

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

**Sent:** Sunday, January 26, 2014 2:42 PM

**To:** GPS

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

**Subject:** Weekly Reports - Executive Privilege 01 24 14.pdf

**Attachments:** Weekly Reports - Executive Privilege 01 24 14.pdf; ATT00001.txt

just a few highlights here and there for you

# WEEKLY REPORTS

Checklist  
1/24/2014

Elizabeth Miller/Aly Richards

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

Louis Porter

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

Sue Allen

- ☒ Agency of Agriculture – Chuck Ross
- ☒ Agency of Natural Resources – Deb Markowitz
- ☒ Public Service Department – Chris Recchia (**more details to follow later tonight**)

Sarah London/Carolyn Wesley

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

Susan Spaulding

- ☒ Boards and Commissions
- ☒ Department of Liquor Control

**To:** Governor Peter Shumlin  
**From:** Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development  
**Date:** January 24, 2014  
**Re:** Weekly Report

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## LEGISLATIVE ACTIVITY

- **IBM:** Deputy Secretary Leriche and Commissioner Gosselin, Liz, Jeb, and Louis all met with Don Rendel of GMP to discuss the menu of cost saving measures they have come up with for IBM. Moving forward, Lucy is working with Shap to assemble members that will help refine the proposal and carry it through the House. We are also working with Louis who is taking the lead on the senate side.
- **Wood Manufacturers Tax Credit:** Lucy spoke with Farooq Kathwari, President and CEO of Ethan Allen Furniture about the absence of the credit in this year's budget and about the fact the EA did not fully meet the statutory criteria to qualify for the credit this year. Jim Reardon informed their lobbyist, Bill Driscoll that he did not put it in the budget because it was not taken in the last couple of years. He also said that if they wanted it in, they would have to do the work, and Jim would not stand in the way. Lucy will not take the lead, but will support and work with Driscoll and the NEK delegation toward a resolution.
- **Renter Rebate:** Reps. Adam Greshin and David Sharpe presented a draft education property tax bill to the Ways and Means Committee that would eliminate the program and use the revenue to fund a rental subsidy program through ACCD. The proposal was prompted by a discussion in the committee last week about the complexity of the program for landlords, renters and the Tax Department that followed the presentation of a report on the topic by the Joint Fiscal Office.
- **Fee Bill:** Laura and Gio had some follow up testimony in House Ways and Means on the Fee Bill re: DHP for an increase in the cap for admission to State Historic Sites and an increase in the per box charge for maintaining archaeological items. Due to their star testimony, only minor follow up questions that we will have answered by the end of the week. The Ways and Means Committee hopes to approve the bill by week's end. Confirmed there are no remaining concerns with the mobile home park registration fee.
- **Track 1 Legislative Update: Growth Center Process & Incentives:**
  - GC Process draft language is coming along with minor questions on the information we sent them.
  - Incentive Package: Noelle met with small groups of stakeholders on the package (high level) to get a 'read'. By the end of the week, we will have touched base with representatives from GBIC, Realtors/Homebuilders; VT Chamber, VNRC, PTV, RPCs, RDCs and nonprofit and for profit housing developers. Also met with Rep Klein, Ellis, and Botzow to loop them in. Also touched base with Rep. Head and Sen. Snelling.
- **Workforce Development:** Lucy and Lisa testified for House Commerce. Rep. Kupersmith is working on a workforce bill. It appears as though one of her objectives will be to come up with a comprehensive state-wide system for workforce education and training.
- **Working Lands Enterprise Board:** Lucy testified on the success of working lands. Both she and Secretary Ross emphasized the Governor's leadership and support.

- **Water Shut-Offs:** The conference committee on S.41 reached agreement this week. As of this writing, it is on the House Calendar for action. Once approved, it will move to the Senate. Jen, Dale and Shaun are tracking and drafting final bill review.
- **Condemnation:** VLCT is drafting language related to municipal authority to condemn property post-disaster, which it recommend be added to S.168, a municipal housekeeping bill. The bill is expected to be taken up in the coming weeks by the Senate Government Operations Committee. Jen provided suggestions re: the language based on DHCD's experience with FEMA and the condemnation of mobile homes post-Irene.
- **Ralston-Scheuermann Bill:** The House Commerce Committee took background testimony this week in anticipation of the bill being developed by Rep. Heidi Scheuermann, R-Stowe, and Rep. Paul Ralston, D-Middlebury. Jen testified on the topic of workforce housing.
- **Franks Fix:** A drafting request has been submitted by Rep. Kesha Ram, D-Burlington, for a bill that would clarify legislative intent that limited equity homes assessments be adjusted to reflect housing subsidy covenants. Affordable housing groups are seeking the clarification in the wake of the recent Vermont Supreme Court decision, *Franks v. Town of Essex*. DHCD and the Tax Department support a clarification. The devil will be in the details.
- Lisa met with Chairman Botzow on 1/21 for weekly meeting. Chairman would like to get as much ACCD presence as possible for legislators' bus trip on 1/28 to Rutland and Bennington. Deputy Secretary Leriche will attend as will RDC chairs Jamie Stewart and Peter Odierna. Also discussed upcoming bills relating to economic development. Shared progress on CEDS. Collected background information for testimony on 1/23 on workforce development.
- **Made in Vermont:** Nancy returned to House Ways and Means on Tuesday with two business owners who are supportive of Made in Vermont. Ways and Means asked Commerce for their input and feedback, so Nancy and Tourism Commissioner Megan Smith presented the program in that committee on Wednesday. Members of both committees were concerned that the AG's office might continue to pursue regulatory action against companies enrolled in the Made in Vermont program. Members of Commerce suggested incorporating an "indemnification against punitive action" clause into our license agreement, which would serve as a written record of the AG's office's support for the program, and provide assurance to businesses that all state agencies were on the same page regarding application criteria and compliance with the Vermont Origin Rule. AAG Elliot Burg also testified for Ways and Means on Wednesday that they were fully supportive of the program, which gave committee members more confidence in supporting the program. At end of day Wednesday, Nancy heard from two sources that Ways and Means planned to support that portion of the Fee Bill.
- Megan and Steve presented the results of the summer marketing campaign in Washington, D.C. to House Appropriations. Last year House Appropriations supported the advertising campaign that utilized \$230,000 in budget adjustment funds. The presentation was well received by the committee and they were very pleased to learn of the positive outcome which we were able to share from our partnership with Orbitz. Below are some highlights of the presentation:


Bookings generated through direct marketing via [www.Orbitz.com](http://www.Orbitz.com) from June 2013 – Aug 2013

Room Nights:	15%
Number of Rooms:	13%
Overall bookings \$:	27%
Airline tix purchase:	44.80%

Year over year comparison of bookings via [www.Orbitz.com](http://www.Orbitz.com): June 2013 – Aug 2013

2012		2013	
Room Nights:	13,279	Room Nights:	15,256
Number of Rooms:	7,847	Number of Rooms:	8,840
Bookings:	\$1,688,119	Bookings:	\$2,147,127

Year over year comparison of airline ticket purchases via [www.Orbitz.com](http://www.Orbitz.com): June 2013 – Aug 2013

<b>2012:</b>	250 tix DCA>BTV
<b>2013:</b>	362 tix DCA>BTV
	<b>44.8% growth</b>

## LUCY LERICHE, DEPUTY SECRETARY

- **Turkey Event:** The Ed team rounded up around 15 attendees on short notice. Lucy Leriche, Deputy Secretary of ACCD gave a welcoming speech. Lisa Gosselin, Economic Development Commissioner also attended the event to support trade between Turkey and Vermont. The three member Turkish delegation gave presentations regarding Doing Business in Turkey, Turkey's Aerospace and Defense Industry and Medical Industry in Turkey. Vermont was their first stop in New England. The attendees found the event to be informative.

## ECONOMIC DEVELOPMENT

- A Massachusetts biotech incubator is interested in placing companies in Vermont and finding access to additional capital. The ED team and regional partners are on it.
- **CEDS:** More than 60 initiatives have been submitted to date.
- Received email from Neil Swenor who is looking to open a grocery store in Vergennes and having difficulty raising capital. The store aims to employ as many as 30 full time and focus on local meats and produce. RDC and SBDC, both working with him.
- Zutano is expanding internationally. ED team is working with them.
- **Commonwealth Dairy:** Jen talked to Pat Moulton Powden regarding a potential VCDP application for Commonwealth Dairy which is considering adding a packaging line for a new product – yogurt pouches. According to Pat, they are also considering expanding in Arizona. Told her we'd welcome such an application.
- **Companies PTAC is currently working with:**
  - All Seasons Construction - Springfield
  - Bazin Brothers' Trucking Inc. - Westminster
  - C & C Blish Installers - Springfield
  - Champlain Analytical Partners, LLC - Shelburne
  - Extreme Contracting LLC – South Burlington
  - Goldstone Architecture - Shaftsbury
  - Green Mountain Zerodraft - South Burlington
  - Gurney Brothers Construction Inc. - N. Springfield
  - Hawkeye International Ltd - North Hyde Park
  - Hayward Tyler, Inc. - Colchester
  - HB Plumbing and Heating Inc. - Springfield

- Howe Technical Marketing Services - Vergennes
- JBL Hauling - Island Pond
- JHC Fire Containment Solutions - West Wardsboro
- Laurie's Certified Construction - Colchester
- M S & K, Inc. - Shaftsbury
- Nedde Real Estate - South Burlington
- Nevtec, Ltd - Newport
- North Woods Ecological, LLC - Burlington
- Sawabini & Associates - Vergennes
- Sawyer Sprinkler Service, LLC - Milton
- Upland Construction - South Woodstock
- Vocational Rehabilitation Services of Vermont - Waterbury Center

### **Vermont Training Program**

- **IBM:** Beth Demers met with Kathy Fitzgerald at IBM to discuss some Pre Tech Math & Technical Math courses they are interested in with Vermont Technical College VTC). The Vermont Training Program currently has a grant with VTC that would allow IBM to send eligible employees to the courses at a discount. Beth connected Kathy with Maureen at VTC for assistance with the registration process.
- **Whitney Blake:** The company is looking to add new hires, cross/upgrade train existing employees, and participate in some vendor training. Beth reviewed the VTP and will assist in the development of a proposal for funding.

### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

- **Sunset Farm Mobile Home Park:** DEC has obtained an emergency order. The owner has a short period during which to address deficiencies in the water and electrical systems but it is not anticipated that he will do so as he is about to lose the park to foreclosure. At the end of the period, DEC will file a follow-up order requesting that the court appoint Shires Housing as a receiver and order that the park be closed. Shires and the Town continue to prepare a VCDP application to assist the residents.

# Lawrence:

Confidential advice to Governor

Sorry for the format, working off an iPad and no time.

CGI delivered the interim change of circumstance technology and procedure Friday. This will not provide a solution for all CoC but will take care of much of what is in front of us. It is a highly manual workaround that takes 45 minutes to an hour for each one, and we have about 800 in backlog. Over the weekend SoV staff will take the CGI procedure and develop an end-to-end business process that addresses the full scope of CoC including communication to payment processing and carriers, including training materials. They will also set up a work cell for this activity. Monday a team of 12-15 will be trained and begin work with the goal of addressing all major CoC's by the time the file for March 1 invoices is transmitted on February the 5th so that those invoices will be correct.

All SOP's and non-standard work arounds have been collected from CSR's and are under review by CGI. When they release an approved procedure to us, SoV with support from Desai will work on an end to end business process for each and then resubmit to CGI for final review and then go back out for training of the CSR's. This will significantly reduce the number of errors and data integrity issues we have.

System performance is continuing to be very good following the earlier improvements, and call times are way down, usually under 5 minutes.

A CGI and SOV team is working to resolve outstanding data integrity issues, and another is aggressively working down carrier interface errors. Unfortunately this will take a while and we will continue to have frustrated customers for a few more weeks.

Our general near term goal is to get things cleaned so that we can do the next round of individuals from Catamount, VHAP, and sole proprietors with less chaos.

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Lawrence Miller, Secretary  
VT Agency of Commerce and Community Development  
(802) 989-0569

## Memorandum

To: Governor Peter Shumlin

From: Annie Noonan, Commissioner VDOL

Weekly Report: Weeks ending January 17 and 24, 2014

**Unemployment and Wage Division:** For the week ending 01/18/14 we took 3,409 calls. This is a decrease of 534 calls from the prior week. We paid 7,454 claimants during the week compared to 7,811 for the prior week. We processed 6 Mass claims for the week; all from the granite sheds which close down for several weeks during this time of year. We conducted a Trade Adjustment / Rapid Response at the Sheraton in Burlington for employees of IBM and Huber and Suhner. We are processing a lot of requests for UITF "change scenarios" from legislators and JFO. We referred an email from Good Point Recycling to ACCD, as the company was looking for financial help to stay open – 30 possible layoffs. We also called Burton's HR manager to track down a layoff rumor which turned out to be 4 employees to date.

**WC & Safety:** Steve Monahan contacted DLC Commissioner Mike Hogan to advise that VOSHA would be issuing citations and penalties based on violations found in response to an employee-filed safety and health complaint. The violations relate to fork lift issues, tripping hazards, with potential penalty of \$6K. DLC will meet with VDOL to resolve the matter informally. Possible chemical leak at Hannaford's in Middlebury, WCAX reporting that 3 employees transported to hospital – VOSHA will investigate. We issued a detailed Order to Magic Mountain requiring twice daily lift inspections and other specifically defined activities. They agreed to comply with the order and have been doing so.

**LMI:** Press release on UI Rate is coming out on Tuesday. Sue Allen has the draft. We need to Vermont OES came in at #1 in nationally for Dec 2013. Mat Barewicz gave Tom Kavet and JFO data for their Minimum Wage study. LMI's analysis of wood tax credits for this year show no counties qualified for the credit due to insufficient levels of employment in the wood products industries. VDOL issued letter of support to UVM for STEM related grant. LMI lead a very successful national webinar on VT's summer internship program, and presenting at 2 Springfield high schools next Tuesday. Press inquiry to Mat and Morgan Sailer-Carlisle, VDOL RM in Springfield/Brattleboro about employment in Springfield. The UI Trust Fund annual report is due 1/31/14.

## Legislative Review:

**S.155** Workforce Development: VDOL is providing significant staff time to inquiries and meetings. Report due next week.

**UITF:** Report due 1/31/14. Several proposed amendments to UI – veterans 'trailing spouse' (Rep Grad); elimination of one week waiting period and changing disregarded earnings (Rep Sharpe); School Bus Drivers and Newspaper Carriers (from prior years);

## Study Reports Presentation:

### Paid Family & Medical Leave:

VDOL General Counsel, Dirk Anderson gave testimony in Senate Economic Development and in House General on Wednesday, regarding the Paid Family Leave Study. He was not asked by either Committee whether the Administration concurs in the report's conclusions. In the Senate, Senator Cummings said she would consider amending S.36 in light of the committee report. Sen. Mullin was skeptical that this should be a State program, rather than contracted for with a private insurer. In the House, Rep. Krowinski introduced H.652, which incorporated most of the report's conclusions.

**Prevailing Wage:** I reported to House General the study committee's report on Prevailing Wage. At the conclusion, Rep Head asked me for the Administration's position. I replied that the \$0 dollar threshold on the Capital Construction funded projects and using the federal PW (under Davis Bacon, but not the paperwork requirements) was supported by the Administration.

**Social Network Privacy:** (S.7): I reported to House General the study committee's report on Social Network privacy. There was no consensus from the study group except that Vermont might consider adopting some



restrictions, but no consensus on 'carve outs'. The group agreed that VSP's current practice of 'shoulder surfing' needs a written protocol.

H.577: House Commerce: Amends Passenger Tramway language to permit the Commissioner to accept a payment plan for the fee-due-state, and raising the penalties for operating without inspection, non-payment of fee-due-state, or violating a cease-operations order. Parker Riehle indicated support for the bill by the Vermont Ski Areas Association. The Committee voted the bill out 10-0-1 on Tuesday afternoon (Rep Cross was absent).

S.268: Senate Economic Development, Prohibits non-compete employment contracts if seeking work within a specific geographical region. Dirk Anderson attended this morning to see if the proposed enforcement would come to VDOL. No one came to testify. Sen. Mullin asked Dirk to generally explain non-compete clauses and their enforceability. Dirk advised the committee that VDOL and the Administration have no position on the bill.

Fee Bill: House Ways and Means: Passenger Tramway – (language drops the current \$25/hr. cap on payment of experts). Committee is not opposed but Rep Branigan to talk with Rep Botzow to see if it could be added to H.577.

House Ways and Means: VDOL's Worker's Comp fee (committee indicated approval), and was more focused on the WC computer project. Steve Monahan, VDOL's WC Director provided updates. The committee wants to see the RFP once issued.

S.220: Senate Econ Development: Committee did walk through with Leg Council. VDOL's interests are the sections on independent contractor and registration. The bill strips the underlying statutory definitions, which would not be acceptable to labor. The compromise reached in 2012 on H.762 was based upon business and labor agreement not to change the basic definition. Since W.C. and UI are under the Sen. Finance Committee jurisdiction, not sure how much this will be discussed.

S.262: Senate Econ Development: UI info and child support: Senator Flory's bill. VDOL reviewed the bill and had to provide Leg Council with language that would satisfy the USDOL in regards to release of wage data.

S.213: Employee Use of Leave Benefits: Senate Econ Development: The committee originally seemed very interested in pursuing the bill; but seemed less interested this week. I was asked to explain what was or was not legal under the practice.

H.652: Paid Sick Leave: VDOL participating in the review of the bill, particularly since we are written into it as the administrator and enforcer.

VDOL has been participating in several requests from JFO (and/or legislators):

\*Coordinating VDOL's Wage Records with Sara Teachout of JFO in response to an analysis of the use of Vermont's social service programs by employees of large retailers and food service employers. This was requested by Senator Ashe and Rep. Cross. VDOL required an MOU with the other state agencies in order to ensure we do not run afoul with USDOL.

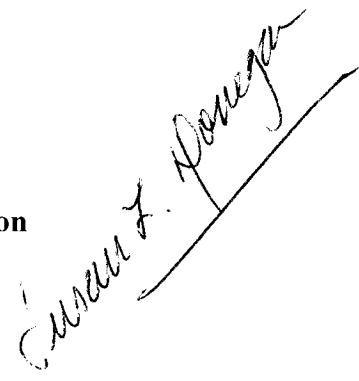
NEK – EB-5: VDOL presented to Senate Economic Development about our work group's activities.

**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: January 24, 2014**  
**Re: Weekly Report**



### Legislative Issues:

Commissioner Susan L. Donegan and the DFR deputies have been busy this week with legislative issues.

H.198, the Legacy Insurance Management Act (LIMA) is currently being discussed in the Senate Appropriations Committee and the Senate Government Operations Committee and it looks favorable that it will pass and be sent to the Senate floor for debate next Tuesday.

In other issues regarding insurance, H.260, the Electronic Notice bill is currently being deliberated in the House Commerce Committee. It proposes allowing policyholders the choice to "opt in" to receiving electronic notifications from insurance companies. DFR and the industry support this bill. The Commissioner testified Thursday providing a "walk through" of the Credit for Reinsurance portion of this bill (formerly H.203). It is important because it adds competition to the reinsurance market allowing Vermont insurers greater choice in the numbers of reinsurers writing risk. It also is good for Vermont consumers because by stabilizing and reducing insurance costs, Vermont insurers can pass on savings to Vermont policyholders. Adoption of these amendments to our current reinsurance law is part of a larger effort, both nationally and internationally, that intends to modernize reinsurance regulation in the United States.

Also this week, the Commissioner met with Rep. Paul Ralston (D-Middlebury) and Rep. Heidi Scheuermann (R-Stowe) to discuss Rep. Ralston's "Omnibus Economic" bill, which he intends to introduce. Several parts of the proposal could impact DFR's Banking and Securities licensed lenders having access to capital for Vermont companies. The changes to the Vermont Small Business Offering Exemption (VSBOE) were also discussed and are greatly supported by both representatives. They suggested DFR take part in a study regarding Vermont's ongoing capital investments needs and the Commissioner agreed.





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## CONFIDENTIAL AND PRIVILEGED

# MEMORANDUM

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: January 24, 2014

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I apologize—I am getting a little long with these memos. It has been a busy week.

### Legislative Issues/Contacts:

Tuesday the State Board of Education (SBE) and the House and Senate Education Committees met to discuss the Board's legislative priorities. The SBE's Legislative Committee affirmed they see governance and consolidation and privatization of public schools as key issues, which was echoed by the House and Senate Education Committees. See below for more details regarding this week's SBE meeting.

I continued my introductions with several key committees, including House Ways and Means, Senate Appropriations and Senate Finance. Topics of intense interest were privatization, governance and strategies for getting a handle on ROI: what we get in education for the dollars we spend. Some highlights related to governance: we have 30% turnover in principals every year and also persistent issues around turnover and recruitment at the superintendent level. I asked them what they would think about a business that had 30% turnover in managers every year, and suggested that part of this conversation also relates to governance. When asked what we thought was the solution, I said that was rightfully for the legislature to provide, but that we would be happy to provide research related to the potential consequences—intended and unintended—once put before us for review.

I also jointly presented the work of the Hazing, Harassment and Bullying Prevention Council to a joint meeting with the House and Senate Education Committees. I shared two documents: a summary of the activities of the Hazing, Harassment and Bullying Advisory Council over the past year and a short summary of key findings from the

Listening Tour. In addition, I gave a brief review of my vision of the important connections between the work of the Advisory Council and the work of the AOE and how we might be mutually supportive of each other.

Additionally, my staff testified on several topics, including Common Core, governance, FY14 Budget Adjustment, student-to-staff class size ratios, and student athlete concussions. Next week we expect to testify in House Education regarding schools' technology infrastructure and readiness to implement online testing, as well as continue the discussion on governance and school mergers, both topics requested by them. We anticipate Senate Education to continue to discuss S.91 and the related topics of special education access for students at independent schools. They made noise but are likely to support us.

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

#### ***State Board of Education***

The SBE met on Tuesday, January 21. The day began with an early morning discussion with members of the House and Senate Education Committees. The tone was congenial; if anything, there seems to be a very collaborative tone and close alignment of priorities between the House Education Committee, the Senate Education Committee and the SBE.

Later, with Chris Case and Debi Price of the AOE, I facilitated a work session for the Board on an initial proposal for a new accountability model. I began by stating that you had asked me to explore whether there was a better way than test scores to understand the outcomes of our students as well as the breadth and depth of opportunities we provide for the dollars we spend. Broad brush strokes of the model are in the attached Power Point. Key points to focus on are:

1. it is an inspection model,
2. it addresses a much broader range of learning goals than we currently address through standardized testing, including 21st century innovation skills,
3. it relies on multiple indicators of student learning mediated by professional judgment,
4. incorporation of performance assessments enables a focus on proficiency as well as flexibility in how students demonstrate it,
5. its purpose is less to rate than to provide focused, specific feedback teachers and schools can use to improve,
6. use of parent and student surveys adds public voice to the improvement process,



7. it incentivizes schools to consider the breadth and depth of opportunities to learn that they provide,
8. it builds heavily on work already in place and being piloted in the state, and
9. it reduces our reliance on high stakes tests as the sole measure of school quality.

At the conclusion of the discussion the Board approved the following resolution, setting the ground work for continued discussion on work and communications plans at the February meeting:

*The State Board of Education endorses the philosophy and direction, as outlined by Secretary Holcombe, for a broader and more comprehensive assessment and accountability system. The Board views this as a priority and wishes this direction to be communicated with urgency to the Agency, the Vermont education community and the citizenry.*

Next steps for the accountability model:

- Refine a work plan and communications plan.
- Cross walk to all ESEA/SIG guidelines to explore opportunities for flexibility.
- Push CCSSO to incorporate sessions for non-waiver states to connect and seek common ground.

The Board also adopted a resolution honoring Armando Vilaseca's contribution to Vermont's education system, community and, in particular, its students. I am grateful for the work both he and our Agency staff have done that has formed the basis for our initiatives moving forward.

### **Vermont Superintendents Association**

On Thursday, I spoke before the assembled members of the VSA and addressed two topics. First, I commented that I had just dropped into a heated conversation around governance, and I was interested in hearing their candid, confidential thoughts. In the group, three themes came out:

1. The complexity of the governance system is contributing to challenges around superintendent quality and continuity in this position; in particular, answering to multiple boards/masters is time consuming and impedes progress, especially given turnover on boards. We don't track the cost of turnover, but they feel it is substantial.
2. Complexity of the system in many cases makes it extremely difficult to provide coherence and lead systematic improvement of learning (the herding cats problem again).



3. They don't think districts are going to be able to figure this out by themselves. They think they will need external action (e.g. from the legislature).

The Superintendents know we need governance reform. They are unlikely to say this publicly, given their relationships with their boards.

I also test ballooned the proposed accountability model before the VSA as well. The feedback was positive.

### **Evolving Issues:**

#### **General Counsel**

Greg Glennon has accepted the position of General Counsel and will officially start with the Agency on February 10, 2014. We are quite excited about Greg's arrival and are equally pleased that Bill Reedy has agreed to provide some mentoring to Greg during this transition period. It was a relief to have him in an interview for a new contracts manager, and to see in action the breadth of knowledge and professional attention to process he brings to the table. Bill Reedy is also willing to assist us on an emergency-only basis during the week that we will be without any full-time attorney-level legal support. We hope Greg will be able to support us on a limited part-time basis as well, before he joins the Agency full time. Additionally, we are working hard to fill the much needed vacancies in our legal division. We are close to making an offer on the position of Education Contracts & Information Management Officer.

#### **Independent Schools**

Two issues here:

##### **1) Approval of New Independent Schools**

It looks like efforts in Shaftsbury to pull their children out of North Bennington are picking up momentum. If this happens, North Bennington would lose about 20 children, which potentially threatens the quality and sustainability of the school. This came up in discussion with Sean-Marie Oller in the context of a discussion about the AOE rules for school approval. To summarize: there are a number of rules around private school approval, and the AOE did not follow those rules. The review of North Bennington was very weak, and did not challenge North Bennington to, among other topics, present any kind of economic risk analysis. Leaving aside the politics, I will feel very bad if the lack of a rigorous review ultimately contributes in any way to a





disruption of learning for children. I immediately met with the Division Director who supervises those responsible for the reviews and asked her to:

- a) review processes from other states, including MA, to assess the rigor of our reviews relative to reviews in other states,
- b) revise our process so that it is robust and consistent with the reviews, and
- c) add compliances with rules and processes to the performance goals of the staff involved and monitor that work more closely.

I am also working with Bill Talbott to identify someone in the business arena who can support these reviews.

This is important because apparently there is now talk in Westford of doing what North Bennington did. My sense, based on what we are hearing, is this reflects growing interest in privatization as a way to evade public school accountability models and redistribution through the Education Fund.

FTI In terms of impact, we want you to have advance notice that the next school to pursue this option will face a much more rigorous review, not for political reasons, but because, quite frankly, our review process was inadequate and out of compliance.

## 2) Public Mission for Public Dollars vs. Private Mission for Public Dollars

The legislature is very engaged with the issue of privatization. My sense is that the legislature will move to distinguish between the historical academies and what we are calling nominally private schools. At their founding, the historical academies were called "public schools with different governance" and later "quasi-public schools". Consistently, they have been private schools with a public purpose, in that they operate under private governance, but have embraced a public mission that includes educating children with disabilities and low income children, and providing them with the support they need to thrive.

These historical academies are different from what I will call nominally private schools, or schools that have embraced public dollars but not the commitment to serve the public. This category includes schools like the Sharon Academy, which:

- a) relies on public dollars for 88% of its tuition revenues,
- b) fundraises heavily (\$200,000-230,000 outside of the Education Fund) and
- c) actively discourages enrollment by students with disabilities on its website by stating incorrectly that parents of students with disabilities are responsible for setting up and paying for services.



Sharon Academy has antagonized a lot of legislators by touting its test scores as a means for attracting students away from other public high schools, when of course those comparisons are meaningless given the issue of selection bias.

Based on what I am hearing, the legislature will move to distinguish between these kinds of schools and the historical academies, and will require schools that embrace public dollars to also embrace a commitment to their role in providing a public good: education for all.

### **Education Funding**

Our role here is to guide and pose questions, but leave decisions with the legislature. The tack I have been taking when asked in places like House Ways and Means and Senate Finance is to point out that schools have two contradictory purposes: creating equity of opportunity and helping individuals get ahead. This contradiction underlies just about every question related to schooling, including decisions about the finance formula, and it is not reconcilable. Basically, there is no “right” answer, only a clarification of values and commitments: e.g. how much do we believe in equity, how much are we willing to pay for it, and how do we pay for it?

Our focus at the AOE has to be a little different. Given that there is an efficiency cost to equity, we need to determine how to minimize that cost, primarily by ensuring the money we spend is spent as effectively as possible. My guess is that high taxes are more tolerable when tax payers are confident that they are getting the desired outcomes. We currently cannot provide assurance with respect to that, because:

1. we don't have an accountability model that captures the data we need to make that judgment,
2. the complexity of our governance model means our data defies simple analysis, and
3. because the AOE is structured and staffed to provide federal monitoring reports, not analysis that can further a state agenda.

In terms of equity, we can and should point out that under Acts 60 and 68, we have considerably narrowed the variability across districts in terms of what we spend. However, we have not sufficiently narrowed the variability we see in terms of outcomes and opportunities to learn. Some of the variability in results and opportunities is driven by demographics, geography and governance. It is difficult to disentangle this variability from variability in the internal effectiveness of schools. This is the next level of our work.





## **Governance**

Above I mentioned several challenges posed by the complexity of the governance structure. We have been seeding this in our public comment. We have been asked for the “solution.” I propose we say that we would be happy to help evaluate the consequences—intended and unintended, positive and negative—of proposed solutions, but feel it is the prerogative of elected bodies to make decisions around governance.

## **Licensing Move to Secretary of State Office:**

I already sent you this update. If you want me to send it again, I will, but don't want to overload you with duplication. The key point to emphasize is that currently, licensure is our only lever on teacher quality, however effective or ineffective it is as a lever. If we relinquish licensing we need to substantially step up oversight and influence on teacher quality through a more robust accountability model. For context, in a meeting of the Teacher Quality Task Force, when Martha Allen presented her ideas about simplifying licensure, another member commented that then teacher evaluation would have to play a much stronger role in ensuring teacher quality. Martha's response was that evaluation would absolutely not play a more robust role. If teacher evaluation doesn't matter, what is teacher quality and how do we get it? And, how do we meet the accountability requirements of the Federal Government?

## **Barre Move:**

BGS has announced that our Agency staff will move to our new space in Barre over two consecutive weekends, March 8 and March 15.

## **Budgets:**

In contacts with Superintendents and School Board representatives, we can anticipate some anger/pushback around the call for school boards to closely scrutinize their budgets. We can acknowledge that we understand individual circumstances may justify increases, but ask boards to carefully weigh the benefits of any additional expenditure.

We can also acknowledge that there is a lot of confusion out there about what seems to be a break between district spending decisions and taxes.

However, there are several other points that might be worth considering. The primary driver of education costs is compensation. Local boards or SU boards decide compensation rates and the number of people to employ. It's true that the state and the



federal government have introduced requirements that added costs, but the total amount is not huge comparatively.

A point the governor might consider making, which also would build support for an alternative accountability model, is that when the federal government adds administrative and reporting requirements, its impact is greatest on states with many small administrative units. The obligations fall on districts and schools. In Vermont we have many units, and many of these units have very few students over which they can spread the burden. The decline in enrollment compounds the effect. Governing choices affect administrative costs.

Several boards are pushing back on the governor's request to be frugal by claiming that they held budgets largely flat in FY 09 – 12, as evidence of their austerity. It is worth noting that during that period, unionized state employees took 3% pay cuts and employees "serving at the pleasure of" took 5% cuts. The State cut staffing to the bone through a process of early retirement, attrition and RIFs. There is no comparable level of sacrifice through most school districts, including several with very substantial declines in enrollments.

Several times in the past two weeks our people have heard the decline in General Fund transfer to the Education Fund referred to as a source of the problem and a breach of faith. The Governor's office might want to look at figures on the increase in General Fund contributions to the Teachers' Retirement System, which have grown rapidly. The contribution is a blank check to districts because they are insulated from retirement costs of increased compensation they negotiate. To get an accurate comparison of what the state is doing for education from the General Fund, we'd need to include the contribution to the Teachers' Retirement System.

Rebecca

ask  
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need data



**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Jan 24, 2014**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

n/a

**Legislative Issues/Contacts:**

Testified in Hse Comm Housing, Gen & Mil Affairs about two bills that affect lottery – 1. H575 restricting private enterprises holding 1<sup>st</sup> and/or 3<sup>rd</sup> class liquor licenses from becoming lottery agents. We do not support this bill because it restricts lottery agency for private businesses, and still allows fraternal orgs with liquor lics to become lottery agents, and still allows any entity with liquor lics to sell break open but not lottery. H631 requests lottery to pay bonus commission on winning tickets even when the prize has not been claimed. Currently instant game unclaimed prizes and the bonus comm. become lottery profits and go to education fund. We are calculating for the comm. what the total has been over the past two years. We are not in favor of this because of the required access to instant game winning ticket files that we try to never access unless truly extraordinary circumstances require it – significant game security measures.

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

I think that H631 is the bill about unclaimed prize money. I was expecting something entirely different based on call from leg counsel, so my concerns listed here last week are currently retracted.

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**Summary of Key Agency Department Activity:**

Key work on our websites and gaming system lately and for the next 2-4 weeks. We will be submitting more contracts for lottery vendors that offer licensed properties to use as part of our instant ticket program. We are planning multi-year, multi-property approaches so that a contract does not need to be done for each game we choose. We will also get discounts based on multiple uses that are not available on single use contracts.

**Executive Director's Commentary:**

We submitted our budget packet to approps comms today. Main focus is to maintain marketing funding at last year level and get approval for \$100K for new website. We are meeting with DII and Chief Mkt Officer to start the process.

OFFICE OF THE SECRETARY

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**Executive Privilege**

**TO:** Governor Peter Shumlin

**FROM:** Deputy Secretary Sue Minter

**DATE:** Friday, January 24, 2014

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

**NOTES FOR GOVERNOR**

**Legislative Update**

**Federal Funding:** Congressman Welch visited Senate Trans. this week to discuss the pending federal fiscal cliff. This was a follow up to our testimony with them 2 weeks ago, and it was very useful to raise our concern with Welch (and in the media). Brian also spent additional time with Welch who is now well-versed in the pressure to address the Federal Highway Trust Fund insolvency before this spring when we may have to consider delaying projects.

**TMDL Education:** Commissioner Mears has now presented in both House and Senate Transportation on the “big picture” of the TMDL and how the EPA process involves state and local roads. We will continue to educate on the role VTrans now plays in technical assistance and training (as well as grants) for towns regarding “best management practices”. This role will need to increase to satisfy EPA and is part of our justification for converting some of our limited service positions to permanent.

**Rutland Issues:** Our budget included 2 Rutland projects that had unanticipated slippage and we have worked to better explain our challenges to concerned House and Senate members (as well as public). In Rutland City, where 2 bridges were negatively impacted due to a right-of-way problem (and we received negative publicity in the paper), we have begun working closely with the City (I'm in regular conversation with Mayor Louras) to resolve so as not to delay both bridges. Sen. Flory has been helpful in working with us to speak with the Rutland delegation about the challenges to Route 7 (Pittsford – Brandon). You will be visiting Rutland Chamber soon, and we will prepare talking points so that you are updated on these issues, as well as the investments in rail and aviation (and economic development) for Rutland. We have made it clear the setbacks in project schedule should not be seen as a reduction in this Administration's commitment to Rutland.

for your visit!

Louras called me and was OK

**Legislative Tour to Rutland and Bennington:** On Tuesday (1/28) the House Commerce and Transportation Committees are touring to Rutland and Bennington where they will see transportation and economic development projects and host public hearings in both places. (This follows a similar tour of Newport last year) We are supporting their visit with bus and staff. Expect media publicity.

**Vilas Bridge:** The economic development director from Bellows Falls testified in New Hampshire legislature this week on the Vilas bridge. Expecting a hostile reception, he was surprised to find this committee supportive of our offer to build the bridge and be repaid by NH payments to future shared-bridge investments. The NH Legislative Committee expressed their desire to "get the DOT Commissioners together to reach an agreement this Legislative Session." We await the NH DOT's call...

**White House Climate Preparedness Task Force Prep:** We are working to support your appointment to the White House Task Force, participating in 2 Sub Committees: 1) **Disaster Recovery & Resilience Subgroup** (which I am co-chairing on your behalf, with Mayor Karen Weitkunat, of Fort Collins, CO). The first conference call of this group has been scheduled for next week; 2) **Built Systems: Transportation, Water, Energy, and Facilities Infrastructure**. I am attending a meeting of this Sub-Committee in early February in California with Sarah McKearnan (ANR). We are also initiating a brain storming session with key state and Congressional staff who worked together post-Irene, to ensure we have good ideas and communication at the state and federal levels on these issues.

**Rail/ MMA:** Staff attended the MMA auction on January 21, 2014 in Portland, ME. There were multiple bidders and the winning bid was Fortress Investment Group which used to own Rail America before they sold to G&W last year. This new owner appears on the surface to be a good option for the State of Vermont as it connects to the Washington County Railroad. We are hopeful they will operate the line in good faith and work well with the existing connecting operators. The US and Canadian Courts still have to approve of the sale but there does not seem to be anything that would indicate that there would be any problems.

**VTrans Employee Awards:** We are quite pleased to announce that 2 of our (female!) bridge engineers have received special recognitions from the four engineering Societies of Vermont: Carolyn Carlson was elected "engineer of the year, and Jennifer Fitch was elected the "Young Engineer of the Year". You will be recognizing them at an awards banquet on Feb. 21<sup>st</sup>.

#### **Highway Safety Stats:**

**2014 Fatalities: 4 Total** – 2 vehicle operators, 1 passenger and 1 pedestrian.

#### **NOTES FOR STAFF**

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** January 24, 2014

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**Vermont Department of Health (VDH)**

Both Commissioner Chen and Deputy Commissioner Barbara Cimaglio spent considerable time before legislative committees on issues related to the opioid program.

**Department of Mental Health (DMH)**

Contracts for Berlin facility:

- Fletcher Allen Health Care (FAHC) – Contract for psychiatric care – There are minor issues which are still being addressed.
- Central Vermont Medical Center (CVMC) – Contract for medical needs – Contract is currently being prepared.
- Copley Hospital – Contract for pharmacy – Contract is in the process.
- Out-of-state hospital placements are on hold while the DMH pursues further background checks of private institutions.

Legislative Issues/Contacts:

- Commissioner Dupre and I testified at a joint committee hearing (Senate Judiciary and Health and Welfare) in support of S.287, the “Timely Treatment” bill. Committees are gathering information from the courts and providers. A public hearing has been scheduled for next Thursday (January 30<sup>th</sup>) from 5:00 PM -7:00 PM.
- Commissioner Dupre testified at House Human Services on Thursday, with DHR Commissioner Kate Duffy, and Green Mountain Psychiatric Care Center (GMPCC) CEO Jeff Rothenberg, concerning staffing related issues for the new Vermont Psychiatric Care Hospital (VPCH).

- I give Commissioner Dupre high marks for being steady and strong in his testimony. His experience and professionalism are respected by legislators.

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

House Judiciary hears testimony on bill to commit persons with traumatic brain injury, who were found incompetent, to the custody of the Commissioner of DMH:

Commissioner Wehry, along with DMH Commissioner Dupre and Medical Director Jay Batra, testified last Friday that H.555 was premature at best and would lead to further pressures on an already overburdened mental health system. Advocates for victims of crimes perpetrated by persons with mental illness complained to the press that we were “passing the buck” but most committee members appeared to appreciate the need to look more closely at the problem before concluding custody was the appropriate response.

Senate Appropriations receptive to Choices for Care reinvestment plan during BAA testimony:

Commissioner Wehry testified before Senate Appropriations last Friday and received a favorable reception to the Department’s recommendation to invest roughly \$4M over 18 months to deal with gaps in care for persons with moderate needs, and to reserve \$2M for the high needs group.

Sisters of Mercy convent under scrutiny by DAILs Division of Licensing and Protection (DLP):

Following up on a complaint by a former employee alleging neglect of nuns in the infirmary wing, the Survey and Certification Unit has advised the religious community’s leadership that they need to apply for a license to become a residential care facility, or move the aging sisters to a new location. The unit based their decision solely on the presence of more than two nuns on the wing. There was no finding of neglect and the sisters, whose average age is in the 90s and who have lived at St. Mary’s for over 50 years, were in fact found to be well-cared for (one nurse was referred to Office of Professional Regulation for a medication error). Commissioner Wehry has asked DAIL’s general counsel to revisit this finding and to identify what, if any, common sense alternatives might be explored. The Sisters of Mercy assert that previous administrations have recognized that this is the Sisters’ home and does not need to be licensed. Citing a serious risk of transfer trauma to the sisters in the infirmary, Commissioner Wehry has delayed the action initially proposed by the Survey and Certification unit and has commenced further investigation.

DAIL continues to receive criticism for rescission decision:

Commissioner Wehry received a letter this week from the Developmental Services State Program Standing Committee (SPSC) criticizing her testimony before House Appropriations during BAA testimony. The Committee objected to the Commissioner’s characterization that there was no evidence that the kind of reduction in services that were made would likely produce real harm to health or safety. Although the Commissioner expressed concern that over 300 individuals (out of 2,765 individuals receiving services) did receive some reduction and pledged to monitor the situation closely, the letter felt the testimony downplayed the erosion in the system. While acknowledging the over \$8M in new caseload in the Governor’s SFY15 budget, the advocates’ new messaging seems to be focused on “\$14M in cuts”.

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

CCA Kentucky:

As previously reported, the DOC has been working with CCA regarding recent violence in the Kentucky facility. The DOC has experienced three fights in the last six months. Although not high, it does represent an anomaly for the Kentucky facility. CCA has recently limited



movement to try and understand what/who is causing this violence. During testimony this week at House Corrections and Institutions, this issue was discussed. As a result, the media has featured this story.

#### Facilities Conditions Analysis:

In H.533, the Legislature appropriated funds to the Department of Buildings and General Services (BGS) to study the condition of the correctional facilities. Throughout the fall, BGS contractor EMG Corporation conducted an analysis of every facility. The DOC is preparing a report now to go back to the Legislature which shows in excess of \$10 million dollars in immediate capital needs and an additional \$10 million dollars of needs over the next year or two. The DOC is working with BGS to devise a strategy to fund those improvements. This report will drive testimony in the Institutions Committees. This report will also highlight the need for an industry building in Springfield, additional needs for the aging population housed in Springfield, and the need for improved medical units at both the Rutland and St. Johnsbury facilities.

#### General Counsel:

Within the next week, the DOC will announce that it has hired AAG Kurt Kuehl as the new DOC General Counsel. Kurt was formerly the GC assigned to the DOC but was promoted within the AGO a few years ago. Kurt has a wealth of DOC knowledge as well as personnel experience. This personnel experience will prove useful as the AHS/DOC start up the AHS Investigations Unit and begin to work through the backlog of DOC personnel cases.

#### Population:

The department's incarcerated population averaged 2,119 for the previous week. The male population averaged 1,967 with 375 being presentenced inmates. The female population averaged 151 with 45 being presentenced inmates.

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

##### Loss of Seasoned Staff in the Health Care Eligibility Unit:

The implementation of Vermont Health Connect created some extreme challenges for the workforce in the Health Access Eligibility Unit (HAEU). The combination of the need to work overtime to process applications, to answer the large volume of incoming calls from upset and confused Vermonters, and the significant number of workarounds has increased stress leading to very low morale in the unit. Since September 2013 the unit has lost 17 fully trained Benefits Program Staff and is poised to lose more in the coming weeks to employment opportunities in other areas of state government and the private sector. The loss of staff is magnifying the stress on the remaining employees as few have the enhanced knowledge of Health Care Programs, are available to process the work or answer questions. In addition, supervisory staff are being taken away from supporting remaining personnel to recruit for and fill the vacancies.

##### Community Action Agency Places Executive Director on Administrative Leave:

As documented in the January 16<sup>th</sup> 2014 Governor's Report, the Office of Economic Opportunity (OEO) received a complaint from a program manager at the Southwestern community action agency (BROC) outlining four instances in which family members of the Executive Director were hired, and included other allegations of wrongful personnel practices. On January 17<sup>th</sup>, the BROC board placed the Executive Director on administrative leave after the board president was notified that the Executive Director was going through offices of program managers looking for



files. The Board has hired an attorney, Ellen Fallon of Lanrock Sperry and Wool, to assist them in this process, and with the investigation. The Rutland Herald has already made an inquiry to OEO. All media inquiries should be referred back to the BROOC Board where the authority for this action resides. OEO will continue to work with the BROOC Board as they look into these complaints to ensure that the Board, as the defined authority for the agency, can demonstrate hiring practices, policies and procedures are being followed, and that if there is a breach in hiring practices, the Board can outline and implement a satisfactory corrective action.

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

#### **VHC Call center:**

- The addition of new staffing at Maximus has significantly reduced consumer call wait time. Average daily wait time fell below 5 minutes at the end of last week after being closer to 18 minutes in previous weeks.
- Additional staff members are being trained at the overflow capacity call center in Chicago with the expectation of being ready to take calls sometime next week.

#### **Licensed Alcohol and Drug Counselors (LADC) Project:**

DVHA is implementing a project focusing on opening the network to LADCs in private practice and will expand the substance abuse provider network to clinicians who are LADCs and licensed mental health clinician's (such as LCMHC, LCSW, Licensed Psychologists, etc.) in Addison, Rutland and Bennington counties.

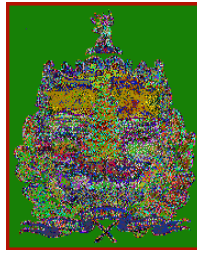
Initially the project will focus on individuals with a diagnosis of alcohol dependence/abuse so that the outcome data will be valid and not impacted by the Hub system of care. Under the project, substance abuse clinicians will be reimbursed in a pay for performance model rather than the current fee-for-service model, which aligns with the payment reform being implemented through the State Innovation Model (SIM) grant. The Project will have two interventions: one to the Primary Care Physicians (PCPs) in the three identified counties, and one focusing on the substance abuse/mental health clinicians.

#### **Primary Care provider rates:**

- DVHA is beginning to receive complaints about provider rates for primary care doctors. These rates were adjusted as part of DVHA's yearly update to rates for professional services.
- These rates were negatively impacted by changes to Medicare's payment system upon which DVHA's payment system is based.
- These changes will be further compounded by the proposal in the FY15 budget not to backfill the primary care rate increase provided for by the Affordable Care Act that is set to expire at the end of 2014.



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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** January 24, 2014

**Secretary's Top Issues**

**Grand Isle Slaughter Facility** – Individuals working on re-opening the Grand Isle Slaughter plant have been in contact and are working on a property transaction closing date by March. This plant will also be working under state inspection for red meat slaughter and processing.

**Raw Milk** – Dr. Haas, State Veterinarian, spoke with Kathryn Flagg of Seven Days regarding the Agency's raw milk compliance/regulatory obligations. She will also be talking with the Department of Health regarding the Vermont foodborne illness outbreaks that have been linked to raw milk consumption, one of which involved a class of 5<sup>th</sup> graders.

**Randy Quenneville, Meat Inspection Program Chief** – participated in a radio interview with Carl Etiner of WGDR concerning on-farm slaughter rules and the enforcement action for Graham Unangust-Rufenacht in connection with Act 83 and Section 3311(a) of 6 VSA chapter 204

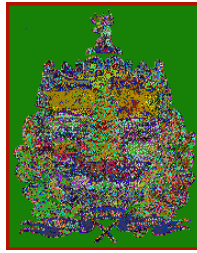
**Farm Bill** – Deputy Secretary for Dairy Policy Diane Bothfeld took part in numerous conference calls with Senator Leahy's staff and representatives of Vermont Dairy Co-ops to discuss changes to the dairy title of the Farm Bill. The federal conference committee has proposed a compromise for the dairy title – this change may provide an adequate safety net for dairy farmers but will not slow the growth of milk production nationally in times of over production of milk. Several proposals for Senator Leahy were discussed and a push for funding for education of farmers on the changes in dairy was a proposal that all supported.

**Farm to School Awareness Day celebration at statehouse on January 16** – FTS Awareness Day had a wonderful turn out with students presenting projects from last year's grant awards. Sixteen kids from 4 schools spoke in front of the group. 8 schools set up a table display, some with samples. The room was packed with legislative representatives, parents, and students. 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 Elementary School : \$10,000, Chittenden Central Supervisory Union: \$20,000

**Vermont Farm Show** – VT Farm Show begins on January 28 in Essex Junction, VT. Agency will have multiple exhibits, staff will attend several annual banquets and meetings and staff will lead multiple workshops. In conjunction with Farm to Plate, Cabot, Ben & Jerry's, Stonyfield and the VT Sustainable Food Lab – the agency will roll out a rewrite of the Farm Energy Handbook. Congressman Welch will attend the Dairy Update Seminar on Thursday morning as well as the Dairy Farmer Banquet on Thursday.

**VT Grazing Conference** – Agency staff participated in the Vermont Grazing Conference at Lake Morey Resort in Fairlee on January 17-18. 200 producers and processors from across the state were in attendance, attending sessions on animal handling, pasture management, financial management, and marketing. Agricultural Policy Administrator Chelsea Bardot Lewis listened in on a Rural Vermont roundtable discussion on the new on-farm slaughter law, assuring attendees that the administration wants this law to work for small producers.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: January 24, 2014

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

**1/16/14 Workforce Development Work Group-House Committee on Commerce & Economic**

**Development- Louise Waterman** - Heard testimony from orgs with internship programs

Heard from:

- Matt Myers – UVM- talked about new internship program and about building a VT Intern Professional network
- VT Business for Social Responsibility - Mg the VT Intern Program
- DOL – Annie Noonan – Annie talked about \$ allocated to supporting internship programs

Restrictions on what types of work students can do is set by the feds. Worker Comp only is paid by employer if it's a paid internship – worker comp and liability covered by DOL if it's an unpaid student internship program

- Apprentices and on the job training in gov address
- The chair did ask for a comment from me:

Said internships – both paid and unpaid - are important for Ag employers and for workforce development within our industry. Some Ag employers are challenged with meeting US DOL rules surrounding internship programs on their farms – in particular unpaid internships – during US DOL inspections-- Matt Myers added on to the Agency's comments

- The chair said she understood it was challenging for Ag employers and she felt F2P would/should have a role in carrying a group work comp and liability policy for internship programs within Ag

**1/21/14 - Fee Bill- Apiary Fee to House Ways and Means Committee- Diane Bothfeld testified**

1. Worked with VT Beekeepers Association to address issues of slow response time on inspection of hive concerns
  - a. Continue training of second person at agency to assist with bee hive inspection – send to out of state national level training if available
  - b. Institute a complaint process for inspection – tracking, follow-up and evaluation of employee
  - c. Reduce amount of education and outreach to beekeepers – send to VT Beekeepers association – concentrate on disease surveillance
2. Proposal for fee remains the same - \$10/hive location /year
3. VT Beekeepers association supports the fee and the increase disease surveillance

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

Mr. Bradley testified addressed the need for the legislation

- The lack of legislation (statutory process) addressing amendments to perpetual easements.
- This is affecting land trusts (both in the state and nationally). IRS issues.

Janet said  
this about  
fly  
FYI

- Establishing a process slows down the approval process and provides an opportunity for notice, and opportunity for the public to be heard.
- A lot of money is spent on conserving land (public, state, federal dollars); and
- Uncertainty with respect to IRS rules governing amending perpetual conservation easements. IRS rules do not addressing amending conservation easements even if they enhance or improve the conservation easement.

Primarily the legislation will provides a road map to address

- when easements amendments should be approved,
- establishes a process for how to do it , and
- who should be permitted to amend conservation easements.

The hope is that with the passage of the legislation this would sustain the argument that an easement amendment is OK in Vermont with the IRS, and doesn't jeopardize a land trust or other's ability to hold easements.

Does this legislation affect other easements, such as highway easements?

- No this would only affect the amendment process for conservation easements, which is clearly defined in the bill.

Would this amendment process allow someone to remove Option to Purchase at Agricultural Value?

- Yes that is possibly. However, the goal is to conserve farmland and keep it affordable.

There was a discussion of merger of rights if property is purchased by a holder of the easement. Is this a necessary inclusion in the law, couldn't the holder just abide by common law and place a new easement on the property (after rights have merged)?

- Yes that is true, but this section helps avoid a legal dance of making sure the easement is retained, and keep the faith of those that donate easements.

How are amendments to perpetual conservation easements currently being dealt with?

- Major ones are not currently being addressed in Vermont. Land trust do not want to put their organizations at risk.

### **S. 112 GE/ GMO -Senate Agriculture- Tim Schmalz**

Andrea Stander (Rural Vermont), Representative Harvey Smith, and Jane Clifford (Vermont Dairy Farmers) all provided testimony, and Ag Secy Chuck Ross was present

Andrea Stander

- this is a simple bill, intended to accomplish a simple end, to provide consumers the opportunity to know what they are eating
- there is no additional intent to address the GE organism debate overall
- Strongly support the efforts of the Vermont House in passing H.112 through to the senate, and hopes a bill that accomplishes the intent of H.112 will pass out of committee and through the senate generally

Rep Smith

- was one of three dissenting votes in House Ag last year
- feels that there are unnecessary burdens, financially and philosophically, being placed on consumers, conventional farmers, and markets, including excess costs for consumers
- would like to see more verification/certification allowances in the bill for enforcement and/or for those producers wishing to label ge-free,
- serious concerns that this bill will cause friction between conventional and organic/non-ge farmers
- based on the testimony he heard last year, he has doubts about the claims GE foods are harmful, and urges the Senate to exercise restraint,
- also concerned that the presence of a label might cause consumers to believe there is something about GE products might be unhealthy

Jane Clifford

- Farmers should be allowed to work the ge/non-ge question out among themselves locally
- These crops have beneficial environmental characteristics (no-till, lower pesticide use, etc.),

- urged the committee to be cautious, and not act hastily based on the absence of conclusive scientific evidence GE foods are harmful

1/22/14

**S. 112 GE/ GMO Senate Agriculture –Tim Schmalz**

Witness was Janet Anderson, PhD, USEPA biopesticides division retired.

Dr. Anderson provided a brief overview of the inter-agency review and regulatory process at the federal level (EPA, USDA and FDA) for hybrids, chemically modified plants, and GE organisms. (the first two types are largely unregulated from a safety and health standpoint, GE is much more highly regulated safety-wise, and those GE products that don't meet the stringent high standards of the agencies are not allowed to enter the US Food markets).

Main points of her testimony:

- she supports consumer right to know generally and specifically with regard to GE foods, but also feels there is an ongoing need for regulation of GE foods
- GE technology has resulted in healthier environment (lower pesticide use ,especially in cotton), and should have/could have been more positively promoted by the biotech companies
- she has reservations about the accuracy of some of the findings in the bill, especially those that suggest FDA and other federal agencies do not adequately review GE foods and their safety (GE foods are as highly reviewed and regulated as any other food, and if they exhibit allergenic or otherwise harmful tendencies, they are not allowed to go to market
- The biotech companies are responsible for some of the pre-market testing, but there are other organizations doing it as well (academic institutions, for example), and all the data collected by the Fed reg agencies is available for public review
- She feels many of the studies released by the anti-GE researchers are biased and of poor quality, would not withstand rigorous scientific review (and many have not already), and There are no conclusive links between GE foods and human health problems, or even animal health

1/23/14

**S. 112 S. 112 GE/ GMO Senate Agriculture –Tim Schmalz**

Witnesses testifying on the GE Labeling Bill Jerry Greenfield and Chris Miller, Ben and Jerry's Ice Cream, and Mike O'Grady, Leg Counsel

Mr. Greenfield read prepared testimony Supportive of GMO labeling bill, four general areas of discussion:

- Encourages transparency and Right to Know
- Packaging and associated costs
- Impacts mandatory labeling may have on costs
- Labeling provides competitive advantage for Vermont producers B&J supports producer transparency and consumer right to know, companies should be honest and proud of the ingredients they use in their products the consumer interest in the ingredients is not a trend, but a new reality for producers prefer a national requirement, but a regional approach would effectively accomplish the national end feels using a trigger is unwise, would rather see Vermont preserve our sovereignty. Packaging and costs (2 and 3) companies regularly redesign their packaging, B&J has done it several time in the past 7 years, and minor changes in packaging are factored into the overall cost of doing business the idea that a large, nationwide company would pull their products from VT markets because of a labeling requirement is fallacious and does not account for distribution models (example of VT bottle bill and sales of coke in VT or away, all the cans have the bottle refund language on them regardless) Vermont Brand enhancement (4) Vermont means quality and natural-ness, requiring GE labeling further supports this B&J is moving to GE-free on their own anyway, and would gladly include GE labels if they used GE products

Mike O'Grady, finish up read through of H.112 discussion of confusion around the 0.9% threshold for exemption, should read 0.009 by weight, rather than as a percentage GE-Free labeling provided by third party lab, procedures approved by Attorney General before allowing exemption discussion around potential conflict with organic exemption (if NOP allows 5% non-organic and still maintain certification, what does that mean for

GE inputs under NOP, and does that conflict with the 0.9% under Vermont law? - left unresolved, MOG will check) restaurant exemption (debate on what that means and how it works already)

Retailer concerns/farm stand exemption or labeling required, does the law give roadside stands enough wiggle room? (yes)

Discussion of where responsibility for labeling falls, on retailer, manufacturer, other, esp. regarding store branded products? (mainly on manufacturer)

Senator Starr produced a letter from the Consumer Healthcare Products Association (CHPA) stating their concern about the bill and potential impacts it may have on their membership (MOG will contact CHPA and clarify their concerns) MOG is going to re-draft the bill in an effort to address concerns in the committee over the NOP % issue, clarity on the trigger language, some enforcement and required language matters in the bill. **committee will resume discussion on 1/24. No mention of vote date, but discussion on having a vote Confirmed there will be a public hearing on the bill in the house chamber on Feb 6, at 6 pm**

Fee Bill **Made in Vermont** campaign House Committee on Commerce and Economic Development – Chelsea Lewis

- Nancy Driscoll and Megan Smith presented the Made In Vermont program to the Economic Development Cttee. Rep. Paul Ralston raised the concern that he wouldn't want a company's participation in the program to lead to increased scrutiny by the AG's office. Overall the presentation went well, with the committee identifying need for testimony from Elliot Burg.

#### **H. 448 Primary Agricultural Soils- House Agriculture-Stephanie Smith**

Kate McCarthy, VNRC (missed a majority of her testimony); Michael Zahner, Chamber of Commerce; Ron Shems, Natural Resources Board; Peter Van Oot, Downs, Rachlin and Martin

The testimony generally provided a set up for what the law currently is and the common issues.

- What are "appropriate circumstances" to allow off site mitigation outside of Growth Centers
- Establish an objective definition of "primary agricultural soils"
- Development is changing as is the agricultural industry

Reasons for dealing with this now are we have had some history on the effect of the changes from 2006 and have experienced litigation on the definition of "primary agricultural soils." Amending the statute could curb this litigation.

There was a presentation of examples of developments that were required to have on site mitigation and reasons were provided for why this seemed contrary to the goal of preserving primary agricultural soils. VHCB can leverage other funds and conserve more land with funds paid into the VHCB Trust fund (Michael Zahner and Peter Van Oot provided examples in Chittenden County and Orange).

Pete Van Oot would like to amend the statute to not require clustering (on site mitigation) in the first instance in appropriate circumstances. Rather allow a project to pay offsite mitigation fees-and provide flexibility at the regional commission level.

**It was generally shared that the VAAFM, the Natural Resources Board, the Chamber and developers (Pete Van Oot) will continue to work together to come to agreement, or as close as possible- on proposed amendments to the bill. A timeline was set for a week.**

#### **Press and Communication**

Marketing & Communications

- Henry Marckres, Consumer Protection Section Chief and Maple Expert, spoke to the Wall Street Journal about the **new maple grading system**, and some of the new technologies sugar makers are using to advance the industry.
- Alan Graham, State Entomologist was a guest on both VPR and WCAX discussing the impact of cold weather on VT insects. The Agency is in the midst of promoting the **2014 Farm Show**, which happens at the Champlain Valley Expo in Essex Junction 1/28,29,30. Two press releases were distributed this week, announcing both the Farm Show and the free Tdap vaccinations which will be available at the Wellness booth. WDEV will broadcast live from the Farm Show each morning and a multitude of

VAAFM staffers will serve as guests. VPR will broadcast live in Tuesday, and Sec. Ross will be the anchor guest. WCAX will broadcast live from Consumer Night on Wednesday. Lt. Gov. Phil Scott and Sec. Ross will be featured in the segment.

- Abbey Willard was interviewed by the morning hosts on 95.5 XXX about the Farm Show.
- Sec. Ross spoke with VPR's Peter Hirschfield about the Working Lands Enterprise Board at the Statehouse following his testimony on the subject.
- Seven Day's Katie Flagg spoke with Dr. Kristin Haas about raw milk. She requested copies of the notices of violation issued by the Agency since 2008. Dr. Haas provided her with electronic copies of the 3 notices the Agency has issued.
- The **RFP for 2014 Vermont Building Exhibitors** at the Eastern States Exposition has been posted. Extensive outreach this fall, particularly among Specialty Food Producers, has already heightened interest in the event and the Agency expects several new applicants this year. Separately, the Agency is planning to convene the Vermont Trustees for a meeting 3/11 as part of the overall strategy to strengthen ties with the trustees and improve collaboration.
- Marketing and Promotions Administrator, Alison Kosakowski, has been invited to present at the **USDA Ag Outlook Forum 2/20** in Washington D.C., hosted by Sec. Tom Vilsack. She will speak about how social media is currently utilized to influence consumer perceptions of agriculture. Kosakowski was selected for this role based on her decade consumer marketing experience in NYC prior to relocating to Vermont. Kosakowski will speak for 30 minutes to a live audience. The presentation will also potentially be simulcast to several universities as part of a student outreach effort.
- The **January issue of Agriview** is currently being printed and will arrive in mailboxes by the end of the week. The Farm Show is featured prominently. The Agency is in the midst of finalizing the 2014 editorial calendar for the publication.
- **Raw Milk** Dr. Haas, State Veterinarian, spoke with Kathryn Flagg of Seven Days regarding the Agency's raw milk compliance/regulatory obligations. She will also be talking with the Department of Health regarding the Vermont foodborne illness outbreaks that have been linked to raw milk consumption, one of which involved a class of 5<sup>th</sup> graders.
- **Randy Quenneville, Meat Inspection Program Chief** participated in a radio interview with Carl Etiner of WGDR concerning on-farm slaughter rules and the enforcement action for Graham Unangust-Rufenacht in connection with Act 83 and Section 3311(a) of 6 VSA chapter 204

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

**USDA Training on Co-op Agreements** - State Veterinarian and Assistant State Veterinarian and Animal Health Program Coordinator attended a USDA hosted training on FY 2014 Cooperative Agreements (CA) – the training reviewed the submission process, goals and objectives, and timeline. USDA is running significantly behind this year in providing award amounts, which are need in order to write and propose the CAs. The delay is resulting in an unrealistic submission timeline for most states.

**Johne's Advisory Council Meeting** - Assistant State Veterinarian participated in the Johne's Advisory Council Meeting organized and hosted by UVM Extension Agent Dr. Julie Smith, who is Vermont's Designated Johne's Coordinator. The group had not met since January of 2012 which coincided with the ending of the grant money to VAAFM through UVM. The program has a better fit at UVM Extension and carried out by the Dairy Extension Agent. There was brief talk at the meeting of proposing to the legislature a subsidy program for Johne's testing however it was acknowledged that testing is only one part of a successful method for on-farm Johne's control and without management practice changes, testing alone will not help. Representatives on the call from the NY testing lab reinforced that message by stating that testing can become a crutch. Dr. Smith is moving forward with plans for education and outreach to producers.

**Maple Conference** - Henry Marckres, Chief, Consumer Protection, presented programs at the Bellows Falls Maple Conference on Saturday, January 18 on the new grading system for maple syrup and the VMSMA voluntary certification program. This is based on a food safety inspection, performed by Consumer Protection.



**Food Safety Modernization Act** - Assistant State Veterinarian participated in a NASDA conference call with Secretary Ross. The call updated the group on the meeting with FDA that took place the preceding week and also discussed communication plans with FDA regarding future meetings to review technical and administrative issues around the Food Safety Modernization Act.

- VAAFM's internal Food Safety Modernization Act (FSMA) group met to discuss the statutory authority needs of the Agency that would let it respond effectively to emergency issues relating to animals and crops. The group also discussed ways to find funding to support staffing needs around FSMA as VAAFM did not receive the position addition that was requested. Without adequate staffing, it will be very difficult to prepare the Agency and Vermont producers/processors for the effects of FSMA.

### **Evolving Issues:**

**VDARD and CERT Teams for Emergency Management** - Dr. Haas, State Veterinarian, has worked this week with Louis Bedor of the Department of Emergency Management and Homeland Security and Joanne Bourbeau of the Vermont Disaster Animal Response Team (VDART) regarding integration of VDART into the CERT team structure. This would make VDART more sustainable over time.

**Secure Milk Supply Project** - Dr. Haas, State Veterinarian, participated in a monthly conference call for the New England States Animal Agriculture Security Alliance (NESAASA). Continued discussion of the regional Secure Milk Supply project was held, and Dr. Haas provided an overview of her representation of NESAASA on the USDA APHIS Training and Exercise Plan working group.

**Animal Traceability** - Animal Health Section received a complaint regarding placement of official identification on calves sent to Canada from McCracken Livestock. AH Inspectors touched based with dealers who send calves through McCracken Livestock and through the Addison County Commissioned Sale (ACCS). About 400 calves are sold thru the ACCS weekly. Inspection at ACCS found satisfactory compliance and two individual calves with incorrectly placed tags by the owner before they left the farm. AH Inspector will follow up with producer and provide technical assistance on tag placement. The AH Office will also provide an outreach letter and diagram on correct tag placement to Vermont livestock dealers; the dealers can also provide this information to producers that they pick up calves from who tag their own calves. Inspection at McCracken's found occasional incorrect tag placement. McCracken's will keep track of where the calves with incorrectly placed tags are coming from and relay that information to AH Inspectors for follow up technical assistance. Incorrectly placed tags can be removed and a new tag placed – however that information must be documented on the movement paperwork.

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

#### **Administration**

**Farm Bill** - Deputy Secretary for Dairy Policy Diane Bothfeld took part in numerous conference calls with Senator Leahy's staff and representatives of Vermont Dairy Co-ops to discuss changes to the dairy title of the Farm Bill. The federal conference committee has proposed a compromise for the dairy title – this change may provide an adequate safety net for dairy farmers but will not slow the growth of milk production nationally in times of over production of milk. Several proposals for Senator Leahy were discussed and a push for funding for education of farmers on the changes in dairy was a proposal that all supported.

**Budget Discussion** - Deputy Secretary Bothfeld began discussion of the Agency's budget with Representative Kitty Toll. Agency's overall budget increase was 3.05% with the addition of 2 new food safety specialists. Budget process will continue for the remainder of the session.

#### **Agricultural Development**

**1/16/14 Workforce Development Work Group-House Committee on Commerce & Economic Development-**  
Louise Waterman - Heard testimony from orgs with internship programs  
Heard from:



- Matt Myers – UVM- talked about new internship program and about building a VT Intern Professional network
- VT Business for Social Responsibility - Mg the VT Intern Program

Both these programs work only with college students and or recent grads

- 2/3 of UVM students do internships
- 34% who do unpaid internships get jobs – the rate is much higher – I think she said 65% - of those with pd internships get jobs – interesting statistic.

Discussed allowing work-study programs to be outside UVM and with private companies – this would be great

- Navicate – their TIPS program (Training Interns & Partnering for Success) – intern program for high school students – 40 hrs total – unpaid – considered training not employment – many schools are embracing work based experience learning
- DOL – Annie Noonan – Annie talked about \$\$ allocated to supporting internship programs

Restrictions on what type of work students can do is set by the feds. Worker Comp only is paid by employer if it's a paid internship – worker comp and liability covered by DOL if it's an unpaid student internship program

- Apprentices and on the job training in gov address
- Everyone agreed – most employers want experienced employees
- Suggested the State of VT – as the largest employer in VT should have a greater commitment to internship programs – paid ones.
- The chair did ask for a comment from me:

Said internships – both paid and unpaid - are important for Ag employers and for workforce development within our industry. Some Ag employers are challenged with meeting US DOL rules surrounding internship programs on their farms – in particular unpaid internships – during US DOL inspections-- Matt Myers added on to the Agency's comments

- The chair said she understood it was challenging for Ag employers and she felt F2P would/should have a role in carrying a group work comp and liability policy for internship programs within Ag

**VT Grazing Conference** - Agency staff participated in the Vermont Grazing Conference at Lake Morey Resort in Fairlee on January 17-18. 200 producers and processors from across the state were in attendance, attending sessions on animal handling, pasture management, financial management, and marketing. Agricultural Policy Administrator Chelsea Bardot Lewis listened in on a Rural Vermont roundtable discussion on the new on-farm slaughter law, assuring attendees that the administration wants this law to work for small producers.

### **Farm to School Awareness Day celebration at statehouse on January 16**

- FTS Awareness Day had a wonderful turn out with students presenting projects from last year's grant awards. A total of 16 kids from 4 schools got up and spoke in front of the group. 8 schools set up a table display, some with samples. The room was packed with legislative representatives, parents, and students.
- Speakers:
  - Secretary of Agriculture; Chuck Ross, Deputy Commissioner, Department of Health; Tracy Dolan and Outgoing Secretary of Education; Armando Vilaseca
- At closing the 8 2014 grant recipients were awarded a certificate from Secretary Chuck Ross.
- 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 Elementary School : \$10,000, Chittenden Central Supervisory Union: \$20,000

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

### **Animal Health Updates**

- **Licensing and Registration** - AH Section met with IT and Licensing to review each license and registration in the Section. As every new license or registration must be inspected prior to a license being issued, it was important to develop a procedure that works for both groups to insure this takes place.
- **Database work** - AH Section met with IT to discuss management and merging of the various databases that relate to farms – USA Herds, the database being used for the dairy surveys which collect emergency contact information, and the dairy farm information from the Dairy Section. Cleaning up the survey database and correcting any incorrectly entered information must be done prior to any merging with Herds. This will be a time consuming process and would ideally be completed by a temporary employee that the Section or IT does not have.
- **Delinquent livestock** Notice of Violation was settled in the pre-hearing. The dealer must pay his license fee, correctly fill out his renewal application as a dealer, provide copy of his bond, and renew his license on time for two renewal cycles.
- Animal Health Specialist Zach Bartlett has begun tissue residue investigations training as a commissioned agent of FDA.
- Provided Pullorum testing for 4-H poultry heading to the Northeast Poultry Conference in Springfield MA
- Compiled documentation related to a tissue residue investigation in Franklin County – incorrectly provided a scour treatment mix (contains neomycin) to a bull calf
- Provided animal identification supplies to a licensed livestock dealer and a veterinary practice in Franklin Co
- Attended the Addison County Commission Sales for ADT compliance and Market reporting.
- Provided the mobile chute and technical assistance on low stress animal movement at the Grazing Conference in Fairlee. Inspectors traveled down to Fairlee and set up the chute with UVM Extension Agent Jen Colby on Thursday and assistance with the hands on portion of the conference on Friday.
- Provided technical assistance to livestock dealers on tagging animals – provided diagrams and a how-to that they can leave with their producers and use with their drivers.

### **Meat Inspection**

- One federal slaughter facility notified the State that they received one non-compliance for non-egregious humane handling issue, which has been corrected.
- Met with Walter Jefferies of Sugar Mountain Farm to evaluate the progress of his slaughter/ processing establishment. Mr. Jefferies is hoping to be ready to open the processing side of his operation in about 3 months.
- In process of determining actions to license out of state businesses selling products in Vermont and the role of the Secretary of State as registered agent. Also trying to determine if exemptions exist for requirement of businesses to be registered in Vermont as well as responsibilities for reaching out to those not registered
- Conversations have started with Maple Wind Farm as they determine the next course of action after the barn fire and whether they want to pursue Federal Inspection to increase their out of state sales
- Conversations with Steve Burg of Vermont Raw pet food as they try to find ways to meet the demand for their raw pet food market
- New Food Safety Specialist Trainee to start Jan. 27<sup>th</sup>
- Adams' Farm of Wilmington Vermont has updated their status and are hoping to have construction completed by mid-February to be able to start operating under state inspection for both red meat and poultry slaughter as well as processing

- Individuals working on re-opening the Grand Isle Slaughter plant have been in contact and are working on a property transaction closing date by March. This plant will also be working under state inspection for red meat slaughter and processing.

### **Agricultural Resource Management**

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

- Staff conducted two visits to a MFO Caledonia County to assist the farm with a winter spreading exemption request. The farm's waste storage structure is at capacity and we are currently working the farm to address the situation and develop the most appropriate plan to move forward.
- Staff conducted a technical assistance visit on a MFO in Addison County regarding the Farm Agronomic Practices (FAP) grant program.
- Staff attended a South Lake Partner meeting in Rutland to discuss water quality in the south lake area of the Lake Champlain Basin. Representatives from VAAFM, NRCS, UVM Extension, the Poultney Mettowee Conservation District (PMNRCD), US Fish and Wildlife, and ANR-DEC were at the meeting.
- Staff evaluated NMP records on a LFO in Orleans County.
- Staff conducted three MFO evaluations in Orleans County regarding manure stockpiling and an ongoing enforcement case with the Attorney General's Office related to two farms.
- Staff is wrapping up fall 2013 payments for the FAP program and working with the business office to cancel grant agreements that have been fulfilled.
- 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. This will be a major focus of the team for the coming months. Farm visits have been set up as part of this permitting effort.

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

- General CREP related paperwork and grant processing.
- Reviewing planting plans for spring projects and coordinating efforts with Us Fish and Wildlife.
- Desktop planning for EQIP projects.
- Working with NRCS on EQIP ranking for a SFO application for assistance.
- Worked with DEC river management to prepare for workshop training on stream alteration rules and their applicability to agriculture.

### **Secretary's Comments**

#### **Legislature:**

- GMO Labeling, attended 4 hours of Senate Ag. testimony on January 21<sup>st</sup>
- Working Lands Enterprise Initiative, January 22nd attended and presented the Working Lands Enterprise Initiative to the House and Senate Agriculture committees and the House Commerce committee. Presentation highlighted job and income growth as a result of this initiative, as well as the various forms of systems investments this initiative engages in.
- House Ag Committee overview: Spoke about 2 upcoming bills; 1, Housekeeping; 2, seeking authorization to regulate farm produce, raw agricultural products and emergency circumstances (ie. Floods and fires).
- House Ag Committee met with Congressman Peter Welch and Secretary Ross to discuss Federal Farm Bill
- Working Lands meeting in Governor's office

#### **Press:**

- Sec. Ross spoke with VPR's Peter Hirschfield about the Working Lands Enterprise Board at the Statehouse following his testimony on the subject.

#### **Meetings:**

- Department of Taxes, meeting to discuss Current Use, the taxation of energy and compost taxes

- VEDA Monthly Board Meeting to discuss a range of projects
- GMO meeting with Governor's staff to discuss the status and implications of H. 112

**Ongoing Discussions with Governor's Office:**

- Meeting with Governor's staff to discuss water quality, TMDL, H. 586
- Ag lab report

**Upcoming Issues and Events:**

- Farm Show at the Champlain Valley Expo in Essex, Jan. 28, 29, 30
- Interviews with Ric Cengari, Mark Johnson and Bill Sayre
- NASDA Winter Policy Conference in Virginia

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Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Justin Johnson, Deputy Secretary, Agency of Natural Resources**  
**Date: January 24, 2014**  
**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Update on Roxbury Hatchery Issues:** Staff have received an informal decision from FEMA on the Roxbury FCS codes & standards eligibility for funding to rebuild the hatchery. As of right now, FEMA does not believe that the Roxbury FCS is eligible under the codes & standards funding route. Once a formal decision is issued, the State has the opportunity to appeal this decision to FEMA regional headquarters and if denied appeal again to FEMA national headquarters. Additionally, the State currently has the opportunity to pursue funding for the Roxbury FCS through the Sandy Recovery Improvement Act (SRIA). The State is still coordinating with FEMA to determine the most effective funding route.

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**EVERYTHING ELSE:**

**Legislative Issues/Testimony:**

**Reallocation of Capital Funds:** Testimony was provided to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the special one-year provision during fiscal year 2014 granting ANR authority to reallocate unexpended capital funds between projects, subject to certain limitations contained in Section 43 of Act 51 of 2013.

**Onsite Loan Fund:** Testimony was provided to the House Committee on Commerce and Economic Development in support of changes to 24 VSA Chapter 120 relating to the new loan fund established to finance repairs to homeowner wastewater systems and water supplies. These changes would establish statutory authority to contract with a 3<sup>rd</sup> party financial entity in lieu of

the Vermont Municipal Bond Bank to help administer the loans and increase the amount that can be used from the fund to pay for 3<sup>rd</sup> party loan assistance.

**Unsafe Dam Revolving Loan Fund Rules:** The Unsafe Dam Revolving Loan Fund can be used to provide loans and grants to qualified municipalities, nonprofit entities, and private individuals for the reconstruction, repair, removal, breaching, draining, or other action necessary to reduce the threat of a dam or a portion of a dam that has been determined to be unsafe under 10 V.S.A. Chapter 43 §1095. The proposed Unsafe Dam Revolving Fund Rules were presented to LCAR on January 16, 2014. They were accepted with minor edits. Once the approval memo is received from LCAR the amended rules will be filed with the Secretary of State.

**Water Quality:** H.586 is an omnibus surface water quality bill introduced by the House Fish, Wildlife and Water Resources Committee. The bill would increase regulation of urban, suburban and agricultural stormwater, roads and road infrastructure, and pesticide use. The bill also includes funding options to support increased regulation and remediation of surface waters. DEC has not testified regarding the funding options in the bill, however staff have provided technical feedback regarding the proposed regulatory changes. Marli Rupe, Stormwater Program, testified before House FWWR in order to clarify how the provisions regulating agriculture differ both from recommendations of the Agricultural Working Group, as well as DEC's "Plan for Vermont" presented to EPA in negotiation of the LC TMDL. Mike Kline, Rivers Program, also testified regarding a clarification that would affect permitting under the stream alteration program.

**Site Specific Resource Determinations:** H.394 was introduced at the request of DEC in order to more effectively implement and administer water resource rules transferred to DEC from the Water Resources Board in 2012. The bill distinguishes between decisions of general application that require rulemaking (e.g. changes to the wetlands rules generally) and decisions affecting a single site that could be made without formal rulemaking (e.g. whether a particular wetland should be a Class 3 or Class 2 wetland). Neil Kamman, Leslie Welts and Matt Chapman provided testimony before HFW&WR on the bill last week, articulating the need for a leaner decision-making process (more like a permitting adjudication) for individual sites. The committee continues to raise questions about the need for this bill. Likewise, Vermonters for a Clean Environment and the Vermont Traditions Coalition have raised concerns about the bill. Commissioner Mears and General Counsel Groveman have asked to appear before the committee within the next two weeks to help articulate why DEC has proposed this change.

**Working Lands:** Commissioner Michael Snyder will join Secretary Chuck Ross, along with senior staff from VAAFM and ACCD, to present the Working Lands Annual Report at a joint session with House Agricultural and Forest Products, Senate Agriculture and House Commerce and Economic Development committees.

**Forest Integrity:** On January 24, Commissioner Snyder will provide testimony to the Senate Natural Resources and Energy committee on S.100, the Forest Integrity bill.

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

**Wood Heaters:** The Air Quality and Climate Division was contacted by Ken Picard of Seven Days, who is doing a story on wood heating and the proposed revision to EPA's clean air standards for residential wood heaters. He had several questions about the air quality and public health effects of wood smoke and the impact of the rule on consumers, manufacturers, etc. ANR previously joined with other New England states in a lawsuit against EPA, pushing them to meet their legal obligation by providing these revisions. Commissioner Mears will testify on this topic at a hearing in Boston on January 26.

**Newport Daily Express – LC TMDL:** On January 13, Kari Dolan spoke with Christopher Roy of the Newport Daily Express about the Lake Champlain TMDL process and the draft State of Vermont Proposal for a Clean Lake Champlain.

**Deerfield River Tactical Plan:** A press release was issued regarding the public review draft of the Deerfield River Tactical Plan.

**Waterfowl Blinds Must Be Removed:** Waterfowl hunters who did not remove their hunting blinds from the waters of the state earlier must do so before February 15 on Lake Champlain or May 15 on inland waters according to a reminder from the Vermont Fish & Wildlife Department.

**Free Ice Fishing Day Festival is January 25:** To celebrate Vermont's first-ever statewide Free Ice Fishing Day on January 25, the Vermont Fish & Wildlife Department and Vermont Sportsman are teaming up to host an ice fishing festival on Lake Champlain. Vermont Sportsman is a group that organizes ice fishing tournaments and educational clinics throughout the state.

**Deer Hunting Results Reflect Stable, Healthy Population:** The Fish & Wildlife Department says preliminary numbers show hunters took slightly more deer in 2013 hunting seasons than the previous three-year average, reflecting a stable and healthy deer population in the state.

**Communities Caring for Tree Canopy Grants:** Vermont's Urban & Community Forestry Program just announced \$40,000 in grants to support urban and community forestry programs at the local level. These grants act as seed money to help communities care for tree canopy by taking the necessary actions for developing and sustaining a community-wide tree program. These grants allow for multiple program components (e.g., tree planting, tree inventory, tree maintenance, plan development, public outreach, and program development) to be merged into one grant application for ease and flexibility. Grants are due April 11, 2014. For more information: <http://www.vtfpr.org/urban/grants.cfm>

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

**Barnet Water Supply:** The Barnet Water System has been experiencing a leak for some time but has remained operational. This week the amount of water being lost through the leak increased dramatically. On January 14<sup>th</sup>, owner Red Dufresne notified DEC that the storage tank was empty, the system had lost most of its pressure and, as a result, the well pump was supplying

water to only half the users. He suspected the bad line may be at a stream crossing and has called in both Rural Water and VT Underground Locators to find the location of the leak. Our staff are working with the owner to ensure notification to the system users. We have drafted a public service announcement as another way to notify users that they should boil the water before consuming it and are working to get it out to the media.

The **Fish and Wildlife Board** held its monthly meeting on Wed, Jan 15. Agenda items included: Third vote on the WMU Boundary Rule; Recognition of Drone Petition; Moose Lotto Changes; Update on comprehensive deer management evaluation; Limit in participation for wildlife violators in antlerless and moose lotteries; Commissioner's Updates and; Round Table.

**ANR Long Range Management Plans:** The ANR Lands Stewardship Team met on Thurs, Jan 23 to review the preliminary draft management plans for West Mountain WMA and the Plum Creek Timberlands (i.e., the former Champion Lands parcels). These parcels are now collectively termed the "Kingdom Heritage Lands". The Champion Lands legislation requires that the original 2002 management plans now be updated. The Agency expects to release the draft plans for public review and begin a public involvement process later this winter.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**ZEV MOU:** The Zero Emission Vehicle Memorandum of Understanding (ZEV MOU) is an agreement by eight governors, including Governor Shumlin, to put 3.3 million ZEVs on the roads in their states by 2025 and to work together to establish infrastructure for those vehicles. The AQCD is working with a multi-state ZEV Program Implementation Task Force to prepare, by April 2014, a plan action to accomplish the goals identified in the ZEV MOU. To inform the development of this plan, the Task Force met with automobile manufacturers in November and formed the following four workgroups with automobile manufactures: 1) Consumer Education and Awareness; 2) Dealer Engagement; 3) State Policy and Incentives; and 4) Infrastructure. These workgroups are expected to provide recommendations for the states' consideration by early February. In addition, the Task Force is planning a workshop in February with the electric industry, utility regulators, and infrastructure providers with the goal of developing recommendations to inform the development of the ZEV MOU action plan.

**Air Quality Advisory in Rutland, VT Mountain Valley:** On Jan 10, the Air Quality & Climate Division issued an air quality advisory, forecasting that particulate matter (PM2.5) levels in Rutland and in VT Mountain Valley areas last Friday would reach the level considered "unhealthy for sensitive groups". The actual particulate concentrations fell just below the alert standard. So far this year, two days exceeded the standard in Rutland, Jan 4 and 5.

**Sunset Farms Mobile Home Park Emergency Order (Bennington):** On Jan 15, Gary Kessler went before Environmental Court to obtain an Emergency Order (EO), which would have appointed a receiver to oversee the closure of the Park. The Park is operating a failed water



supply system without a permit, threatening human health, and the owner, John Bushee, has not been responsive. Despite finding that DEC met the requirements for the issuance of the EO, the Court determined that going directly to appointment of a receiver to close the park was premature and implicated Bushee's property rights (loss of the park). The Court suggested that we take a more incremental approach by requiring the owner to repair the water supply system. An alternative, quicker approach is to have Bushee stipulate to an EO with the appointment of the receiver to shut the park down. Bushee has agreed with this approach, and we await his signature before going back to court.

**Moretown Landfill:** Moretown Landfill (MLI) has been advised by Waste Management that they need to submit a corrective action plan as a prerequisite to a determination in the review of the cell 4 landfill application. A Groundwater Feasibility Study was submitted in late December, which generally concurs with the Conceptual Site Model that was submitted. The lack of a corrective action plan remains the hold up in the cell 4 review. This has been communicated to MLI.

**Outreach to Food Scrap Generators:** The Universal Recycling law (Act 148), requires all facilities producing 104+ tons and 52+ tons of food scraps annually, to compost that material as of July 2014 or July 2015 respectively. On Jan 16, DEC staff mailed letters to 771 food scrap generators, meeting these thresholds, including hospitals, institutions, hotels, big box stores and larger grocery stores. This is another step in DEC's outreach to these entities on the new law. Recycling/reuse rates have been stagnant for a decade between 30-36%. By 2020, when the Universal Recycling law is implemented, waste diversion will increase to 47%.

**Morrisville Water and Light:** FERC issued a letter to Morrisville Water and Light indicating that they missed a deadline for filing an application for a water quality certification for their hydroelectric project, and they must do so within 15 days of issuance of the letter. Once received, we will have 1 year to act on the application. There are still many issues that remain unresolved, including bypass flows and the operations at Green River facility. Morrisville is currently working with its consultants on a counter proposal for bypass flows at its Cadys Falls and Morrisville facilities.

**Townsend and Ball Mountain Dams:** DEC received a letter from the Army Corp of Engineers outlining proposed operation changes at their Vermont flood control dams, specifically at Townsend and Ball Mountain. Our interpretation of the proposed operational changes is that they will not meet water quality standards which the Corp has agreed to meet as part of the partnering agreement with Vermont. We are coordinating our response with Fish and Wildlife Department and US Fish and Wildlife Service.

## **Fish and Wildlife**

**Youth Memories Contest at Yankee Sportsman Classic:** Hunter Ed staff worked on talking points for Youth Memories contest, these were finalized and given to the Commissioner and

Governor for the event. The Youth Memories winners were selected and confirmed that they were attending the Yankee Classic. The event was memorable and well attended.

**Master Angler Awards:** 37 anglers achieved Master Angler status for 2013 by catching a minimum of 5 different fish species of eligible length. There were 25 adults and 12 youth anglers who will receive the award.

**First Free Ice Fishing Day:** Staff continued working to help coordinate and prepare for the department's ice fishing festival that will be held on Jan 25 at Larabee's Point on Lake Champlain. January 25 is the first free fishing day the department has held in the winter, and the festival is aimed at helping people experience ice fishing for the first time, learn what the sport is all about and experience how fun it can be. Many of the activities will be geared towards families and kids.

**Interactive Fishing Regulation Tool in the works:** F&W is planning to develop an online, interactive tool to allow people to get location-specific information about fishing regulations. Staff are working with an intern from Bennington College who is evaluating other state fish and wildlife agencies' websites in order to identify the best approaches and make recommendations for the design of Vermont's online application. Staff reviewed the preliminary results and gave feedback to the intern relative to report preparation.

**Possession of Nongame Species for Ceremonial Purposes:** Staff drafted an analysis of the statutory and regulatory changes needed allowing the Department to authorize possession of nongame species (e.g., feathers of nongame migratory birds) by members of the Abenaki tribe for cultural and ceremonial purposes.

### Forest, Parks and Recreation

**Elnicki Act 250 Permit (CONFIDENTIAL):** An Act 250 permit was issued for a gravel expansion operation on lands owned by Mr. Elnicki. The permit requires Mr. Elnicki to convey a mitigation easement to DFW protecting 90 acres of deer wintering habitat and a right-of-way easement to FPR across the Elnicki lands on an existing road to access Aiken State Forest for forest management activities, including a landing area for logging. To date, the easements have not been conveyed, although staff from DFW and FPR have worked to finalize the easements with Mr. Elnicki and his attorney. DFW staff saw a real estate ad for the sale of the 500-acre property owned by Elnicki and containing the gravel area. The advertisement states that all permits needed for a full-blown gravel, sand and crushed stone operation are in place. ANR is contacting the District coordinator to discuss this issue. A few months ago, DFW staff discovered that Mr. Elnicki had cleared a large area despite the fact that no activities under the permit were supposed to commence until all permit conditions had been satisfied, including the conveyance of the mitigation and right of way easements. This issue was communicated to the District coordinator who sent a letter to Mr. Elnicki.

Just  
Full in case  
you know him

**Land Transactions:** We expect over \$1.6 million in FFY'14 Forest Legacy funding will become available to Vermont for the Groton Forest Legacy project. While this amount of funding will not be enough to complete this \$3.5+ million project, which would conserve multiple forestland tracts, it will provide funding for the Department to acquire the Molly's Falls Pond property from the Vermont Land Trust and possibly conserve other high-priority forest parcels in the Groton area. Work continues on other ongoing priority ANR land transactions including Northern Green Mountains Connector Forest Legacy parcels, acquisition of the Fitzpatrick inholding at Coolidge State Forest in Killington from the Vermont Land Trust, transfer of a portion of Grand Isle State Park to the Town of Grand Isle for recreation purposes, land exchange at Alburgh Dunes State Park, sale of a portion of the former Lafreniere homestead property at Camel's Hump State Park in Bolton, sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation for expansion of an existing stone quarry, transfer of the Woodchuck Mountain parcel to the Town of Newbury, and other transactions.

**Survey:** In the course of completing the survey of the Grand Isle State Park parcel that will be conveyed to the Town of Grand Isle, survey staff discovered possible encroachments including a seasonal camp and storage sheds at the State Park. Additional field work and research will be necessary in order to confirm this situation.

**State Parks Management Team Making Plans:** The Parks Division Management Team holds their regular meeting this week to discuss a variety of issues including seasonal recruiting, temporary staff training and moving ahead on two critical IT projects: replacement of the ten-year-old parks reservation, accounting, inventory and customer data base program, and the temporary employee online application and information data base.

### **Business Office**

**FEMA Lab Funding:** We were surprised to find that the FEMA funding for DEC's temporary lab locations (UVM and Berlin) was no longer available starting Jan 1. We have provided the \$102k unfunded estimate for DEC for FY14/FY15 to Budget and Management.

**Annex Building:** There have been several tours of the 18,000 sq ft National Life Annex building as we work to decide if this is appropriate space to consolidate a number of storage leases. There will be another meeting this week to further discuss financial and other considerations to help in determining our way forward.

We are revving back up our activity working with the Departments to cancel any remaining **unnecessary land lines** including in the Regional Offices.

**Billback:** Across the Agency we will be pursuing billbacks on the Vermont Gas "Phase II" project relating to the proceeds of the Public Service Board (Docket No. 8180). Tracking details are being worked out now.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: January 24, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

- Regional work: conference, ISO letter, state press releases
- VY: deposition, conversation with VNRC about thermal discharge
- VGS: gas worker arrests, meeting upcoming in phase II, meeting on bio methane with Gaz-Metro and VGS to be scheduled.
- Vince Illuzzi meeting request

**Legislative Items:**

- asked*
- **Finance Committee/Thermal Efficiency** - Darren testified in Senate Finance on S. 238 (Bray), a bill to provide long-term funding to Clean Energy Development Fund via an assessment on the gas pipeline expansion. Our testimony was that while long-term funding for CEDF is desirable, we are not sure this is the correct revenue mechanism. The Committee members expressed disappointment with the Administration for not presenting our own long-term funding plan for CEDF and thermal efficiency. They suggested we would not reach the statutory goals around efficiency. Darren mentioned that there are opportunities to work with banks and credit unions to expand financing opportunities, and to expand the use of innovative technologies such as heat pumps. The Department will provide the Committee with more on our plans in these areas over the next several months. The Department also expects to be asked to testify soon on the potential broadening of Efficiency Vermont's mandate to include thermal and transportation.
  - **Net Metering** – The House Natural Resources and Energy Committee bill, H.702 (to be introduced) which represents the Department's proposal, passed unanimously in committee and will be considered on the House floor next week. Darren is testifying in House Commerce along with Rep. Klein and Rep. Ellis to brief them on the contents of the bill.
  - **CEDF/Budget Adjustment** – Following some informal consultation with Darren and Andrew Perchlik of CEDF, Green Mountain Power (without notice) was able to convince the House Natural Resources and Energy Committee members to vote out an amendment to be presented when the Budget Adjustment Act comes to the House floor. The Amendment would allow CEDF to invest in electric charging station deployment. We have no substantive concerns about this, as CEDF already has authority to support natural gas vehicle infrastructure, but the Department did not seek this change.
  - **Siting** – Chris testified to Senate Natural Resources and Energy Committee on two siting bills (S. 201 and S. 292). The Department does not support either bill as drafted, and although pieces of the Siting Commission recommendations are included the bills go much further than the Commission recommended and cherry picks certain ideas without including others.
- talk to Louis*

#### New Bills affecting PSD:

- [H.0590](#) An act relating to the safety and regulation of dams
- [H.0608](#) An act relating to long distance, intrastate telephone service
- [H.0612](#) An act relating to Gas Pipeline Safety Program penalties
- [H.0613](#) An act relating to energy assistance program fees
- [H.0648](#) An act relating to setbacks, screening, and siting of solar generation plants
- [H.0654](#) An act relating to waiving the energy efficiency charge
- [H.0655](#) An act relating to fiscal year 2014 budget adjustments (Dostis CEDF amendment)
- [H.0657](#) An act relating to energy disclosure for multi-family residential buildings
- [H.0665](#) An act relating to the uniform capacity tax

[H.0666](#) An act relating to a State income tax credit for electric vehicle charging stations

[H.0677](#) An act relating to application fees for energy siting review

### **Legislative Hearings:**

1/21: HNRE – Asa testified on TES and covered Renewable Energy Goals testimony from EAN

1/22: Senate Finance – Andy testified on S. 242; Andy and Darren testified on S.238; Kelly covered EVT policy discussion

1/23: HNRE – Asa covered H.557 hearing; SNRE- Anne covered S.201 and S.292

1/24: House Commerce – Porter testifies on H.608; House Human Services – Autumn testifies on H.576 (Lifeline Program); House Institutions – Asa testifies on Thermal and Energy Efficiency in Buildings Revolving Fund

1/28: House F&W – Anne testifies on Act 165 of 2012: An act relating to expediting development of small and micro-hydroelectric projects.

1/29: House Commerce – Darren testifies on H.702 – Self Generation and Net Metering

1/30: House Commerce – Porter testifies on telecommunications issues

**Media** – Chris testimony in Senate Natural Resources written about in VTDigger; Darren was on Vermont Edition 1/23 on large-scale solar; 1/22 interviewed by Fox44 on efficiency charge (airs next week); and was quoted in Times Argus/Rutland Herald on net metering. Seven Days and VTDigger also wrote about net metering. Chris spoke to BFP Dan dembrosio about wind noise and what board process seeks to accomplish.

### **Significant Meetings/Events this week:**

1/21: Chris and Darren meet with Sen Hartwell; Chris attends NU Transmission meeting

1/22: Chris meets with Reps Hebert, Klein and Ellis re ROV Technologies;

1/23: Darren is on Vermont Edition discussing large scale solar; Chris presents at Electric Transmission meeting in Boston

1/24: Chris attends NE Governors Regional Energy Infrastructure meeting in Boston; Participates on call re memo to federal delegation; Darren meets with Senator Lyons

### **Significant Meetings/Events next week:**

1/28: Chris and Darren meet with Senator MacDonald

1/29: Chris and Darren attend Gov's Council on Energy and Environment meeting; Chris attends WEC board meeting

1/30: Chris attends VY hearing

### **Everything Else:**

### **PERD**

### **Legislative Activities**

- Completed bill reviews for S.242 and S.238. Gathered comments from Tax and ANR on

the bills.

- Observed and reported on the introduction of the Misc. Tax bill's solar capacity tax sections in House W&M.
- Reviewed legislative siting bills S. 201, S. 203, S. 206, and S.292. in conjunction with PA and CAPI. Attended bill walk-throughs/testimony on S. 201, S. 292, and S. 191 and sent summary to Governor's office.
- Testified 1/21 in House Natural Resources and Energy re: the Total Energy Study. The committee was very engaged in the presentation, and several members had clearly read and marked up the report. The Chair indicated that he would invite us back for follow-up conversation regarding the development of 3 scenarios (and what questions to answer through those scenarios).

#### Clean Energy Development Fund

- Processed – together with the Biz. Office - lots of w-9s from solar developers to get into the State vendor system.
- Organized and held the CEDF Board meeting
- Vermont Clean Energy Industry Report –
  - Worked on the Clean Energy Industry Survey.
    - Staff developed a draft survey with the contractor that has received input from PSD, DOL and ACCD. The goal is to finalize the survey by 1/27/14. Any additional input from the SOV needs to be provided to the contractor by then to allow them to proceed with programming the survey system the next week.
    - We are assembling lists of businesses to supply to the contractor in advance of the survey, which is slated to commence the first week of February. CEDF staff are searching for publicly available lists of Clean Energy businesses operating in the state. All lists need to go to the contractor by 1/24/14.
    - Staff proposed sending a form letter to all prospective survey participants to alert them about the survey. This measure is intended to increase the amount and quality of information collected. CEDF staff request a decision from PERD management whether to send the letter or not, and if so, under whose signature to send the letter. Staff will provide a draft letter for internal review early next week with the request for a response by Wednesday, January 22<sup>nd</sup>. The letter needs to be sent by 1/28/14.
    - **NOTE:** The Admin. should be made aware of this Survey going out (on-line and phone) and that this next week is the week they should weigh in on the questions if they want to. We are working with ACCD and Labor on the effort
- Began planning about how the CEDF would create, and get stakeholder input on, a Windham County specific program for FY 15. Began drafting different options for incentives/funding program for Windham.
- FY13 Annual Report –
  - Responded to CEDF board member's inquiry as to why the GHG reductions per



BTU for renewable electric projects would be greater than for solar hot water (SHW) projects. Sam Swanson reviewed the CEDF FY13 GHG calculations and agreed with the methods used. The GHG redux/BTU question is under review.

- Researched system efficiencies, VT fuel source splits, and avoided costs calculations for water heating on on-line, in PSD, and with EVT. Discussed issues internally and adjusted the SHW GHG calculation to account for the recovery efficiency of hot water systems run on fuel oil.
- For the GHG calculation, added average line loss to annual electricity production replaced by renewable electric projects.
- Communicated with Jeff Merrell of ANR on a number of these issues to assess if and whether PSDs GHG calculation methods, which measure emission reductions for the CEDF project portfolio, need to be consistent with the State's GHG inventory methodology.
- Completed the CEDF annual report to the legislature, incorporating comments from the CED Board. Submitted the report to Leg. Council and emailed copies to the named committees.
- Completed the CEDF financial reports for period ending 12/31/13 as well as a FY14 program and budget report for the CED Board.
- Selected firm for model solar contract work; still haven't heard back from AG regarding potential conflicts, so requested PA director's opinion on how to proceed. Have award/rejection letters ready to send out.
- Received signed energy storage grant agreement from Green Mountain Power and sent to Commissioner for signature.

#### Total Energy Study

- Collected and supplied better estimates for AC penetration from VELCO forecast
- Worked to come up with better estimate of the cost curve for building shell improvements. Dunskey was mum until the last minute about how the model treats thermal efficiency—as something that can be bought by consumers on cost-competitive basis with other heating fuels and technologies or as something we would have to set exogenous parameters for so this is still unfinished. We are going with the cost basis option without knowing what the likely model results will be.
- Related to Dunskey's model inputs, reviewed EV adoption rate projections and researched information on TRC's VMT projections.
- We have received dozens of unique comments on the Legislative Report, as well as hundreds of nearly-identical comments from VPIRG and 350.org.
- All Legislative Report comments received to date have been summarized. 1/22: End of public comment period on the Legislative report.

#### ***Engineering***

##### Vermont Yankee Operation

Since the last report, VY has operated at 100% power, except for a few hours early this morning when they were reduced to 80% because a fuse blew on a steam jet air ejector valve, causing

the valve to close. Workers were on-site overnight working on planned maintenance (replacement of the check valve seat on the discharge of the “D” residual heat removal pump) and were able to replace the fuse, which caused the steam jet air ejector valve to open.

#### Nuclear Engineer Position

Engineering has selected a final candidate and is prepared to make an offer.

#### Gas pipeline inspection activity

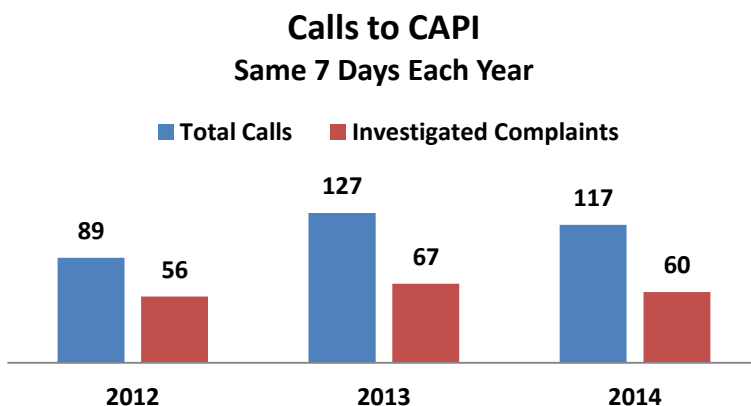
Propane pipeline systems, operated by Bourne’s Propane, were inspected in Waterbury and Waitsfield VT. Two systems had outside gas-carrying polyethylene pipe which was exposed to the atmosphere. This condition is prohibited the federal gas pipeline safety code (49CFR192) and the National Fire Protection Association (NFPA 58) Liquefied Petroleum Gas Code. The company will be informed these findings (along with several others discovered in December) are probable violations of state and federal pipeline safety codes. A scheduled plan for remediation will also be requested.

#### Outreach to the Vermont Fuel Dealers Association

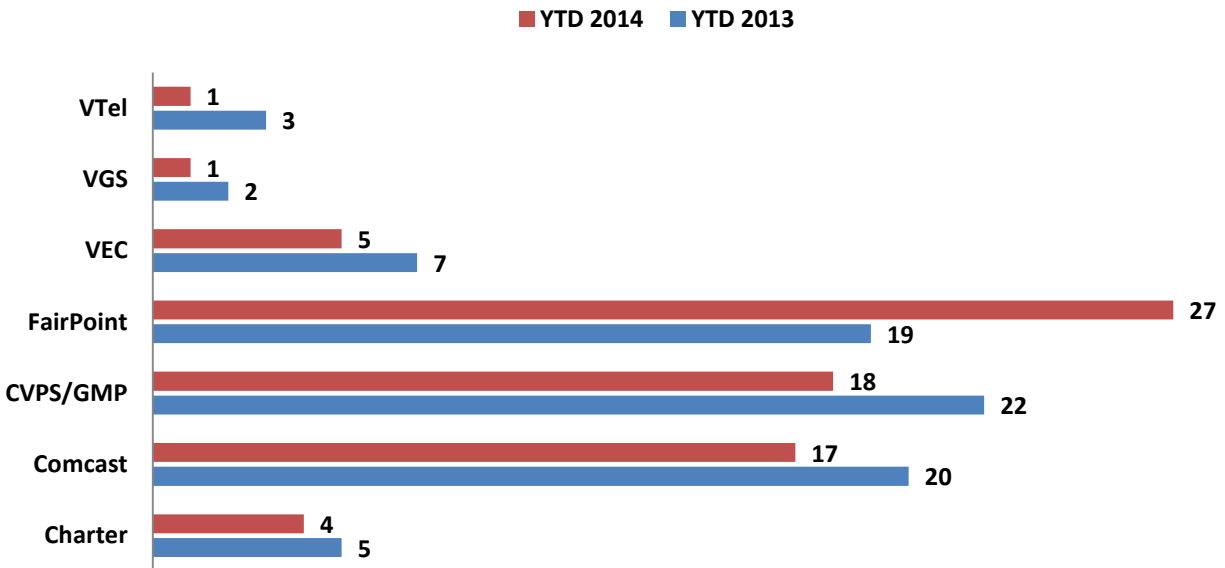
Collaboration with the Vermont Fuel Dealers Association continued with a meeting between Engineering and the VFDA Director this week. Topics discussed included legislation (H.612) proposing an increase of the gas violation penalty maximums to comport with the federal penalty amounts, and a message from the Department to inform/reiterate VFDA members of certain state and federal codes which may be applicable to their propane operations with a request for information. Possible topics for a presentation by the Department Gas Engineer, during the association’s annual conference, were also discussed.

#### ***CAPI***

#### **Call Data from Sunday to Saturday, January 12 to January 18, 2014.**



## Complaints Investigated, by Company Year to date



### ***Public Advocacy***

Barton Solar – Docket 8148 – The petitioner has circulated a draft memorandum of understanding. PSD plans to review that draft, along with the petitioner’s responses to the Hearing Officer’s first set of information requests, and the petitioner’s plantings maintenance plan. If the outstanding intervention request is not granted, a stipulation or litigation schedule is due on January 29<sup>th</sup>. Otherwise, a new schedule will be set.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The PSD will participate in the prehearing scheduled for January 23<sup>rd</sup>. Via conference call, PSD met with the petitioner and counsel to discuss the PSD concern that the PPA price significantly exceeds recent standard-offer bids for similar projects in Rutland and elsewhere. On that topic, PSD has agreed to meet with GMP on January 28th to discuss the Stafford Hill project, as well as this one.

PSD requested additional information from the petitioner regarding the project’s noise and random inconsistencies in the petition. The petitioner has partially responded and is hiring a noise consultant to provide additional information.

GMP Stafford Hill Solar in Rutland – Docket 8098 – In a letter to the Board, GMP requested a delay from January 15<sup>th</sup> until February 3<sup>rd</sup> to file its supplemental testimony. After consultation with PSD and ANR, GMP suggested a rolling discovery period until March 5<sup>th</sup> and a litigation scheduled/stipulation by March 26<sup>th</sup>. Additionally, PSD is meeting with GMP on January 28th to discuss this docket, among others.

TracFone Wireless for Designation as ETC – Docket 7817 – TracFone filed supplemental prefiled testimony with the Board on January 14<sup>th</sup>. The Board issued an Order on January 22<sup>nd</sup> requiring the Department to file its comments no later than January 31<sup>st</sup>.

VEC Decommission & Replace Existing Madonna Substation – Docket 8171 – The Department awaits responses to its first discovery requests, and a site visit and public hearing will be held on January 27<sup>th</sup>.

Johnson/Morrisville Petition re: Change in Ownership/Financing for a 34.5 kV Subtransmission Line – Docket 8186 – A prehearing conference is scheduled for February 6<sup>th</sup>.

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

ERWR Solar CPG Amendment – Docket 8076 – ERWR Solar filed a petition on January 17<sup>th</sup> seeking an amendment to its CPG for a solar electric generating facility. The petition seeks the Board's approval to change the project's design from using two separate power stations with inverter and transformer equipment to a design with one central power station and a single transformer, with other proposed changes relating to this modification.

Appointment of a Natural Gas Energy Efficiency Utility - Docket 7676 – PSD met with VGS to discuss revisions to Omnibus EEU Process and Administration document to include VGS as the Natural Gas EEU (original document address only electric energy efficiency utilities). PSD needs to determine whether we should require VGS to put a separately stated Energy Efficiency Charge on its bills, and whether the monies should be directed toward and disbursed by the Fiscal Agent. VGS provided cost information for both these activities for PSD review. An internal meeting on these issues will be held in the next week, along with a PSB status conference.

National Life 500kW Net Metering Project - Docket 8110 – PSB asked Petitioner questions about the need for a new utility pole and Petitioner responded. PSD will review and comment if necessary.

Demand Resource Plan Proceeding - EEU 2013-01 – PSD participated in a workshop at which the EEUs (VEIC and BED) presented the results of their modeling of Board ordered scenarios that serve as basis for making Budget recommendations for the upcoming 2015-2017 Performance Period.. A significant portion of the workshop was dedicated to discussing Behavioral Measures as a method of acquiring energy efficiency. VEIC has initiated a program through O-Power to put these measures in the current performance period. PSD wishes to proceed cautiously in order to ensure that expenditures on such measures are cost effective and a prudent use of ratepayer dollars.

Impacts of Act 89 on Energy Efficiency - EEU 2013-03 – PSD participated in discussions between VGS and VEIC on a bilateral cost allocation agreement to implement a section of Act 89 which requires that allocation of funding sources for implementing thermal programs be proportional to the benefits achieved.

Process and Administration Document Revision - EEU 2013-05 - PSD, VEIC and BED filed consensual proposed changes on three outstanding revisions to the EEU Process and Administration document pertaining to Intellectual Property, Competitively Sensitive Information and Indemnification. Comment deadline for other parties is 1/23. Next step will be for the PSB to issue either an Order or a Proposal for Decision on all proposed changes to this document, which governs administration of the State's EEUs. The document, once amended, may need to be amended again to incorporate any other changes pertaining to the Natural Gas EEU being proposed in Docket 7676.

Vermont Gas PGA Quarterly filing – Tariff No. 8479 – Vermont Gas Systems, Inc. (Vermont Gas) filed its quarterly purchased gas adjustment reflecting a 4.61 percent decrease to the Natural Gas charge, equivalent to a 2.08 percent overall decrease in firm rates, effective with bills rendered on and after February 6, 2014. On January 21, the Department filed a letter in support.

VEC Solar Adder Revision – Tariff No. 8484 – VEC filed revisions to its net metering tariff to adjust its Solar Energy Credit Rate to reflect VEC's recently approved rate increase. Because VEC's residential rate was just increased, its Solar Energy Credit Rate is being decreased by an equivalent amount, consistent with the statutory procedure allowing such a revision. On January 21, the Department filed a letter in support.

GMP West Danville Substation Upgrade – Docket 8183 – The Board issued a § 248(j) notice seeking comments from parties. The Board's Hearing Officer also issued a memorandum outlining a number of questions to GMP related to the project. The Department has received a draft of GMP's responses to the Board's questions, and is currently reviewing. The Department is generally supportive of expedited review and of the project as a whole. The Department's comments are due by February 11, 2014.

CVPS IRP – Docket 7836 – The Board's Hearing Officer held a status conference to discuss how the pre-merger purchase of Vermont assets should be addressed in the next CVPS and/or GMP IRP, and whether an independent CVPS IRP filing is necessary in the future. GMP (legacy CVPS) will investigate these questions and report to the Board with a proposal for process by January 31, 2014.

Georgia Mountain Community Wind – Docket 7508 – GMCW filed a response to a complaint from a nearby resident alleging that the facility was operating loudly during icing conditions in violation of the project CPG. GMCW asserts that icing conditions were not present at the facility site due to a thermal "inversion" and that operational data proves that the turbines were not operational at the times the residents allege.

VGS Addison Expansion—Docket 7970 –VGS filed a response to both the Palmers’ and the PSD’s Motions for Reconsideration. It did not oppose the PSD’s Motion (which asked the Board to accurately state the standard by which a natural gas transmission line must be reviewed in the context of orderly development of the region). VGS did oppose all requests in the Palmers’ Motion. The PSD asked for an extension until Friday, January 24 to respond to Palmers; this is the date by which we must respond to New Haven’s Motion regarding noise monitoring. We will continue to work with VGS regarding the New Haven request and we will oppose the Palmers for reasons similar, if not identical, to those of VGS.

VGS Addison Expansion Phase 2—Docket 8180- Prehearing conference was held on Wednesday, January 22 and it was well attended. VPIRG, CLF, the Towns of Middlebury, Cornwall and Shoreham, PSD, ANR, AAFM, Vermont Land Trust, the Division for Historic Preservation, as well as some affected landowners, were present. VGS, ANR and PSD had submitted a proposed schedule in advance, which was shared at the last minute with other parties. There was much discussion regarding various issues with the schedule. The Board has requested comments from all parties by January 29 on a number of issues including: the number, location and timing of site visits and public hearings; remaining issues regarding FERC jurisdiction and the timing of the Board proceeding; the necessity of live surrebuttal; and any remaining scheduling concerns. VGS continues to meet with representatives of Cornwall and the Department is a participant in that process; little progress has been made. The Town of Shoreham has retained counsel and VGS is making good progress with it. The DPS has scheduled its first selectboard meeting for this docket for February 18 in Cornwall.

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

EVT/VEIC - VEIC has indicated, with its December 2013 invoice, that it will be seeking recovery of about \$1 million for the full cost of software development and for 12 to 18 months of subscription/license services that will not be delivered or available until March/April 2014. The PSD responded that such costs should not be billed in December but recovered over 12 to 18 months beginning in March/April 2014. If VEIC bills it in December, this may become an issue that will need to go to the Board for resolution.

### ***Telecommunications***

Telecom Survey – The BMI team determined that there is approximately \$60,000 in the NTIA budget that could be allocated for a telecom survey, so long as this survey includes the questions necessary to validate the BMI data and can be completed by this summer.

FairPoint Broadband Announcement – FairPoint has announced that it has completed projects to extend broadband throughout target communities with approximately 4000 locations. This project included approximately 70% of the unserved locations that had been identified when the project was initiated. It involved FairPoint agreeing to spend \$6.6M on the broadband projects instead of paying service quality penalties.

cell coverage update.

Pericle Wireless Report – The PSD directed Stone Environmental to conduct an analysis of estimated wireless communications coverage based on coverage maps produced in December by Pericle through the NTIA-funded broadband mapping grant. Stone determined that 91% of locations in the state are within the Pericle estimated coverage maps. Furthermore 85% are within the AT&T map while 81% are in the Verizon Wireless map. ConnectVT is considering whether to publish the Pericle report, the Stone analysis, or both, on the broadbandvt.org website.

what was it 3 yrs ago?

Public Hearing on the Telecommunications Plan – A public hearing is scheduled for February 21. Staff drafted a notice which will run for two weeks in papers statewide.

248a applications – Staff has experienced a slight increase in the number of applications coming from VTel. Otherwise, application numbers remained steady.

USF Phase III Report - Staff met with George Young at the Board about the publication of the Phase III report, which makes recommendations concerning high cost support. After discussing the matter with division staff, Mr. Young agreed that it would be inappropriate to issue the report because of the disagreements about content between staff and the contractor. The contractor also agrees that this report should not be issued as it is. Young recommended the Department consider issuing its own recommendations about high cost support to the Legislature so that it can fulfill its obligations under Act 169.

could it?

### **Regional Policy**

#### Cold Weather

Due to the recent cold weather, wholesale electricity prices have been significantly higher than normal. Prices on January 22 were between \$200/MWh and \$400/MWh for most of the day. Also, a significant amount of oil and coal units have been required to maintain reliability, given the use of natural gas for heating purposes.

#### FCM Performance Incentive

On January 17, ISO-NE filed its proposed Performance Incentive program for approval at FERC. Because NEPOOL had also passed a competing proposal, FERC has the option of implementing a very different change to the Forward Capacity Market. The expectation is that there will be substantial litigation associated with the filing. FERC has not yet set a deadline for comments. Staff's view is that both the ISO-NE and NEPOOL alternatives have problems, but on balance, the performance incentive proposal could provide additional value to ratepayers, albeit at an increased cost. New England states are split on the issue and therefore it is unlikely that NESCOE will make a substantive filing at FERC with respect to the performance incentive proposal. Most states do not support the NEPOOL alternative; however, since objection to the NEPOOL alternative could benefit the ISO-NE proposal, it's possible that NESCOE will not take a position on the NEPOOL alternative. Staff will work with Vermont utilities and other states to determine what position Vermont takes at FERC on this issue.





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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** January 24, 2014  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Of Interest:**

Prevailing Wage Rate Study: Labor submitted report to Legislature last week. The office of contract and administration did not have visibility of the report prior to submission, and in their opinion does not reflect what BGS indicated they could agree to which was eliminating the \$100,000; it is also the only thing the entire committee could agree to. **Update:** Annie Noonan and Deb Damore received an email from Cathy Lamberton (AGC) yesterday indicating the following: "The number is actually less than I originally indicated. As you will see by the chart, less than 2% of construction workers actually are members of a union and less than 4% are covered by the union bargaining agreements. With that said, I can't imagine why we would disrupt the existing VT Prevailing Wage system which is determined by a 90% return rate on surveys with actual wages in Vermont to move to a system such as the collective bargaining units." As an FYI, Wall, DEW, Smalley and Nicom Coatings were copied on the email. Deb suspects there will be pushback on this one.

**Status of Governor's Priorities:**

- Primarily in FY15 Capital Bill BAA proposal - stable

**Legislative Issues/Contacts:**

- First weekly check in with Speaker Shap Smith; Jeb should have coffee with the Speaker

Louis/Jeb  
FYI

### Significant Events/Meetings:

@ my request FYI

- Meeting with Mark Luckes & Robert Steel of Johnson Controls re: energy efficiency for the state.

## FINANCE AND MANAGEMENT

### Issues Update:

W-2 forms have been printed and mailed and 1099 Misc forms will be mailed shortly.

Preliminary VISION upgrade work is underway. Key stakeholders within the Agency of Administration met last week to begin the planning process.

Commissioner Reardon testified in House Appropriations on Tuesday, January 21 on the overall FY 2015 budget and on the Secretary of Administration's budget.

Commissioner Reardon testified on the FY 2014 Budget Adjustment Act on Wednesday, January 22 in the Senate Appropriations Committee. The BAA is on schedule to be voted out of the House this Friday.

Commissioner Reardon and budget office staff have been responding to various reporters' questions related to the FY 2015 budget proposal.

## HEALTH CARE REFORM

### Status of Governor's Priorities:

#### Financing - Green Mountain Care Financing

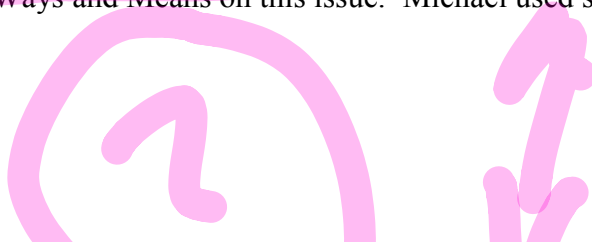
*How much do people pay for health care now?*

Overall, the goal in asking this question is three-fold:

1. Set an accurate benchmark to compare future finance plans
2. Educate policymakers and the public on their current spending, as the current system is opaque and a publicly financed system may make health care costs more transparent.
3. Identify affected populations who may see a big win or loss in a new system

Michael Costa completed a work plan with UMASS to help conduct a *Who Pays* analysis. He is hesitant to incur consulting expenses on this project because collaboration with the legislature in this matter is considered essential to build the trust and analytic capacity necessary to make progress on health care financing generally. To that end, Michael has discussed this matter repeatedly with JFO and provided JFO with his specific thinking and the ability of our consultants to start immediately and work with them collaboratively. Furthermore, Michael gave JFO two separate memoranda describing *who pays* analysis to help JFO prepare for its testimony before Ways and Means on this issue. Michael used some of the

met  
w/ Robert  
5/12



concepts raised in these memoranda in House Health Care Wednesday, and they were well received. While Michael cannot move forward for fear of alienating the Legislature, further delay may harm the Administration's timeline.

#### *How much will Green Mountain Care cost?*

Michael Costa continues to push the JFO to refine their revenue range. Thus far, we have worked the JFO down from a top range of \$2.2 to \$2.6 billion to a more appropriate and reasonable range of \$1.788bn to \$2.129 bn. We have one remaining \$100 million item of disagreement, and the Administration, JFO, and consultants are meeting today (Thursday) to resolve the issue. JFO staff indicates that legislative leadership is pushing them to finish the range so that they may offer to come to consensus with the Administration at a special meeting of the Emergency Board in February. The next big decision point for the Legislature and Administration is how to present and discuss this information publicly. Michael will circulate a draft document to Liz, Jeb, and Robin to review Friday.

Additionally, Michael has worked to get both the Administration and members of Partners for Health Care Reform beyond the disagreement set forth in the Avalere analysis. Michael set a meeting for Friday with Robin, Anya, Al, Bea Grause and representatives from Fletcher Allen, BCBS, DHMC, Medical Society and others to have a candid discussion on how to structure a process that would lead to consensus on defining terms and agreeing on numbers, even if the parties do not agree on the eventual policy proposals.

Michael Costa and Devon Green worked with our actuaries to determine the cost of giving all Green Mountain Care recipients coverage equivalent to the most common state employee plan. This actuarial value of the state plan is 94.4, while the actuarial value of the essential benefit package set out in the UMASS report is 87. The higher actuarial value makes the state plan more expensive in the Green Mountain Care construct because (a) recipients would pay fewer out of pocket costs and (b) the richer benefits would increase demand for services. Accordingly, the current estimate is that the public financing need would be increased by \$298 million if we used the state employee plan.

#### *How do you pay for Green Mountain Care?*

Michael continues to work on four finance plan options and variants of each. Specific progress includes recent data breakthroughs with the tax department, substantial progress in getting a proposed fee to work, and the initial development of two companion tax reform proposals. The next major deadline is the February 24 Business Advisory Council meeting. Michael will have more specific draft proposals to show the Governor's Office in early February.

Both Rep. Chris Pearson and Rep. Dave Sharpe have pulled Michael aside to offer to be a sounding board for potential GMC financing proposal.

Rep. Ancel remarked in committee that she is interested potentially in an access fee model. I believe our fee model is intriguing and growing more so over time.

SIM Grant: The Vermont Health Care Innovation Project launched its sub-grant program this week. This program provides \$3.37 million to support provider innovation and transformation with awards being announced in late March. The application can be found here:

[http://gmcboard.vermont.gov/sim\\_grant](http://gmcboard.vermont.gov/sim_grant). VHCIP convened all of its work groups over the first three

weeks of January, with the work groups finalizing Charters and Work Plans. These Charters and Work Plans will then be used to plan a detailed timeline for 2014. VHCIP will launch its new website in late January, making information about the project more accessible to all Vermonters. This website will include a sign-up feature so that individuals can be alerted to any upcoming VHCIP meetings.

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

January 23:

Vermont SIM evaluation interview with RTI international/Urban Institute/NASHP for CMS  
AHS enterprise program director recruitment team meeting

January 24:

Vt Provider Reimbursement – Meeting to discuss provider reimbursement rates and administrative costs in GMC. Will be attended by members of the provider community and VMS. (See Michael Costa's GMC financing update)

## **HUMAN RESOURCES**

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

Commissioner Duffy testified on DHR's budget request before the House Appropriations Committee. The testimony went as expected and no concerns were raised.


Commissioner Duffy testified before the House and Senate Government Operations Committees on three bills before each of the Committees that have been introduced at VSEA's request: (1) early retirement for DPS dispatchers and caregivers at the Vermont Veterans' Home; (2) limitations on the use of temporary employees; and (3) additional restrictions on privatization contracts. Commissioner Duffy indicated that she would await comment of the Treasurer's Office before commenting on the early retirement issue, but stated clear opposition to the other bills.

General Counsel Collier testified on S. 200, which would prohibit lobbying by former legislators and certain types of employment of former elected and appointed officials in the Executive branch. After the testimony, Senator White indicated she believed there is no further need to review the bill, and will not schedule any further hearings unless requested to do so.

Commissioner Duffy attended a hearing before House Human Services on efforts to staff the Green Mountain Psychiatric Care facility, particularly the timing of recruitment efforts and intentions regarding staffing. Representative Pugh indicated she thought the proposed deadline contravened instructions given to GMC at the last oversight hearing to have all 25 beds filled by mid-July, not mid-August, as is the current plan. Commissioner Dupre explained the clinical rationale for the decision. Representative Donahue also stated that she felt DMH did not follow the Committee's instructions to research best practices in staffing and training and report to the Committee on its findings. VSEA testified that a 2 to 1 ratio is required for staffing, and the Committee indicated it wants to hear more about this belief. As a side note, Representative Pugh indicated she was troubled by the sweep of pool positions that occurred to ensure sufficient pool positions are available to staff the hospital and has requested a list of all AHS positions that were swept.

Commissioner Duffy testified before the Senate Economic Services Committee on VSEA's proposed bill to permit the parties to bargain for arbitration rather than review of grievances by the Labor Board. Commissioner Duffy indicated a willingness to discuss it as part of bargaining but noted reasons why arbitration would not be appropriate in all cases. Labor Board Director Noonan expressed similar concerns. As Senator Mullins request, the parties will expedite a planned meeting to address ways in which the Labor Board process could become less legalistic and more informal.

At Commissioner Duffy's request, Representative Sweeney has sponsored a bill permitting the State to implement an Employer Group Waiver Program.



Commissioner Duffy spoke with Representative Turner regarding concerns he expressed regarding the reclassification of members of the Vermont Troopers' Association. Representative Turner appeared to be satisfied with the explanations provided by Commissioner Duffy indicating the review was entirely independent of the Governor's Office or the Secretary of Administration's Office. Representative Turner asked for a written summary of the information, which Commissioner Duffy is now drafting.

DHR received a request from the Joint Fiscal Office for the fiscal impact that would ensue if temporary employees were granted sick leave. DHR is in the process of preparing the information.

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

DHR responded to an inquiry from VT Watch Dog regarding the top five most highly compensated employees, when considering only base salary. All of those individuals are medical doctors who are paid more than the Governor.

DHR's General Counsel Steve Collier responded to an inquiry from VPR on an alleged embezzlement by a state employee at the Department of Labor.

At Anne Galloway's request, Commissioner Duffy summarized her testimony before the House Human Services Committee on staffing at the Green Mountain Care facility.

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

DHR is working with DVHA to respond to a public records request filed by the Republican National Committee with respect to salary and other personnel information related to Commissioner Larson.

Commissioner Duffy met with VSEA President Shelley Martin to discuss release time for her to perform her functions as president. The meeting was productive, and DHR is determining how best to grant additional release time to Martin.

#### **Evolving Issues:**

Based upon information posted on VSEA's website, it appears the Supervisory and Corrections contracts have been ratified by members, but the Non-Management Unit has not sent out the proposed contract to its members yet for review and ratification.

## **INFORMATION AND INNOVATION**

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

Richard Boes talked with Terri Hallenbeck who was asking questions about the new VDT contract with FAST. Her basic question was, why do we think this project will succeed when others either failed outright or did not meet expectations. She used DMV as her example of a failed project and VDT's ETM as her example of not meeting expectations. I talked about our strategic principle of leveraging the successes of others and that FAST had succeeded in many other states (I said "about 16 states") and that was considerably different from the DMV which had never been successfully implemented before. She asked if we would be going after the ETM vendor the way we did HP, and I told her that ETM was working, but that the ETM product had not evolved the way we expected when we first started, so the risks of extending it to many other tax types was much higher than the product from FAST that was proven in many states. I talked about the cost benefit of FAST and the independent review process. She will likely be requesting a copy. She asked how DII's oversight had changed and I talked about how it previously ended at the time of the contract, but now was ongoing. I talked about minimizing risk through the payment methodology and she said she understood from speaking with Mary.

### **Significant Events/Meetings**

The new Open Data site is now complete and will be launching in a few days. The domain name will be data.vermont.gov.

We have 20+ applicants for one vacant IT manager position.

Meetings this week to kick-off the Tax Department project went very well. The Integrated Tax System (ITS) technical kickoff and enterprise architecture review were extremely positive meetings, and it is clear from technical perspective project risk is very low. This is clearly a very competent vendor who understands their products, the tax business, and technical implications of a project such as this.

### **Evolving**

Our continued effort to reduce costs, stay in legal compliance and ensure sustainability in information technology initiatives resulted in a 15% reduction in Microsoft licensing. By pooling and central management of these licenses we initially save thirty thousand dollars and will continue to save 5% annually on software maintenance.

We are considering adding schedule shifts in DII to cover periodic scheduled maintenance of critical systems. We have been working with DHR and the VSEA to make sure all concerned are aware of our intent and have input. Our goal is to make sure system downtime is minimized during normal duty hours.

## **LIBRARIES**

No report.

## TAXES

### Legislative Update:

Miscellaneous Tax Bill: W&M appears ready to take testimony next week on the solar generation tax proposal. The VT Society of CPAs opposed the Dept's proposal to have use tax on items over \$5000 reported and remitted the month after the purchase rather than annually as too confusing and onerous.

Education Finance: The Commissioner reported on the Ed Tax Rate letter to Finance, and Sen. Hartwell and Galbraith seized the opportunity to state their desire for an Administration proposal. They pointed to their own proposal to eliminate itemized deductions, and use \$60M to incent schools that limited spending to inflation plus 1%. (Sen. Galbraith also suggested that he wanted an Administration proposal on the Estate Tax). Sen. Ashe suggested that the Picus report would signal the Administration's leanings, reasoning that there was so much information at the symposium and Prof. Picus would need to editorialize. The Commissioner did point out that Picus was jointly hired.

In the meantime, W&M is considering a bill that would adopt a .05 property tax increase, would increase the slope on income sensitivity but lower the cap to \$6000 (increases eligibility somewhat, but decreases high adjustments), and would eliminate renter rebate and shift money into housing program.

House Ag Committee: The Committee continues to consider sales tax exemptions for compost and potting soil, not limited to agricultural use. They have yet to hear a JFO estimate on revenue loss.

### Operations:

FAST Contract for Integrated Tax System: Rep. Heath was positive in her remarks to the Chamber about the BAA provision to accommodate this contract, calling it an innovative funding strategy. We have FOIA requests from Terri Hallenback as well as RSI (losing bidder on ITS, our current data warehouse vendor), for the proposals, contract and independent review. The vendors (including RSI on their own bid) have asked for significant redaction, with the claim that the amount of benefits that they associate with specific programs related to their products is proprietary. Finally, FAST has two members of the project team onsite, with more expected next week. They have been concentrating on designing the architecture of the hardware with DII, with decision points centering on desired recovery standards, with cost trade-offs.



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## CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

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From: Susan Spaulding  
Date: January 24, 2014  
RE: Boards and Commissions Update

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### NOTES:

#### **Vermont Economic Progress Council**

Lawrence Miller is in the middle of phone tag with Emma Marvin. If Emma is a "no" Lawrence will contact John Valente.

#### **State Police Advisory Council:**

I spoke with Keith Flynn and he recommends reappointing Nancy Sheahan and Leo Willey. Nancy is the Chair and she is very good with experience in law enforcement defense work. Leo Willey is also really good and Keith would hate to see his experience leave the Commission. There is an individual who currently serves that is not in good health and Keith thinks there will be an opening coming up soon. That would give us 2 vacancies to appoint Allison Demag (who according to Keith hasn't done lobbying for State Police for 15 years) and Michael Hartman. Keith didn't think Dan Davis would be a good appointment because he currently does defense work. We can discuss this further at the next meeting.

SKRzh:  
So why is it  
OK to have  
her on  
this  
team?  
so what?

Last name	first name	City	Board/Commission	Initial appt	ending date	Comments
Boyde	Glenn	Colchester	State Police Advisory Commission	8/7/2013	6/30/2017	
Vacancy			State Police Advisory Commission		6/30/2016	
Jefferson	Shirley	South Royalton	State Police Advisory Commission	2/6/2006	6/30/2017	Vt. Law School AA
Pallito	Patti	Richmond	State Police Advisory Commission	8/15/2012	6/30/2017	
Sartorelli	Ugo	Barre	State Police Advisory Commission	5/2/2005	6/30/2016	
Sheahan	Nancy	South Burlington	State Police Advisory Commission	12/15/2008	2/28/2014	
Willey	Leo	Newport	State Police Advisory Commission	2/25/2002	2/28/2014	Retired state trooper slot

## **Appointments made January 22, 2014**

### **Justice of the Peace, Town of Brandon:**

APPOINTED: Kathleen "Katie" Johnson

### **Justice of the Peace, Town of Bristol:**

APPOINTED: Theodore Lylis

### **Justice of the Peace, Town of Victory:**

APPOINTED: Dawn Peters

### **Selective Service Board:**

Nominee to the President: Michael Brogna, Rutland

### **Interactive Technologies:**

APPOINTED: Richard Smith, East Montpelier ( (Non-profit community)

### **Educational & Health Buildings Financing Agency:**

REAPPOINTED: Frederick Burkhardt, South Burlington

### **VT Housing Finance Agency**

REAPPOINTED: Dayne Canney, Clarendon

### **Veterans' Home Board of Trustees:**

APPOINTED: Karen Ann Moore, Bradford (Non Veteran)

APPOINTED: Andrew Cotrel, Halifax (Veteran) **HOLDING APPOINTMENT  
PAPERS TILL I RECEIVED HONORABLE DISCHARGE PAPERS.**

APPOINTED: Janet Osmer, Brownsville (Non Veteran) \

REAPPOINTED: Kent Butterfield, Stockbridge (Veteran)

REAPPOINTED: Brenda Cruickshank, Northfield (Veteran)

REAPPOINTED: Francis Speno, Brattleboro (Veteran)

### **Enhanced 911 Board:**

APPOINTED: Steven Gold, Montpelier (Public Member)

### **Fish & Wildlife**

APPOINTED: Cheryl Sullivan, Underhill (Chittenden County)

APPOINTED: Johanna Laggis, E. Hardwick (Caledonia County)

### **SerVermont:**

REAPPOINTED: James Coutts, Swanton

REAPPOINTED: Yacouba Jacob Gogre, Colchester

APPOINTED: Ashley Burke, Dorset and D.C. (Youth

**Medical Practice Board:**

APPOINTED: David Liebow, Townshend (Podiatrist)

APPOINTED: Marga Sproul, So. Burlington (Physician)

**Alcohol & Drug Abuse Council:**

APPOINTED: Rita Johnson, Montpelier (Public Member)

APPOINTED: Todd Bauman, Underhill – (Mental Health Agency)

**Public Transit Advisory Council:**

REAPPOINTED: Gwendolyn Hallsmith, Montpelier (Public Citizen)

**Board of Land Surveyors:**

APPOINTED: Joseph Nalette, Hartford (Professional)

**Board of Libraries:**

REAPPOINTED: Bruce Post, Essex (Current Chair)

**Special Education Advisory Council:**

APPOINTED: Nancy Richardson, So. Burlington (At Large)

**District Environmental Commissions:**

District #1

REAPPOINTED: Dagne Canney, Clarendon (Alternate) –

District #2

REAPPOINTED: Deborah Hallett, South Londonderry (Alternate)

District #3

REAPPOINTED: Marvin Harvey, Rochester (Alternate)

District #4

REAPPOINTED: Thomas Getz, Burlington (Alternate)

District #5

REAPPOINTED: Jeffrey Cueto, East Montpelier (Alternate)

REAPPOINTED: Kelly Ogrodnik, Montpelier (Alternate)

REAPPOINTED: Elaine Wang, Barre (Alternate)

District #6

REAPPOINTED: Megan Manahan, St. Albans (Alternate)

District #7

REAPPOINTED: Nicole Davignon, Hardwick (Alternate)

**Pathways From Poverty:**

APPOINTED: Linda Ryan, St. Albans (Co-Chair)  
APPOINTED: Christopher Curtis, Montpelier (Co-Chair)  
APPOINTED: Cary Brown, Montpelier  
APPOINTED: Jan Demers, Burlington  
APPOINTED: Michael Monte, Burlington  
APPOINTED: Marissa Parisi, Shelburne  
APPOINTED: Joseph Patrissi, Moretown  
APPOINTED: Richard Williams, Moretown  
APPOINTED: Auburn Watersong, Montpelier  
APPOINTED: Melinda Moulton, Huntington  
APPOINTED: Erhard Mahnke, Burlington  
APPOINTED: Erik Hoekstra, Burlington  
APPOINTED: Elizabeth Ready, Lincoln  
APPOINTED: Sheila Reed, Ryegate  
APPOINTED: Karen Lafayette, Burlington  
APPOINTED: Rita Markley, Burlington  
APPOINTED: Joshua David, Marlboro  
APPOINTED: Mark Redmond, Essex  
APPOINTED: Sara Kobylenski, Hartland

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Michael J. Hogan, Commissioner of Liquor Control  
**Date:** January 24, 2014  
**Re:** Weekly Report

**Status of Governor's Priorities:** Budget Testimony scheduled for Jan 30.

**Legislative Issues/Contacts/Updates:**

- Spoke to Senate Econ Dev Committee Wednesday on a few bills:
- S181-S289: would allow for licensees to serve flights of various products for comparison purposes. Current law does not allow that. I took the introduced bill and made some suggestions after speaking to the committee. They will most likely use S289 because that was Sen. Fox's bill. Our Board supports the concept and it is a common practice throughout the country. The bill was voted out of committee favorably.
- S226: Allows libraries to serve alcohol for fund raising activities. The bill is filled with problems of which I addressed. No license or permit required, liability issues for the library or town/city that allows it. Licensed caterers could do this and all the concerns would be eliminated. Still pending action.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business. The committee was in favor and the department made some changes that address our concerns. The bill was voted out of committee favorably.
- H575: Spoke to House General yesterday about lottery machines on licensed premises. Our Board takes no position as it's a lottery issue. However, I did mention that lottery sales are age restrictive and that any sales on a licensed premise to a minor would be unlawful conduct and subject to a fine or possible suspension for the license holder.
- There are some new bills introduced that I have concerns over, but will address them later. I will keep your staff aware of any new issues.

**Press Issues/Releases/Contacts:** Nothing now.

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

**Evolving Issues:**

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

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**Summary of Key Department Activity:**

- January sales continue to be good.

**Commissioner's Commentary:** Have a great weekend. Stay warm!

Elizabeth H. Miller  
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