use the BAA, budget, or put pieces of it in both. Also, you could try to be creative with the bill back authority granted to DFR and the Green Mountain Care Board.
3. How much work can be done collaboratively with the Legislature and how much must be done independently.
  - a. More collaboration means less expense and vice versa.

The office continues to discuss this issue with JFO and Jim and Sarah from Finance and Management, and we should have a proposal soon.

### Evolving Issues:

Exchange readiness/contingency planning  
Single payer operational planning  
Single payer staffing/contracting  
Financing planning



## **HUMAN RESOURCES**

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

Commissioner Duffy testified before House Appropriations on the Pay Act, reclassification of Vermont State Police and the premium rate holiday. During the testimony, Commissioner Duffy testified that the status of bargaining was confidential. Unfortunately, she learned later that day that VSEA had posted the tentative agreements on their website. Commissioner Duffy required that VSEA remove the documents from the website, and informed Representative Heath of the issue and her lack of knowledge of the posting of the documents.

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

Dave Gram has requested information concerning the reclassification of the Vermont State Troopers in light of the results of the bargaining with VSEA. See below.

Anne Galloway has requested copies of the tentative agreements reached with the VSEA bargaining units. The question of whether the agreements are public records is undecided, so Commissioner Duffy requested that VSEA consent to produce the documents. VSEA has declined.

### **Evolving Issues:**

The State has reached tentative agreement with the three bargaining units of the VSEA. DHR anticipates a ratification vote within the next month.

DHR responded to a VSEA public records request for all documents identifying the actuarial value of the State health plan in 2012 and 2013.

DHR implemented a position sweep to obtain positions to staff the Green Mountain Care Psychiatric Facility. Many objections have been voiced, and the Secretary's office is meeting with appointing authorities to discuss alternative positions that could be swept.

## **INFORMATION AND INNOVATION**

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

#### **Vermont Health Connect (VHC):**

- VHC deployed individual and family premium processing to enable payment via check.
- VHC has also announced that small businesses will be extended in their current plans with their current carriers until the end of March.

### **Evolving**

- VTrans is creating a new site for construction projects. Currently each construction project has a new site created by a vendor and so has a domain name chosen by the vendor. These domains then expire with the project and end up being purchased by private parties and reused for inappropriate content. VTrans hopes this new process will reduce this problem.

- The IT Optimization Project (ITOP) project continues to progress. The 133 State Street data center is on track to be decommissioned by July of 2014 freeing it for office space conversion. Agency of Natural Resources and Judiciary redesign and consolidations are in process with anticipated completion by March 21st. Agency of Human Services migration is also underway and will complete by May of 2014. This will be a large milestone in the ITOP project as all departments/agencies other than AOT, VDOL, Military (including Judiciary) will have been converted to a sustainable demand service (75% complete).

## **LIBRARIES**

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

Digital Literacy Meeting Scheduled for December 11: VTLIB and the Vermont Telecommunications Authority (VTA) will host a meeting on 12/11 with invited representatives from state government and the non-profit community to discuss the need for a collaborative approach to meeting the digital literacy (tech skills and information literacy) needs of Vermont citizens. Outcomes for this meeting: (1) gather information to create a “clearinghouse/directory” of digital literacy programs currently available to Vermonters; and (2) identify intent/focus of current programs and target audiences and develop first steps to conduct a needs assessment. The VTA and VTLIB partnership has been established to support VTA’s federal Economic Development grant to assess and expand citizen tech skills, and to support the VTLIB’s goals for digital literacy in our state strategic plan.

Vermont Works for Women: Marty Reid met with a team from VT Works for Women and pledged support for their “Change the Story” campaign, and attended the press conference on 12/3.

### **Project Updates/Partnerships:**

Vermont FiberConnect Broadband project (VTA/Sovernet): 22 libraries (of 43 in the project) are now online with fiber optic broadband and connected to the wide area network managed by DII. An additional 14 libraries have been “turned up” and are ready to work with our DII engineer to move their library operations to the new shared network. The Federal BTOP deadline is December 31 and we expect to see a push from Sovernet this month. Manchester’s public library is one of the 43; there may be a delay there because the new library is under construction and is not scheduled to open until late summer or September 2014.

The Internet Intern program is proving to be popular at those libraries that have been assigned a CCV student. Several additional libraries have expressed interest in the program but CCV is having difficulty finding and placing more student interns. Interns report that many learners come back for repeated sessions to help learn computer skills. The greatest need is to set up and learning to use email accounts and to learn specific software applications, but finding jobs and navigating the health exchange website are also areas of citizen interest.

Catamount Library Network (CLN): The CLN continues to expand and we expect 10 or more libraries to be part of the shared library catalog by the end of 2014. Current members (Brattleboro, Rutland, Ludlow, Waterbury, Springfield) report that patrons enjoy seeing the joint catalog which allows them to place “holds” on books and other materials across the system. The result has been an increase in interlibrary loan activity, a concern for libraries due to demands on staff time, packaging and postage costs.

## **TAXES**

No report.

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Michael J. Hogan, Commissioner of Liquor Control  
**Date:** December 6, 2013  
**Re:** Weekly Report

**Status of Governor's Priorities:** Working on performance measures for FY15 budget and final budget numbers.

**Legislative Issues/Contacts:**

- Liquor Board has reviewed final draft changes to Department Regulations. ICAR review set for next week.

**Press Issues/Releases/Contacts:** I am sure you have seen some press on the Heady Topper illegal beer sales. This whole issue came about as we were responding to a complaint from the Alchemist that brews the product that someone was selling their beer on Craigslist. We did an investigation on an individual for selling without a license.

**Significant Events/Meetings:** Next Board Meeting 12/11/13 Enforcement Hearings.

**Evolving Issues:**

- Finalizing vendor contract for ERP/POS Project-ongoing.
- Preliminary review of department processes for potential licensing and enforcement system.
- Working on evaluating additional agencies throughout the state and breaking down costs associated as well as the return on the investment.

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**Summary of Key Department Activity:**

- November sales were good: +5.76%. December should be the biggest increase of the year.

**Commissioner's Commentary:** Yesterday was the official 80<sup>th</sup> birthday of when Prohibition was repealed. Let's celebrate!! Have a great weekend.

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