

# WEEKLY REPORTS

Checklist  
8/22/14

Elizabeth Miller/Alyson Richards

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

TBD

- Agency of Transportation – Brian Searles
- Agency of Human Services – Harry Chen

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- Boards and Commissions – Susan Spaulding (**no report this week**)
- Department of Liquor Control – Mike Hogan

**To: Governor Peter Shumlin**  
**From: Patricia Moulton, Secretary - Agency of Commerce and Community Development**  
**Date: August 22, 2014**  
**Re: Weekly Report**

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**PATRICIA MOULTON, SECRETARY: CONFIDENTIAL**

**AncBio:** June 27 we met with Bill Stenger, Ariel Quiros and Bill Kelly to explain our deep concerns over material disclosures in the offering docs for the AncBio and Q-Burke projects. We followed up with a letter July 9 spelling out what we needed and by when. Weekly reports from Bill indicated they were working on the main request of an unqualified opinion from expert SEC attorney(s) indicating their offering memoranda were disclosing all material facts. In the alternative, an updated offering memo. Wednesday, Brent Raymond and John Kessler had a telephone conference with the legal counsel from Richardson and Patel that Bill indicated was working on this request supposedly for the last 7 weeks. The attorney, David Feldman was completely unaware of the request, the required material disclosures and clearly had done no work on this. Thursday, we issued a letter to Bill Stenger, Ariel Quiros and Bill Kelly indicating they were in violation of our MOU by not producing the requested documents. Further, if they failed to provide that to us in the next 14 days, we had no choice but to cancel MOU's on both AncBio and Q-Burke. In a telephone conversation on Thursday, Bill told me Richardson and Patel "have had the documents for two months, were supposedly working on this and that clearly David Feldman was not prepared." He explained he has retained Carroll and Scribner who worked on their initial offering docs to review and update. Bill indicated he too was "shocked" David Feldman was so clueless.

We are seeing a pattern of communication being incomplete or telling us what we want to hear and learning later it is not true. This is very disturbing. We are deeply concerned about both projects but particularly AncBio given what we know had not been disclosed to potential and current investors.

Bill indicated his VP of Marketing, Steve Wright is working on EB5 PR and outreach. Alex MacLean is back from maternity leave. We hope these events will increase the accurate communication on these projects.

**Rutland Plywood:** I will be calling Jack Barrett Friday to offer assistance. I am told the company was well insured. They have exiting loans with VEDA, Peoples and Rutland Econ. Dev. Corp. They have space in their former building which could accommodate part of the operations. We are unsure at this time what operations they will be starting and when. I am told they are getting pressure from Peoples. VEDA is giving them some time and I will be talking to Tom Porter, RP's loan officer at the VEDA meeting Friday about what they can do to assist with equipment to help them get back on their feet.

**Made In Vermont:** Nancy Brooks has brought me significant concerns about the "Made In Vermont" program we are doing with Ag. The program is intended to be a self-certifying replacement for the Seal of Quality. The intent is to build this out of state marketing program to promote Vermont products which is a self certified program to act as a "seal of approval" program. Lastly, to develop a consumer resource web site for Vermont products. However, we lack the budget to do much paid media out of state (perhaps \$10,000 in carry over funds), we will be building a consumer resource web site where you cannot buy product (there will be links to producers web sites) and no resources for quality control (someone can apply for the MIV label but have a crappy product. We have no way to jury or judge the products). Further, there are "made in Vermont" web sites being developed to market Vermont made products (most recent which just started is <http://www.vermontmademarketplace.com>) which may take some of the interest away from MIV. The concern is if we launch and charge \$150 per company, will that be self-sustaining and allow us to market the MIV label out of state? The Legislature provided enabling legislation but did not mandate the creation of the program. We are meeting with Ag as soon as we can to discuss our concerns. Without a budget, it will be a challenge to do this program well. My question for the 5<sup>th</sup> floor is whether this is a priority? If so, which is the most important element? The web site, the out of state marketing, the "seal of approval"? If one element is more important, we can put our financial and personnel resources on that. If this is not a priority for the Governor, we can save a lot of staff time and some funding that could be spent elsewhere.

**IBM:** I had a good meeting Monday with Janette Bombardier to discuss short term options for finding employees and training. Attending were Dan Smith of VTC, Joyce Judy of CCV, John Fischer of Agency of Ed, me, Beth Demers from our Vt. Training Program and Penne Ciraldi of CCV. We came up with several short term strategies and medium term/pipeline filling strategies:

Short term:

- Do an IBM designed Governor's Career Ready Certificate program targeting un and under employed.

- Have IBM folks go to CCV in Winooski and speak to their math and science classes about careers at IBM. And/or do a job/career fair for IBM at CCV (2,500 students, many adults).
- Talk to current VTC students in auto mechanics and other technical fields. Also canvass alumni or recent grads of these programs.
- Be at VTC career fair.
- Connect IBM with VDOL and VDOL Veterans reps.

Medium term:

- Do an electro/mechanical program at the Tech Center in either Burlington or Essex. Patterned after the program being piloted in Newport now.
- Enhance enrollment in the Vt. Academy of Science and Technology by coupling with a summer internship at IBM and other employers. Have employers also be prepared to cover one semester of the students second year at VTC. If/when we have Vt. Scholars funds, target these students to pay the other semester at VTC.
- Build a certificate program for CCV's STEM students to go in to VTC's 2 year engineering program.
- Build a "BA+" program targeting folks wanting to go back to college to learn technical skills.

We are going to conference call with Janette every couple of weeks to keep momentum moving. Annie Noonan will be on the first call next Thursday.

**Energtek North Country:** I met with Leslie Nulty who will her husband Tim Nulty (both formerly EC Fiber and Tim formerly Burlington Telecom) about an energy startup they are doing. Their company is a wholly owned subsidiary of Energtek, a European and Israeli company specializing in delivering non pipeline natural gas. They indicate they can supply smaller customers that NG Advantage cannot. They have purchased land in Swanton for their first distribution facility. They are opening a second facility, which they are working on simultaneously, in Colebrook, NH. I asked Leslie if she could share her business plan with me as a couple of things she discussed seemed a bit odd to me. If they are real, this could be a tremendous opportunity. They are looking for financing. She mentioned the Govs. Enterprise Fund which I dissuaded her from and pushed her to VEDA.

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

- **Confidential: Economic Analyst:** Ken Jones, ACCD's Economic Analyst met with Pat and Lucy with the news that he intends to apply for a seat on the Public Service Board. He requested assistance with the Governor's Office in obtaining the position. Pat asked for his assistance in finding his replacement should he be successful. Please feel free to discuss with Pat or Lucy.
- **Confidential: Vermont Strong Scholars:** We have decided to do a test run on how much we would need in terms of budget if we limited the program to IT/Software and Engineering related jobs and studies. Matt Hill, John Fischer, Dan Smith and Clarence Davis are going to run the numbers on this and get back to us by Aug. 27.
- **Confidential VCGI:** Internal analysis continues. We are growing increasingly concerned at our ability to absorb enough of VCGI's existing functions into ACCD with only four positions. Lucy has directed ACCD's Business Manager, Kathy Thayer Gosselin, to meet with financial staff at VCGI in order to drill down deeper into their budget numbers, in particular, other revenue and related expenses, to get a better sense of what kind of resources we will require with different staffing scenarios: 6, 5, or 4 new FTE's to carry out VCGI's statutory functions.

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

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

- **Vermont Captive Insurance Association (VCIA) Conference:** Dan Towle, Director of Financial Services confirms that the VCIA Conference was a huge success. There were approximately 1100 attendees registered. The week was filled up with meetings and was a very busy conference. Pat Moulton spoke at the conference in the Governor's spot at the opening general session. Quite a few prospects were identified and follow-up is ongoing. **PLEASE NOTE:** Dan indicates he received a few inquiries as to "where was the Governor" which was the first time that has happened in the last few years when the Governor was unable to attend. **It would be BEST if he could plan on attending and doing the opening next year!**
- **Non Admitted Reinsurance Reform Act (NRRA) Legislative Fix Proposed by Senator Leahy and Congressman Welch:** New Federal legislation aimed to fix the confusion caused by the NRRA and the applicability of self-procurement taxes on captives has been introduced. Senator Leahy and Lindsey

Graham of South Carolina have sponsored a Senate version with Congressman Welch sponsoring a House version. Dan put out a press release on the issue and it has been received positively thus far. Dan is expecting to be headed to Washington DC in the near future to help support this issue with meetings with Leahy's and Welch's staff.

- **Microsoft:** Microsoft has had a captive in Vermont for some time and Dan has built a positive working relationship with the Risk Manager of Microsoft. Dan has been invited by the risk manager of Microsoft to come out and visit operations there. The Risk Manager has also offered to introduce Dan to some other risk managers in the area that may be in need of a captive. This would be a tremendous opportunity for introduction to new potential prospects if this can be coordinated.
- **Vermont has been Named a Finalist for US Captive Domicile of the Year by Captive Review Magazine:** Dan submitted an application for this award and Vermont has been named a finalist. The award winners will be announced in October. Vermont won in 2012 and was Runner-up last year (these have been the only years they have done this award).

### **INTERNATIONAL (EB-5/Vermont Global Trade Partnership) ♦ Brent Raymond, Director**

#### **VT EB-5 Regional Center**

- Becky and Brent reviewed and completed both English and Chinese versions of their article, EB-5 Due Diligence, to be published by ILW, the leading immigration law publisher based in New York City. The book will be published in both Chinese and English in September.
- Becky and Brent worked on assisting, reviewing and providing materials to Commissioner Gosselin for an article about the Vermont EB-5 regional center to be published in a South China Business Journal.
- Secretary Moulton and Brent met with Jim Myers, Eco Global Board Chair and Ted Grannatt of McCARTER & ENGLISH, LLP regarding Seldon Water.
- Brent was interviewed by Kevin Kelley of Vermont Business Magazine regarding VT EB-5 Regional Center.
- Brent traveled to Ludlow to meet with Andrew Becker and Ted Rossi regarding Timber Creek at Ludlow Ski Resort. The development has an Act 250 Master Approval for over 200 residential units.
- Secretary Moulton and Brent met with Andrew Becker, developer and Doug Hauer of Mintz Levin.
- Brent attended IIUSA Compliance Committee conference call (he is a committee member).
- Brent met with David Pendle and Chris Saunders of Senator Leahy's office regarding VT EB-5 Regional Center, future extension and legislation to strengthen the program.

#### **VT Global Trade Partnership**

- Becky met Liu Xingguo, CEO of HBIO, a leading trading company in Shandong, China. Mr. Liu is interested in establishing Vermont export distribution business relations for baby formula and coffee.
- Becky, Ken Horseman and Brent had a conference call with Saudi Arabia economic development officials about holding an informational export event on doing business in Saudi Arabia.

### **OFFICE OF THE CREATIVE ECONOMY ♦ Lars Torres, Director**

#### **Creative Economy Support**

- **Celebrate Vermont Festival:** Staffed an OCE booth at this nicely organized showcase of Vermont producers, from visual and performing artists to specialty food, and outdoor recreation. Blu-Bin and Budnitz Bicycles were highlights of the creative economy booth at this under-attended event over the weekend. See some pictures here: <http://instagram.com/vermontoce>
- **VABIR:** Meeting with Lori Walters and Samantha Brennan to explore ways the initiatives of the Office might intersect with the worker rehabilitation and training opportunities offered by VABIR. Provided one-on-one guidance to a young client who has an inflamed interest in screen writing.

#### **Upcoming Events**

- **Vermont Arts Education Summit 9/11:** Ben Doyle at the Vermont Arts Council is doing yeoman's work to design and promote an excellent event. The OCE has provided contacts to key stakeholders and designed and developed the summit website at: <http://vtartsed.org>

### **VERMONT ECONOMIC PROGRESS COUNCIL ♦ Fred Kenney, Director**

#### **TIF**

- Continued work on TIF District rule drafting.

## **Windham County Economic Development Program**

- Held application workshops in Townshend and Vernon. Approximately 80 attendees between the two workshops. Good feedback for a change!
- Held a webinar with technical assistance providers: SBDC, VEDA, BDCC, and Windham Regional Commission.

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

- **Green Mountain Semiconductor, Inc. - Burlington:** Babette Lizotte met with Wolfgang Holenmaier and Don Labreacque to discuss the PTAC program. They were referred by Steve Densham of the Small Business Development Center (SBDC) and were curious if there were government contracting opportunities in their field. Wolfgang and Don, along with Ryan Janusek and Aaron Villey, started this business after cuts at IBM. They are partners and have existing contacts in the business. They provide semiconductor product development service, memory chip design, and electronics engineering training and consulting. They are incorporated through the State of Vermont, have a Data Universal Number System (DUNS) number 079501886, and are ready to move on to System for Award Management (SAM) as the next step. Babette was able to assist them and will follow up.

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

### **Commissioner MacKay and Deputy Commissioner Hollar**

#### **Commissioner MacKay**

- **Breaking Down Agency Silos**
  - **Migrant Labor and Housing:** Joined Deputy Commissioner Hollar at a meeting on migrant labor and housing led by DOL's Annie Noonan and AAFM's Diane Bothfeld. Representatives from the Department of Health, the agricultural community, migrant laborers and advocates discussed state and federal regulations, the issues facing both farm owners and workers and how best to raise awareness and address issues.
  - **Lake Champlain TMDL Discussion:** Joined Secretary Moulton, and reps from AOT, AAFM, Finance and Management and ARN to learn more from David Mears about options for implementing the Phase 1 Plan for cleaning up Lake Champlain and the options for funding the plan.
- **VERI Kick Off Meetings, Staffing & EDA Visit:** Facilitated key stakeholder meetings in Brandon and Barre this week. All went well and meeting follow up is underway. We are planning a partners' recap meeting in September before our community meetings. Great energy, interest and ideas from the town. The VERI project manager job closes 8/20 so we hope to set up interviews next week. EDA's Debra Bevins will be doing a project check-in visit next Tuesday.

#### **Deputy Commissioner Hollar**

- **Environmental Reviews:** The VCDP and GMS teams, led by Kate Fournier, continue to work closely with applicants on environmental reviews. While many are moving along well, others are interfering with development timelines. Met with Ann Kroll, Josh Hanford and Dale Azaria to determine if and when disaster recovery projects of an urgent nature can be exempted from a full review. Dale confirmed projects can be considered exempt only in very limited circumstances. This means the Town of Warren must complete a full environmental assessment, including a 30 day comment period, before replacing a culvert funded by CDBG-DR. The review is now complete the waiting period has put the Town's ability to complete the project this fall in question. Ann Kroll and Josh Hanford are working closely with the Town, in coordination with ANR, to find a solution. This is one of dozens of projects requiring hands on guidance by GMS and VCDP on environmental review and other issues.

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

- **Strong Communities Quarterly Newsletter:** We had over 484 initial subscriber "opens" with a 31% open rate and received positive feedback for the [summer edition of Strong Communities Quarterly](#). Special thanks to all who submitted news items by the deadline. The autumn edition is right around the corner, so please keep an eye out for upcoming grant and training opportunities, local and state success stories/case studies as well as news and other information communities can use.

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

### **Environmental Review (ER)**

- We received additional information and documentation from CHT on the Green Street Housing Project where they are continuing to push back that they do not need to conduct the 8-Step process for the Wetlands despite the fact that our HUD Field Environmental Officer, Beth informed them on July 11 that it was required for the indirect impacts. Beth will review this with Kate and Ann to make a determination. The concern is that if not approved, and they have no choice and must conduct the 8-Step it will add at least another 30-40 days before the environmental review can be considered complete and ready to publish the notice that has another 30 day comment period.

### **HUD CDBG and HOME Monitoring Visit – August 6-7**

- Due to a Finding on the use of CDBG funds for acquisition as spot slums and blight in the Brooks House project where we incorrectly interpreted the demolition and clean-up was meeting the National Objective, Ann and Josh are developing a memo to HUD. We need to request a waiver to prorate the CDBG funds for the commercial space only and therefore will capture low and moderate income benefit to meet the National Objective with the jobs at the Community College, Vermont Tech, the retail and restaurant spaces.

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

- DHP wishes to thank BGS, especially Merle Miller, and Commissioner MacKay for all their support, advice, direction, and **immediate action** to provide emergency services to our tenant at the Hubbardton Battlefield. The emergency work required bottled water deliveries, drilling of a well because the spring dried up, and upgrading electrical to support the new pump. The tenant, Mrs. Ruth Paul, expressed her gratitude for everyone's hard work and dedication on her behalf.
- Laura and Caitlin met with Israel Smith and Cleary Buckley of Smith Buckley Architects in Burlington, along with Erick Crockenberg and Emily Wadhams, regarding the proposed plans for the Moran Plant. The scope of the meeting was to review proposed changes to the building and how those changes meet the Secretary of Interior's Standards for Rehabilitation in order for this project to successfully receive federal tax credits. DHP will be requesting a Preliminary Review of the proposed rehabilitation within the next few weeks in order to keep the project on schedule.

### **State Archaeologist**

- **Vermont Archaeology Month Update:** Plans for Vermont Archaeology Month are being finalized with over 50 confirmed events being hosted across the state during the month of September. The rack cards highlighting the month's major events are currently being printed and the full calendar of events is being prepared for submission to various websites, social media, and press outlets. Jess Robinson, Jen Russell, and Brennan Gauthier installed an exhibit of significant archaeological specimens recovered from the remains of the Waterbury Ozias Atherton House, which was destroyed in the 1830 "500-year" flood. The exhibit is located in the Montpelier Welcome Center on State Street.

### **State Architectural Historian**

- **Clark Memorial Farm, Chittenden:** Devin conducted a site visit to meet with the owners of the Clark Memorial Farm, which is being developed as an agritourism destination. On the property is a 1937 Montgomery Ward kit house that still contains many of the original furnishings. It is an excellent example of an early-20<sup>th</sup>-century prefabricated bungalow.
- **Hubbard Cabin, Hancock:** Devin conducted a site visit to the Hubbard Cabin, which is on the grounds of the Middlebury Snow Bowl ski area. The log cabin was built in 1938 by the Civilian Conservation Corps and is one of the oldest extant ski base lodges remaining in the nation. It is in poor condition and in need of immediate stabilization.
- **Ruth Stone House, Goshen:** Devin conducted a site visit to the former home of nationally renowned poet Ruth Stone (1915-2011). Stone's descendants have established a non-profit literary organization to turn the property into a writer/artist retreat. They hope to list the property in the National Register for its association with Stone, who owned it from 1956-2011. The house and surrounding landscape feature prominently in all of her work.
- **Former Buck's Furniture property, Wolcott:** A large redevelopment is planned in Wolcott to convert the vacant Buck's Furniture buildings into light industry, retail and professional use. Five structures are proposed for demolition, including two that are potentially historic (more information is needed about their condition). One citizen has contacted the Division repeatedly to express concern over the demolition of one

of these buildings, but it does not appear that DHP has any regulatory role in the project. Consultation is ongoing with the citizen and the developer of the project, Sunrise Development, LLC.

- **Proposed Amusement Park, Mendon:** Devin spoke with the head of the Mendon Historical Society, who called to express concern about a proposal to develop a small amusement park on the east side of Route 4, opposite the Maple Sugar & Vermont Spice Restaurant. The project would include the demolition of one historic house and the construction of a mini-golf course, batting cages, and an arcade. There is local concern that this type of development does not fit or belong in Mendon. It does not appear that DHP will have any regulatory jurisdiction.

#### **State-Owned Historic Sites**

- **Bennington Battle Monument:** The week leading into ‘Bennington Battle Day’ proved to be a very good one. The weather was perfect for Battle Day, and it turned out to be one of the busiest Battle Days ever. The commander of the re-enactment group estimated at least 700 visitors came through the encampment on Saturday; and there were close to 50 re-enactors stationed on the lawn. A real bonus was when a New Hampshire National Guard Unit arrived and mingled the past with the present. The guardsmen and women joined right in with musket drills and artillery fire; historically it was New Hampshire led by John Stark that came to the aid of the colonial troops so it all fit together very nicely. The road race was also one of the best races in the 10 years it has been happening; there were 109 participants in the 5K and 33 racers in the children’s ‘fun race’ around the circle. Sunday was different with an over cast sky and hints of rain, we saw over 200 visitors but it seemed very quiet compared to the 697 ticketed visitors we saw on Saturday (**897 in TOTAL**).
  - Rack Cards are being distributed to 7 of the welcome centers statewide to further promote the Monument.
- **Chimney Point:** BGS pest expert Chris Sabin treated the tavern room floor for powder post beetles. Elsa recently discovered evidence of these pests. The plasterer continues his good work on repairing the plaster that cracked during the recent bridge project. A bald eagle recently visited the site. Quite a few visitors are enjoying the total experience here—camping in the area, visiting us, walking the grounds and the bridge, and visiting the Crown Point site and Champlain Memorial Lighthouse. The bridge sidewalks are busy all day and into the evening.

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

- A rather promising bid for creating materials for the small-scale landlord education project was received from the partnership of the Champlain Valley Office of Economic Opportunity and the Vermont Apartment Owners Association. Shaun is drafting a contract for the work to be performed over the next several months that will result in a suite of educational materials for “mom-and-pop” landlords.

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

##### **CDBG-Disaster Work**

- **Windham Regional Commission:** Josh and Nathan met with Susan McMahon to discuss potential projects that may be eligible for CDBG-DR funding. These potential projects were identified as a result of work that WRC completed through the Southern Vermont Tropical Storm Irene Recovery Project (funded through the EDA). This project, which is very similar to the work being completed by the VDAT was focused on identifying ways to revitalize 10 villages in Southern Vermont that were affected by TS Irene. The WRC and Bennington County RPC worked with villages throughout Southern Vermont to develop a list of short term and long term projects for each of the communities that they worked with. WRC is hoping to identify funding to allow some of the short term projects to be implemented, as well as funding to complete a more in-depth analysis on the impediments to development in these villages (specifically wastewater and water infrastructure). <http://strengtheningsouthernvt.wordpress.com/village-reports/>
- **Brattleboro - 464 Canal Street** – (Melrose Terrace - Brattleboro Housing Authority): The WRC Brownfields program does not have enough funding to cover the estimated \$400,000 cleanup costs on the property which the Melrose Terrace housing will be relocating to. As BHA had to move the housing due to the flooding caused by Tropical Storm Irene, there may be an opportunity for CDBG-DR II funds to help defray the cleanup costs.
- **Westgate Housing:** Located adjacent to the Whetstone Brook, this 98 unit affordable housing complex is owned by a non-profit partnership with Housing Vermont. Since Tropical Storm Irene many of the units have been prone to water seeping into their basements resulting in unhealthy living conditions for the

tenants. The property managers have been working with an engineering firm in an effort to determine what the best solution is. Based on the data collected by the engineering firm it is estimated that the elevation of the water table along the Whetstone Brook has been raised by up to 18 inches as a result of sediment deposits raising the streambed. The organization hopes that when the engineering assessment is completed that they will apply for CDBG-DR funding to allow rents to remain stable, and the nonprofit will be able to continue to provide safe healthy affordable housing to its residents.

- **Town of Cabot:** The Town submitted a \$1 million Implementation Grant application to 1) demolish the existing Town Garage and restore the less than 1-acre site due to it being located in the flood plain and 2) construct a new Town Garage Facility to include a 100 by 70 foot garage with a 20 by 60 foot cold storage wing and a separate 40 by 60 foot salt shed. The Town resolved two minor threshold issues so a review of the application can move forward for the September 11, 2014 CD Board meeting.
- **Town of Warren:** The town will move forward and use the \$200,000 CDBG-DR grant awarded to them for replacing a culvert damaged by Irene on Plunkton Rd. The timeline and contract for the work had to be extended due to the 30 day comment period required for the HUD Environmental Review. Fortunately DEC River Engineer Patrick Ross was willing to extend his Stream Alteration Permit to allow work past the normal Oct 1<sup>st</sup> deadline and the town was able to convince the contractor to extend his contract date. CDBG-DR funds will also cover cost overruns related to the completing this work outside of the preferred construction season (late August/early September) when stream flows are at annual low flow. Without a solution the town would be forced to close this road for the winter, impacting residents and the only emergency access around Route 100 and the Granville Gulf area.

#### **Regular CDBG: Existing grants**

- **Town of Brattleboro:** Progress on the Brooks House Re-development continues. Help wanted signs for a new restaurant were visible and great looking CCV and VT Tech signage up on the building. Josh & Ann both worked on a memo to HUD explaining the use of CDBG funding in this project supporting the acquisition of this blighted property to allow for re-development.

#### **Technical Assistance to potential projects**

- **Brattleboro – New England Youth Theatre:** While in Brattleboro Nathan and Josh met with Naomi Schafer (NEYT) and Susan McMahon (WRC), on a potential project that would remediate brownfields on 3 separate properties adjacent to the NEYT. A funding gap to fully remediate the sites has led NEYT and WRC to seek additional funding through VCDP and due to the property being flooded during TS Irene there is a potential for NEYT to apply through both the regular VCDP and CDBG-DR programs. One property (the historic Livery Building) is purposed to be demolished and cleaned up to allow for the NEYT to add new theatre space for their Theatre Adventure program, which serves students with disabilities, of which roughly 50% are considered to be LMI.

### **DEPARTMENT OF TOURISM & MARKETING**

#### **Megan Smith, Commissioner**

- **Celebrate Vermont:** The VDTM team supported the Celebrate Vermont Festival in Stowe with an information tent. We invited [NECI](#) to share the tent so visitors could sample their creations. [Vermont Teddy Bear](#) supplied a “Chef Bear” prize to get visitors to register for the drawing, which allowed us capture names for our e-newsletter mailing list.

#### **Steve Cook, Deputy Commissioner**

- **Envisioning the Future of Vermont’s Digital Economy:** Deputy Commissioner Cook will speak at the September [Vermont Council on Rural Development](#) conference. Cook is hosting a session titled “Marketing Vermont as a Place to Live Work and Play”. Cook will discuss the Governor’s efforts to attract a talented workforce and how the State is investing in this effort.
- **Item of Note:** The City of Montpelier will launch a rebranding effort in September. Working with local businesses, residents and the state, the city hopes to develop a consistent branding strategy that will lead future promotional efforts for both the municipality and area businesses.
- **WDEV:** Deputy Commissioner Cook appeared on WDEV on Aug 15 for a half hour segment focused on tourism and the State’s role in marketing Vermont.

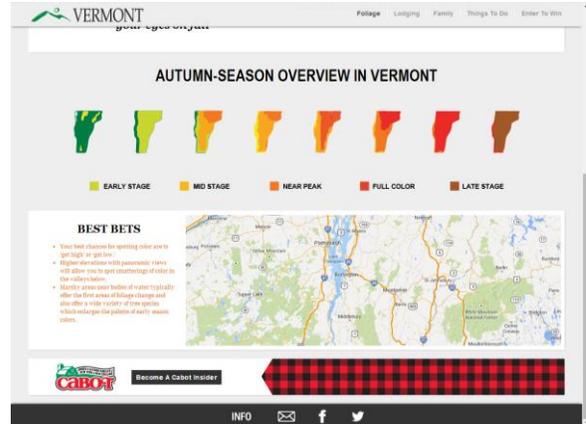
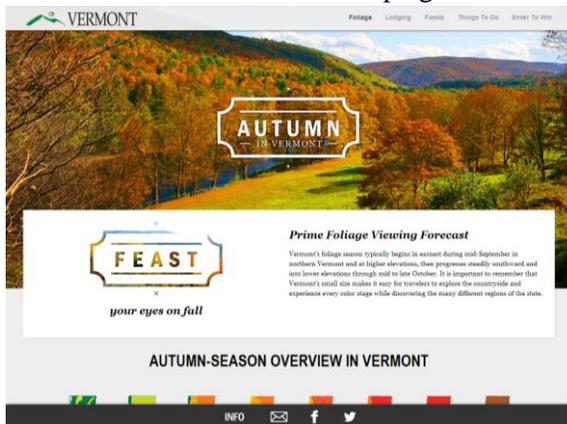
**COMMUNICATIONS ♦ Jen Butson, Director of Communications**

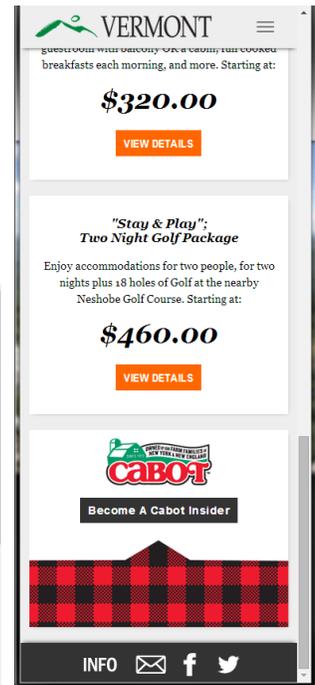
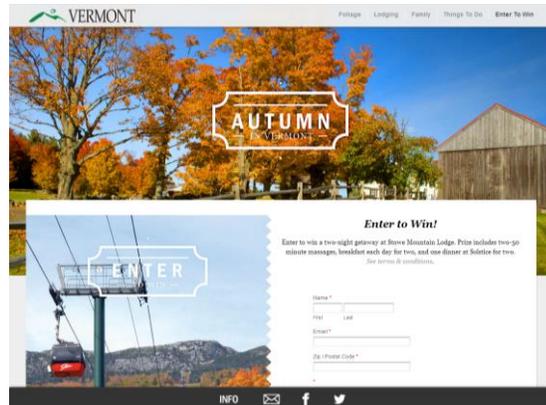
- **VDTM Media Projects Highlights:** [Maxim.com](#) “Eco over Macho” hunting story. [Burlington Free Press](#) agritourism feature with Sally Pollak, and foliage with London’s [Daily Telegraph](#). I assisted publications in Cleveland, Germany and in Abu Dhabi with a dozen specific requests for fall foliage photography, from Eden Mills to Bennington. [Holiday & Lifestyle](#) magazine in Germany will feature a two-page feature photo. [ConnectYourMeetings.com](#) sent a nice [proof](#) of their upcoming issue, which includes [Shelburne Museum](#) as we recommended.
- **ACCD Media Projects:** I assisted the CMO’s Office with its announcement of a second state craft center and Historic Preservation with a press release about federal grants awarded to six Vermont communities.
- **Social Media:** The top two lead posts this week had a reach of 3.4k, with PMG/Cabot’s Fan Photo Fridays a close third and fourth, generating 2.8k.

08/17/2014 5:52 pm		Vermont, where mountains and marching bands meet. What festival will you visit next?			1.8K	
08/17/2014 6:20 am		RSVP for the Vermont Life Calendar & Photography Party on September 4! Come to this fun evening and			1.6K	

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

- **Fall Campaign:** VDTM has finalized the fall campaign micro site. The URL will be [VermontVacation.com/fall](#). This site has two central priorities: providing the foliage report to those who want to stay up-to-date with the current foliage stage and promoting packages and deals for midweek stays throughout the state. *Feast Your Eyes on Autumn in Vermont* is this year’s message for fall. Although foliage is what Vermont is known for during this time of year, we are emphasizing there is more to do than viewing the scenery. Two different contests have been included with this campaign. Each contest provides specific prizes, which will help VDTM acquire a wide range of additional consumer addresses for our e-newsletter. Screen shots for the campaign are below:





**RESEARCH & STATISTICS ♦ Greg Gerdel, Research & Operations Chief**

**Tri-State 511 Project**

- **Traffic Information Systems:** Robert T. White reported this week that VTrans has secured a \$1,000,000 grant from the Federal Highway Administration to support the development of the collaborative 511 system among the three northern New England states. One of the features of the plan is that the [New Hampshire Transportation Management Center \(TMC\)](#) will provide coverage for Vermont overnight and on weekends. Vermont's TMC is staffed only during regular business hours unless there is a significant incident or storm.

**Research**

- **Interest Rankings:** Consumers can select up to three top interests when ordering a vacation planning packet. Although the overall volume of requests for vacation planning packets has declined from 57,299 in FY2008 to 32,099 during FY2014 (-44.0 percent), the ranking of interests indicated in those requests has changed only slightly in most cases. The addition of the popular Historical/Scenic Byways (BYWY) as an option in 2010 has had the greatest impact on the ranking, as it moved almost immediately to second place and has consistently maintained that ranking. The Historic Sites (HIST) option has probably been the most directly impacted by the addition of Byways. The decline in requests to VDTM for skiing information (ASKI) has been continuing for many years. In the table below, changes of more than (or very close to) half a point, either increase or decline, are highlighted. Keep in mind that the introduction of Byways had an overall impact on all of the other options, except Attractions (ATTR).

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

- **Promotion:** The Calendar/Photography party being held at [Hotel Vermont](#) is shaping up to be quite the event! We have 261 people registered as coming so far. We feel this will be excellent exposure and branding for Vermont Life, Hotel Vermont and [Harpoon Brewery](#). We hope this helps introduce the calendars to a new market segment.
- **Circulation:** Our new international shipping vendor turned out to be an excellent choice. The customer in London who had been reporting slow magazine delivery wrote us a very nice email to say he received the Autumn issue right on time.

**CHIEF MARKETING OFFICE ♦ Nancy Brooks, Chief Marketing Officer/Heather Pelham, Marketing Specialist**

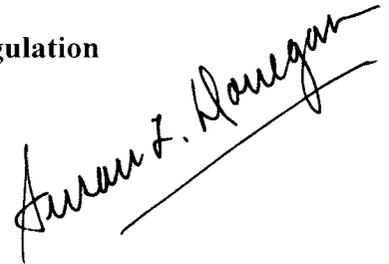
- **Made in VT:** Having completed its outreach to the state departments responsible for food safety regulation (AAFPM, Dept. of Health and Dept. of Liquor Control), the MIV team now has a better sense of the inspection and licensing processes in place that the MIV program will probably want to reference as part of the application process. The group identified several potential areas of concern in those meetings, as the program attempts to balance two competing interests/pressures: (1) protecting the state (and the Vermont Brand) from any liability that could result from a “Made in VT certified” product that harms consumers or makes them sick, and (2) running a marketing program that does not have the resources to have a full “quality control” and inspection arm of its own. These same concerns had plagued the Vermont Seal of Quality program. The team has sought leadership guidance on these questions, with hopes of answering/resolving them before we embark on serious cost outlays in the form of web development costs and staff-time investment. In the meantime, we will continue the planning process on the website with VIC.
- **Great Jobs in VT:** The team circulated new creative materials to Liz Miller, Aly Richards, Pat Moulton, Steve Cook and Lisa Gosselin. Response was very positive, and we’ll await any comments from Lisa when she returns from vacation next week. We will be meeting next Thursday with the Governor’s staff and the VT Recruiters Association to discuss next steps and rollout of the new materials to alumni groups and business associations.

State of Vermont  
Department of Financial Regulation  
89 Main Street  
Montpelier, VT 05620-3101

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: August 22, 2014  
Re: Weekly Report



**Insurance Division:**

Commissioner Susan Donegan and other Insurance Division staff members this week attended the National Association of Insurance Commissioners (NAIC) Summer Meeting. A key development was the adoption of a model law and companion regulation for corporate governance disclosure. Commissioner Donegan chaired the NAIC's Corporate Governance Working Group that has spent the past two years refining this model law for anticipated adoption by all 50 states, the District of Columbia and the territories. A screen shot of the NAIC's website features the announcement and explains the Commissioner's role in the adoption of the new model law.

**Captive Insurance Division:**

An interview in this week's issue of "Best Week Insurance Newsletter" featured Deputy Commissioner David Provost. He outlined issues relating to small captives, risk retention groups and explained Vermont's new dormant status law for captive insurers.

**Securities Division:**

Deputy Commissioner Mike Pieciak on Thursday presented information on the changes to the Vermont Small Business Offering Exemption at the Northeastern Vermont Development Association (NVDA) office in St. Johnsbury.





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**CONSUMER INFORMATION SOURCE (CIS):** *Insurance company, complaint & financial data*



**NAIC Committee Adopts Corporate Governance Models**  
*Models will allow for the collection of detailed information on the corporate governance practices of insurers on an annual basis*

See NAIC's *Revised Policy Statement on Open Meetings*

**PROTECTING THE FUTURE**

**RFP NAIC 1710 - NAIC Request for Proposal for Actuarial Consultant**

The NAIC's Financial Condition Committee adopted a Corporate Governance Annual Disclosure Model Act and supporting Model Regulation, which provides a means for insurance regulators to receive additional information on the corporate governance practices of U.S. insurers on an annual basis.



Susan Donegan  
Commissioner of the Vermont Department of Financial Regulation

**GOVERNMENT RELATIONS ISSUES & POLICY**

**RFP NAIC 1710 - Frequently Asked Questions and Responses (8/22/14)**

Under the requirements of the Model Act, U.S. insurers will be required to provide a detailed narrative describing governance practices to their lead state or domestic regulator by June 1st of each year. The narrative will be protected by strict confidentiality measures, which were included within the models to encourage insurers to be open and transparent in describing their governance practices to regulators. Insurers will be allowed some discretion in determining the level within the organization to report their corporate governance practices at, depending upon their structure and organization. The new disclosure requirements are expected to commence in 2016.



Joseph Torti, III  
Rhode Island Deputy Director and Superintendent of Insurance and Banking

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*Insurance Research & Analysis*

**SPECIAL SECTION: Health Care Reform (PPACA) Implementation:**  
NAIC Activities | FAQ

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**International Activities:**

- IAIS (Website)
- Supervisory Colleges Request
- Fellows Program

**Consumers, Get Smart About Insurance at InsureOnline.org**

**Upcoming**    **Recent**

**Summer 2014 National Meeting**

**CIPR Summer Event: Commercial Ride-Sharing and Car-Sharing Issues**

**Securities Valuation, Structured Securities & Capital Markets**

For more information about NAIC events visit meetings page.

**Insurance Issues for Military Servicemembers:**  
Consumer insurance information for military servicemembers and their families

[Read the Full Release](#) | [Corporate Governance Working Group](#)

**Parents Spend Billions Annually on Child Injuries; Understanding Risks and Insurance Implications Key to Childproofing Your Finances**

*Get Ready resources from the NAIC help new parents get smart about insurance*



Adam Hamm  
NAIC President and North Dakota Insurance Commissioner

As a new school year approaches, parents start to tally up the expenses for school supplies, new clothes, physicals, extracurricular activities and more. But the list doesn't end there. The National Association of Insurance Commissioners (NAIC) urges consumers to consider safety when it comes to child-related expenses.

**NAIC Affiliates & Programs**

**IIPRC**

**INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION**  
*States, Strength & Speed Aligned*

**NIPR**



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CONFIDENTIAL AND PRIVILEGED  
**MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: August 22, 2014

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**Press Contacts:**

- Emily Kaminsky of The Bridge spoke with Brynne Reed about how the Agency supports homestudy families.
- Katy Flagg of Seven Days spoke with Brynne Reed about homestudy in relation to a story on “unschooling.”
- Colin Woodard of the Portland Press Herald spoke with Peter Drescher about technology device purchasing contracts, with some guidance from Deputy John Fischer.
- Rebecca did a live interview on August 20 on WDEV at 1:00 p.m. about AYP and accountability.
- Rebecca spoke by phone with Motoko Rich, New York Times, regarding Secretary Duncan's recent comments on student testing and teacher evaluations on Aug. 21.
- Rebecca spoke with Molly Walsh, Burlington Free Press, regarding an article on standardized testing on Aug. 21.

**Public Presentations/Speeches:**

## Meetings:

### *State Board of Education (SBE)*

Tuesday the SBE held their monthly meeting and they adopted the following resolution on assessment and accountability, including a series of guiding principles for the appropriate use of standardized tests to support continuous improvements of learning. View the complete resolution at:

[http://education.vermont.gov/documents/EDU-SBE\\_AssmntAcct\\_Adpted081914.pdf](http://education.vermont.gov/documents/EDU-SBE_AssmntAcct_Adpted081914.pdf)

### *Melody Musgrove, Director of the Office of Special Education Programs, US ED*

We had a very positive visit from Melody Musgrove, who was very complimentary and kept praising our work. I mentioned that one of our goals is to bring more coherence to our interactions with the field, by bringing together all the plans and compliance functions we impose on schools into one coherent framework. Specifically, OSEP has just adopted a new approach that requires a “continuous improvement plan”, which now competes for bandwidth with state level RBA and the continuous improvement plans all schools now have to do under NCLB. We are trying to bring these together here so that we all have one plan, not multiple plans with different target indicators. We suggested it would be helpful to us if USED explored whether it could bring together OSEP work and NCLB work on its end.

### *Washington South Supervisory Union: Keynote for opening day of inservice*

This is one of several visits to districts. My goal in these visits has been to acknowledge that test scores don't tell all, but to apply pressure with respect to examining how we educate kids who are not doing well, particularly kids in poverty. The message I am trying to send is that we have to look hard at how we teach, and how we may systematically be teaching in ways that don't engage and sufficiently challenges the children whose performance we most need to improve. I find schools thoughtful and responsive to this message.

## Emerging issues

### *Secty Duncan changing direction for waiver states on testing*

Secty Duncan has agreed to allow waiver states to delay sanctioning teachers based on student test scores for at least a year while they implement the Common Core and new tests. The letter was a fairly stunning and ironic piece for all his language about the perils of testing. Perhaps I am just a cynic, but I think this was pure political calculus. We have gone from 4 nonwaiver states to 8, and 4 more are at risk of losing waivers because of pushback on the requirement to evaluate and sanction teachers based on test scores. He can't afford to have 20% of states say “no, thank you” to his waivers at this point. And, he has already definitively lost the teachers unions and support of affluent liberals with kids in public schools. I suspect he was told to find a way to let everyone save face and take the pressure off in the run up to the election. The new administration will inherit this mess. It is worth

reading his note because of the signals he is sending us. It was carefully written to say that he is pushing off sanctions in states where scores are used to evaluate teachers. He is not pushing off sanctions in NCLB states. Here is the link to his letter:

<http://www.ed.gov/blog/2014/08/listening-to-teachers-on-testing/>.

We are pushing CCSSO relentless to advocate for nonwaiver states at this point. This letter from Duncan opens the door on “flexibility” on the points that have been untenable in the VT context. However, the pressure needs to come from someone bigger than us.

*“Unfunded mandates” and education spending*

We are hearing complaints from the field about PK and Dual Enrollment as substantial initiatives that raise spending and over which local boards have no control. We need to be proactive in response. Many of these constituents say that money for PK and Dual enrollment is now in direct competition with K-12 for resources, and especially in districts that do not operate at the high school level, this means cuts have to come out of elementary programs, which is bad. Here are a few considerations that might shape or inform our messaging:

New research on why we have an achievement gap and on the critical importance of the 0-5 years has changed our understanding of what good education is. The new basic includes PK, just as years ago, we raised the age for compulsory education. And, we know that good PK can reduce costs down the road, because more children enter school ready to learn. We need to see early investment as part of the cost of doing business in the 21<sup>st</sup> century.

Some schools are pushing back not because it is PK, but because they say that they will now be cutting programs to send dollars out to private child cares, including some with selective enrollments, and they are concerned that this is money out the door that may not lead to any change in preparation of students. We need to talk up the star system and how we can use it to educate parents about how to evaluate the quality of their options.

In addition, we should assume this will be messy as the field begins to figure out how it will work. We have heard back from public PKs that note that under statute they are held to a more expensive statute (certified teachers) and private providers can take advantage of child care subsidies to run full day programs but schools cannot, so these schools feel the deck is stacked against public PKs. And while schools acknowledge the appeal of having dollars follow students all over the state, they point out that for reasons of financial and quality control, they need to draw the PK regions fairly narrowly, or they will not be able to afford to provide the required services to kids with disabilities, for example. I encourage the Govs office to anticipate these concerns in messaging.

Now, my biggest concern: The million dollar caveat in all of this is that neither PK nor dual enrollment are equity tools if they are not high quality. We don’t have data yet on PK, but we are starting to get data on dual enrollment. We already have some reason for caution, including that the colleges did not do a good job of gathering course evaluation data.

There is a good body of research that outlines quality considerations that in many cases, we are not meeting. If we don’t, we cannot reasonably expect the same equity results.

For example, the national research on dual enrollment suggests the increase in postsecondary enrollment applies when the kids receiving the benefit are kids who need the tuition help the most, and when the college course is a genuine college course offered on a college campus. It will take a while to fully analyze the initial Dual Enrollment data, but our first blush look suggests we many need to apply some pressure to the colleges to get the gains we wanted. For example, 30% of vouchers last year were used in Chittenden county, and none in Essex county. We need to figure out who is using these vouchers and to what effect. To the extent they are not being used in less affluent and more rural communities, why is that?

In addition, none of the participating colleges effectively had students evaluate these courses, so we basically have no robust evaluation data on what students have thought of these courses. What we have been hearing anecdotally from students is that students generally perceive them as less rigorous than their high school courses. We need the colleges to better evaluate these courses so taxpayers can evaluate the value of these investments. I will be taking this up directly with the college presidents in November.

A concern we have is that some colleges seem to see the education fund as the solution to their financial problems. They need to boost enrollments to stay viable. The easiest way to do that in a state with declining numbers of college age students is to go after the captive high school population. However, some of these colleges are not strong, and their courses may not be as good as anticipated. We can't make responsible decisions about tax payer dollars in the absence of good information.

### **Urgent: we are at risk of losing \$23 million due to DVHA's unilateral decision to reopen the state Medicaid plan**

The School Health Services program raises some \$22.7 million each year. It was made possible by a provision in Title XIX of the Social Security Act and allows many special education services provided to Medicaid eligible students to be claimed for reimbursement under the Medicaid program. The specifics of the program were agreed to with the Federal Government in the School Based Health Services section of State Medicaid plan in 1998. The state has not requested amendments to this section of the plan so that provisions agreed to in 1998 would not be changed.

The Department of Vermont Health Access (DVHA) recently submitted an inquiry to the Federal Center for Medicaid Services (CMS) regarding how to best add a new evaluation to the Medicaid State Plan. The new evaluation would provide funding to DCF for initial evaluations for children birth to age 3 and would help determine if a child might be eligible for an Individual Family Services Plan (IFSP). Initial conversations with CMS asked about the possibility of allowing these evaluations under the School Health Services section of the Medicaid state plan. CMS's review of this section prompted several questions/comments on the School Health Services section.

CMS has granted permission for this evaluation to be added under the Early Periodic Screening, Diagnosis and Treatment (EPSDT) section of the state plan by submitting a State Plan Amendment. However, as the initial request suggested adding this to the School-Based Health Services section of the Medicaid state plan, CMS now has questions regarding the School-Based Health Services Program. Specific areas of concern that jeopardize virtually all of current revenue of this program are:

- Requiring services to be provided by a Medicaid qualified provider

- The majority of services billed by schools are provided by, or under the direction of, a special educator and are permitted by the existing state plan
- Medicaid requires the freedom to choose a provider
  - School providers are limited to the providers available at the school and while permitted by the existing plan would not be if CMS requires the plan to be changed.

At this point CMS has not issued a letter requiring us to change the School Health Services state plan section. We are supposed to be looking at the questions they raised and addressing the issues “in good faith”. **We are concerned that if DVHA submits the state plan amendment to add the DCF evaluations to the EPSDT section of the manual that CMS may then require changes to our section of the state plan that could result in the loss of virtually all of the \$22.7 million.**

The funds are used as follows:

\$11 million in grants to school districts for prevention intervention programs  
\$6.4 million transfer to the education fund  
\$1.7 million to DCF  
\$3.6 million to AOE, funding grant and contract programs and 18.5 FTE positions.

Have a good weekend all.

Rebecca

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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, August 22, 2014**

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

**NOTES FOR GOVERNOR**

**Trucks on Rt. 108 – Smuggler’s Notch**

There have been at least a half dozen tractor-trailer units stuck for hours in the Notch this year and two in consecutive nights this week. The culprit, in the opinion of the Vermont State Police, is inadequate information from GPS devices that drivers rely on more heavily than signs. Signs exist on Rt. 108 on both sides but the language is apparently not strong enough. We are installing roadside electronic signage today on Route 15 at the 108 intersection in Cambridge that clearly states “NO TRACTOR TRAILERS BEYOND THIS POINT”. We will have to come up with a permanent solution that involves communication strategies other than these signs, which are apparently ignored or not understood and may not pass legal muster.

We have reached out to companies that produce GPS devices but have not yet been successful in affecting change. We are also looking into a system called “Wizard Radio Alert” which is trailer mounted and can broadcast 20-second messages that would be received by truckers within 1-4 miles, depending on topography. This is an \$8,000 investment, however.

**Park and Ride Progress**

As you may have heard there has been a breakthrough, after many years, in our efforts to site a Park and Ride at Exit 12 of Interstate 89 in Williston with the town approval of the project at the desired location just south of the interstate on Rt. 2A.

At about the same time a 2.98 acre site came on the market at Exit 16 which could resolve another important goal of the P&R development plan. The owner is Charlebois Truck Sales and the price is \$1,000,000. It is likely that FHWA would participate but there is no approved project and it would have to be added to the Capital Program in the next legislature. We do have a small amount of money in the P&R budget that would allow us to secure an option.

However, we have heard that the Town of Colchester is much more interested in private development of that property than for the State of Vermont to acquire it so I have asked Senator Mazza to assist me in assessing the intentions and/or plans of the town government.

### **Fairpoint Meeting**

Chief Engineer Rich Tetreault and I met with CEO Beth Fastiggi and Mike Smith (consultant) of Fairpoint to discuss how we can overcome their reduced capacity to respond to our accelerated project schedules. We have several projects that are delayed or likely to be delayed due to their diminished staffing levels.

While resisting the urge to gloat about the private sector slowing down government, we did get a renewed commitment to deal with the immediate issues and a pledge to talk about how, in the long term, we will deal with the 250,000 poles owned by Fairpoint in Vermont, most of which are in our right-of-way, and often involved in our project development.

### **Emergency Project (Culvert under I-89 and NECR)**

This is a deteriorated culvert that carries water beneath highway and railroad infrastructure in Middlesex along the Winooski River and nearly opposite the closed landfill. Although it is primarily in the railroad ROW, it is a highway problem because it was constructed as part of the interstate system by the Vermont Highway Department in the 1950's. A slope failure has turned this from a planned project into an "emergency" and we have signed off on that. There are a number of problems with getting this work done, not the least of which is an apparent low bid of \$7,352, 147 which is much higher than the approximately \$4 million expectation. (For more detail see Staff Section of this report)

### **Solar Arrays on VTrans Land**

Agency staff have been mapping and analyzing various parcels of VTrans-owned land for suitability for large scale solar projects. There are several viable parcels from the initial screening (including the ag. mitigation land from the Circ project) and now we are evaluating controlling federal interests and whether FHWA, FAA or the FTA have special restrictions or requirements for a solar generating project. From initial discussions with FHWA, it appears that it would be easier for VTrans to use property purchased with FHWA funds for net metering rather than a power purchase agreement which is much more complicated because of restrictions on FHWA assets being used for commercial purposes. We are hoping to have a site or sites selected by late fall with potential construction occurring next construction season.

### **VTrans Innovations Award**

VTrans received a \$1 million grant from Federal Highway Admin for a special Transportation Innovations award (Accelerated Innovations Deployment), and were one of only 6 states receiving this award. It is for our Traveler Information System and is our contribution to the Tri-State initiative (Vermont, Maine, New Hampshire) to modernize, expand and integrate with New England states our 511 Traveler Information systems.

The new system will: automate our Variable Message Boards (so they can automatically display relevant messages when there are traffic or emergency needs; 2) develop Adaptive Signals (which will allow traffic signals to adjust to traffic in real time, not just based on allotted times for lights; 3) integrate our traveler info with New Hampshire and Maine, with Massachusetts, Connecticut and Rhode Island coming on line within the next 2-3 years.

### **AGC Partnership for Highway and Work Zone Safety**

In light of the recent fatality at a work zone along our interstate we have reached out to AGC to see if we can jointly work to “up our game” on improving work zone safety. The case is still under investigation, but we want to turn this tragedy into an opportunity to reinforce the need for safety along our highways and in our work zones.

### **NOTES FOR STAFF**

#### **Emergency Project (Continued)**

We are engaging the FHWA to allow us to negotiate with the apparent low bidder, J.A. McDonald, but are still faced with a number of factors that could cause confusion and tension:

- This is not a typical VTrans Project as it is not on our property but rather that of NECR
- There is no question, however, that the structure (culvert) is the property of the State of Vermont
- There is question about just how much of the slope failure was caused by the deteriorating culvert
- The roles and responsibilities between VTrans and the NECR are not clear, including the safety risk of the slope failure which would primarily affect the railroad
- The NECR does not appear to view this with the same urgency that we do but we are monitoring the situation and reporting the status of the slide to them.

In the meantime we are taking two steps along with the negotiations with J.A. McDonald. One is to organize a special effort on this project due to its emergency nature and the other is to start a dialogue with the Genesee and Wyoming Railroad, the owners of the NECR, to iron out some agreements on how to proceed operationally on the line during construction.

#### **Other Project News**

The latest chapter in bridge innovation is playing out in Fairfield where Vermont’s first “Bridge in a Backpack” is being installed. We have partnered with Advanced Infrastructure Technologies of Maine to do the first project in this state although some already exist in Maine and New Hampshire. The basic difference is that carbon fiber tubes replace the concrete arches that support the otherwise concrete structure. There are nine tubes supporting this bridge and they are easier and quicker to install, thereby

shortening the construction period and won't corrode which should extend the life of the bridge.

The Bolton-Waterbury (U.S. 2) reclaim paving project now has at least one asphalt course on the entire length of the \$6.4 million project. We are estimating that this extensive reconstruction will be completed by the end of September.

The long-awaited \$5.5 million bridge project on Rt. 116 in Bristol got 320 cubic yards of concrete for two sections of decking this week and is on track for completion in October.

### **Circumferential Highway**

Our local Federal Highway Administration partners met with us this week and raised the issue of the future of the Circ. Project. It is time for us to decide how we want to proceed with this project. The 10-year window for project activity is fast approaching (Sept. 2014), and we need to formally act to either preclude future use of the acquired ROW or keep it available for the future. Each option has ramifications as described below.

The Environmental Impact Statement (EIS) project for the Circumferential Highway for segments A and B is on the FHWA time waiver list because it did not go to construction within the allotted timeframe. The EIS cost approximately \$7 million. Because the project had identified a preferred alternative and FHWA had given a Record of Decision on the preferred alternative, the next step in the process was to receive environmental permits. There are some different scenarios with different outcomes that we want to present for your consideration.

Scenario A. We request a waiver from FHWA indicating we still need additional time to determine what we want to do with this project. If they grant the waiver, we have until next September 30 to decide how to close out the project. It's unclear whether a waiver would be granted given the public nature of the administration pulling the plug on the project.

Scenario B. We indicate to FHWA that the project isn't permitable by ANR and thus it cannot be constructed. FHWA will in all likelihood not challenge this assertion and this will get Vermont out of a payback scenario for not advancing the project. However, it is unclear at this time what implications that would have for future use of the Circ ROW for a transportation project if the State is on record indicating the original project was unable to receive environmental permits. This only becomes an issue if the State determines in the future it wants to build the road and even then it's unclear whether this action would impact that future decision as on the ground circumstances can change.

Scenario C. The State cancels the Circ Project indicating it is choosing not to build it at this time. This would require the State to repay the \$7 million spent on the EIS but clearly leaves options for the ROW for a transportation project for the future.

In addition to the EIS expenses, there is another project related to the Circ where the State expended approximately \$1 million for acquisition of land for environmental

mitigation sites. This adds to the total balance of potential payback but we are not yet up against a time waiver on this aspect of the project.

**Deep Thunder project: Partnership with VELCO & Utilities**

We held our first of several meetings with VELCO (Kerick Johnson) and team to begin to share details of our ITS (Intelligent Transportation System), which includes our RWIS (Road Weather Information Stations). These RWIS units gather data that will expand the information/data and capability of the Deep Thunder project. VELCO met with VTrans as a first step to advancing our partnership to develop enhanced understanding or Early Weather Detection systems that we all believe will be mutually beneficial for improving our winter and spring emergency responses.

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

**To:** Peter E. Shumlin, Governor  
**From:** Harry Chen, M.D., Acting Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** August 22, 2014

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After a very successful day with the New England Governors Opioid Task Force, I settled into the Agency's Central Office doing my best to reassure the staff of our shared goals and my commitment to make further progress. Personnel changes will be a significant challenge, as is the capacity at the central office.

In regards to the major challenges confronting the Agency, the most concerning is the significant risks related to VHC. After several meetings with Lawrence and Liz, we have begun to chart a course forward. In regards to DCF, we are formulating a plan that will place us on a path to reduce the demands on the commissioner and improve the coordination of services at the district level, especially in regards to CAN.

I attended the Governor's Council on Pathways from Poverty meeting and shared my desire to work with them, to which I received a warm reception. On my "to-do" list, are visits to editorial boards with the Commissioners and their leadership teams. In addition, I will attempt to get out in the field to visit the offices most affected by the recent tragic cases.

**Vermont Department of Health (VDH)**

**Pentachlorophenol (PCP):**

VDH staff appeared before the Public Service Board in the docket investigating the use of PCP in utility poles. PCP is a wood preservative which can have negative health impacts if it infiltrates drinking water. VHD personnel, together with Agency of Natural Resources, Agriculture and the Department of Public Service agreed to lead and staff a working group who will recommend whether a Vermont-specific, on-the-ground investigation is needed to determine the scope of PCP contamination in drinking water.

**Vermont Yankee (VY):**

The Departments of Health, Public Safety, Public Service and Agency of Natural Resources are in ongoing discussions with VY as to how the State can give VY feedback on its deconstruction and site restoration plans.

**Migrant Labor Housing Issues:**

VDH staff met with the Agency of Agriculture, Department of Labor and other stakeholders to discuss migrant labor housing issues. The work group is in ongoing discussions to determine what tools, including VDH's Rental Housing Code, are available to the state to ensure farm laborers have access to clean, healthy, and habitable housing. Future meetings will consider how to establish a single point-of-contact for those needing assistance.

#### Northeast Governor's Opioid Task Force Meeting:

Representatives from the Departments of Health and Public Safety attended a daylong meeting on August 18<sup>th</sup> as a follow up to the New England Governor's meeting in June. There were five workgroups, each charged with developing strategies to address the opioid problems in our area. The five areas are: prevention messaging, prescription monitoring, safe prescribing, treatment resources and law enforcement. A report with strategic directions will be forthcoming from the leadership. I am the Co-Chair of this initiative along with Commissioner Cheryl Bartlett from Massachusetts. Vermont was represented in each workgroup.

#### CDC Funding Reduction:

The VDH received notice that funding for the Epidemiology & Laboratory Capacity (ELC) for Infectious Diseases cooperative agreement with the CDC has been reduced. This is a core grant for our infectious disease surveillance, control and prevention activities.

#### Middlebury District Office Active in Addison County Fair and Field Days:

VDH staff and 27 volunteers operated the *Healthy Farmers, Healthy Farms* booth at Addison County Fair and Field Days, August 5<sup>th</sup> through August 9<sup>th</sup>. This multi-station booth was sponsored by the Vermont Farm Health Task Force.

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

#### Vermont Psychiatric Care Hospital (VPCH):

The Vermont Psychiatric Care Hospital is on track to have 16 beds by early next week.

#### Brattleboro Retreat (the Retreat):

A survey visit occurred at Brattleboro Retreat on August 11<sup>th</sup>. Per the Retreat, a chart review identified a patient incident. A verbal report by Licensing and Protection personnel during the exit interview with the Retreat indicated findings were anticipated. No report has been issued as of yet.

Brattleboro Retreat Chief Executive Officer Rob Simpson called and thanked Commissioner Dupre for his supportive comments through the Vermont Public Radio with regard to the Retreat.

#### Representative Matthew Trieber:

Representative Matthew Trieber emailed Commissioner Dupre about a patient at the Windham Center who is being discharged without a good discharge plan in place. This patient is not under the care and custody of the Commissioner, however, the Department Care Management Team has been trying to assist the Windham Center with this situation.

#### Windham Center:

Windham Center did not contact DMH about a seclusion and restraint event, CMS visit and their actions. DMH contacted Windham Center as soon as it heard about this situation and has been following up with them about their reporting obligations. They have submitted a Plan of Correction to CMS, which has been accepted. CMS will make a visit to ensure the Plan of Correction is in place.

Note: The Windham center does not admit many clients under the care and custody of the Commissioner.

### Lengthy Stays in Emergency Rooms and Corrections:

While there are continued issues with lengthy stays in ERs and Corrections, the numbers in both have been down this past week.

### Elizabeth Teague:

A hearing will be held in the matter of Elizabeth Teague in Brattleboro today. The hearing is to determine if she will be relocated from the Brattleboro Retreat to the Middlesex Therapeutic Community Residence (secure residential facility).

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

### Press Expected at Today's Town Hall Meeting on Alzheimer's Disease:

Rhonda Williams from VHD and Commissioner Wehry from DAIL will be discussing the state's efforts to address the needs of Vermonters with dementia and of their caregiver's. Alzheimer's Disease and caregiver stress are both increasingly being recognized as public health issues. The Governor's Commission on Alzheimer's Disease and Related Disorders and DAIL are working closely to: 1) Raise public and leadership awareness about the e Alzheimer's disease; 2) Identify and implement strategies to improve early detection and diagnosis of the disease; and 3) Promote evidence based methods of supporting family caregivers. About 75 people are expected to attend.

### Oversight Activities Involving Developmental Services (DS) Reveal Potentially Serious Problems:

An exit conference with the State Auditor's Office to discuss their audit is still on schedule for August 28<sup>th</sup>. After this meeting, to confirm critical facts, the Auditor's office will issue a final report. The three agencies audited were HowardCenter (HC), Washington County Mental Health Services (WCMHS) and Health Care and Rehabilitation Services of Southeastern Vermont, Inc. (HCRS).

### Budget Reduction Uncovers Significant Underutilization of DS Resources Allocated Through ARIS:

DDSD Director Camille George met with representatives from designated agencies this week to begin investigating last week's discovery that funds allocated in SFY14 for self-directed employers were not used and may not have been returned to the state. No progress to report.

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

### Vermont State Police (VSP)/DOC MOU exercised:

On August 20<sup>th</sup>, VSP canine units were deployed at the St. Johnsbury regional Correctional Facility and Caledonia Work Camp. The VSP team was joined by DOC Local Emergency Response Team members. This was a planned event to search for contraband. Within the confines of the facility the teams found homemade alcohol, tobacco and 11 prescription pills. As visiting was in progress the parking lots were also patrolled. One vehicle was of interest to the dogs. The visitor consented to a search. Nothing was found but we are hopeful the message gets out to any others who consider bringing drugs into our facilities.

The teams move to Southern State Correctional Facility today.

### U.S Senate staff visit:

On August 19<sup>th</sup>, Deputy Commissioner Menard met with U.S. Senator Leahy's Field Representative Diane Derby, as well as three members of his staff for the Committee on Judiciary. The group was interested in hearing more about recidivism, pretrial programs, population numbers, population profiles, good time, facility condition analysis and the out of state prison contract. Senator Leahy's staff offered any support they can give and were grateful for the information.

### Population:

The Department's incarcerated population averaged 2,070 for the previous week. The male population averaged 1,918 with 343 being presentenced. The female population averaged 152 with 33 being presentenced.

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

### Vermont Citizen's Advisory Board (VCAB):

VCAB has indicated when they issue their findings of the review of the two childhood fatalities they will recommend more staff for DCF.

They have indicated they will recommend Vermont staff at the national best practice ratio of 1 worker per 12 families. The price tag for which would be roughly \$2.5 million and result in hiring 39 more staff.

We resourced the last wave of staffing investments through the authority granted us in the Position Pilot authorized in the Big Bill by using Reach Up Caseload savings to pay for it. We also used some of those Reach Up caseload savings to help with the Budget Rescission. We estimate an additional \$700,000 in Reach Up savings will be achieved over this year which we have not committed. We are preserving those anticipated savings as a hedge in case the consultant's estimate is off. We will receive an updated estimate of Reach Up savings in October. If the revised estimate in October shows even more caseload savings, DCF will propose another round of investments to help further resource our work in Family Services.

DCF believes the growing number of reports of abuse and neglect having to be investigated (up 15 percent over last year for last three months), and the complexity of the work that has been exacerbated by the opiate pressures, warrants more resources. Commissioner Yacovone and Deputy Commissioner Cindy Walcott are working on the exact strategic investment that is most appropriate and will be sharing their recommendation soon.

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

### Vermont Health Connect:

VHC currently has no systems integrator. If a contract with Optum is not signed soon, the delivery of the open enrollment/renewals plan is at risk, with no clear path for IT development and testing.

- *Plan:* Work with Deputy CIO Dan Smith and contracting team on a two-phased strategy: an amendment signed in the next 7-10 days to allow for immediate development needs,

including subcontracting and covering the needs of subcontractors (Archetype, Benaissance, Exeter, Oracle, etc); and (likely) a new contract signed by September 30<sup>th</sup> to cover Maintenance and Operations starting October 1<sup>st</sup>.

- *Related Risks:* These contracting vehicles both need CMS approval, as well as funding. We will work carefully with our federal partners to craft these, as well as to submit a supplemental grant request in the next two weeks, ideally by the end of the month.

Brattleboro Retreat:

DVHA started collaborative clinical performance improvement work with the Brattleboro Retreat (BR) by focusing on inpatient care and assuring appropriate follow up once a patient is discharged. DVHA is currently analyzing data and will monitor and communicate with the Retreat regarding patient compliance, access issues and documentation for successful improvement.

DVHA and McKesson provided a webinar for new clinical determination platform to the Retreat, hospitals and residential facilities. This will assure DVHA will track appropriate levels of care/treatment for Opioid treatment/detoxification.

MMIS Update:

The State of Vermont has been actively engaged with procuring a new Medicaid Management Information System (MMIS). The State received 15 letters of intent to bid and proposals are due on September 11<sup>th</sup>. The MMIS will be implemented to support Medicaid programs and provider payments, and then leveraged for future State initiatives such as Green Mountain Care.

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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:** August 22, 2014

**Secretary's Top Issues**

Deputy Secretary Bothfeld and Secretary Ross met with the 2+2 dairy scholarship advisory committee and the Chairs of House and Senate Agriculture committee to discuss the future of this program. Legislators had been concerned due to decreasing enrollment/use of this scholarship program and asked for a meeting during the session. The current rescission to this program was discussed as well as the future of this scholarship.

Secretary Ross toured Missisquoi Bay with Commissioner Mears with a state boat and state scientists on Wednesday. Examined the blue green algae bloom. Incredibly powerful experience – very sobering, disgusting and discouraging. The bloom covered the whole bay and with varying degrees of intensity but all parts were affected. In all portions the wake of the boat rolled green and some portions the algae was so thick it was chunky and visibility in the water was less than three feet. The bloom is something I (Secretary Ross) strongly urge the Governor to view in person. VAAFM is working with local water quality organizations to try to arrange an opportunity for farmer to view the bloom from a boat.

Farm Labor Housing – Deputy Secretary Bothfeld, Commissioner Annie Noonan and Deputy Commissioner Hollar lead a group of agriculture advocates in a discussion on Farm Labor wage and hour as well as housing concerns. Ag organizations represented included Farm Bureau, NOFA- VT, Green Mountain Dairy Farmers, Migrant Justice, UVM Migrant Education, and Bookends Ag Labor Service (H2A and H2B programs). Other state agencies provided key staff including health department, ACCD and Division of Fire Safety. There is a great need for better education on the wage and hour laws that govern farm labor as well as adequate housing for farm labor. State Agencies will continue to move this work forward.

State Veterinarian, Kristin Haas, spoke with Joel Baird, a reporter for the Burlington Free Press, this week regarding the Endangered Species Committee's (ESC) recommendation to ANR Secretary Markowitz to list multiple bumblebee species. As the Secretary's designee on the ESC, Haas abstained from voting in lieu of further inter-agency discussion on the matter. This was relayed to Baird and it was recommended that he speak with subject matter expert Cary Giguere for more information on the matter. Working hard for a united front on this issue from all aspects of state government.

Senior Agricultural Development Coordinator Alex DePillis provided ANR DEC Solid Waste staff preliminary language and suggestions for a revision of the solid waste rule. The revisions would clarify the conditions under which a farmer with a manure digester could accept off-farm food waste. This discussion of revision of solid waste rules is prompted in part by the timeline of Act 148, the Universal Recycling law, and the need for a place to send an estimated 40,000 tons per year of food waste that must be diverted from landfills. Whereas the state's existing 17 farm digesters could handle the 40,000 tons per year of food waste, at less than 10% of existing digester volume, composting facilities would have to be expanded and/or new facilities built. The Agency of Agriculture continues to work with composting stakeholders and with solid waste regulators to make sure both paths are open and are able to complement each other.

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**Press:**

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**Significant Events/Meetings:**

- Consumer Protection Staff is continuing to provide judging services at various fairs and field days throughout Vermont. This week, staff judged at Orleans County Fair, Champlain Valley Fair, Caledonia County Fair and the Moose Festival in Canaan, Vermont.
- The farm site visits for the milk/maple NASDA meeting farm tours were held this week. The purpose of the visits was to clarify the logistics and content for the tours scheduled for September 13<sup>th</sup>.

**Evolving Issues:**

- State Veterinarian, Kristin Haas, continues to work with her counterpart in the New York Department of Agriculture and with a private NY-based veterinarian to finalize a variance to the VAAFV livestock import rules that would allow a NY-based farmer who has purchased land in Bennington VT to move cattle back and forth between NY and VT for management purposes without meeting all of the typical import requirements. Issuance of a variance such as this is allowed under current import rules and the terms for said variance are determined on a case by case basis.
- The Food Safety & Consumer Protection Division management team reviewed the Department of Health's (DOH) food manufacturing rule this week and provided feedback to DOH colleagues. As a result of this interaction, DOH is redrafting the rule and will present the revisions to ICAR in September. The rule content potentially dovetails with FSMA topics and covers areas of dual jurisdiction between DOH and VAAFV.

**Summary of Key agency Department Activity**

**Administration:**

- Deputy Secretary Bothfeld and Secretary Ross met with the 2+2 dairy scholarship advisory committee and the Chairs of House and Senate Agriculture committee to discuss the future of this program. Legislators had been concerned due to decreasing enrollment/use of this scholarship program and asked for a meeting during the session. The current rescission to this program was discussed as well as the future of this scholarship. The rescission will require using the carry forward funds to meet scholarship obligation for the 14 – 15 academic year. The Legislature will need to address the funding needs for next academic year during the session in January. Agriculture was encouraged to accurately portray the funding needs for this scholarship program within our budget request. The advisory group was encouraged by the legislators to bring a proposal to the legislature outlining the scholarship program and the requirements could be changed to allow for continued dairy education for farm management as well as value added dairy production such as cheese making, milk bottling etc. Also the proposal should include options for students to spend 4 years at VTC or UVM instead of the current 2 years at VTC and 2 years at UVM. Deputy Secretary Bothfeld

will lead this work with the advisory committee and commit to bringing the advisory group together quarterly throughout the year.

- Farm Labor Housing – Deputy Secretary Bothfeld, Commissioner Annie Noonan and Deputy Commissioner Hollar lead a group of agriculture advocates in a discussion on Farm Labor wage and hour as well as housing concerns. Ag organizations represented included Farm Bureau, NOFA- VT, Green Mountain Dairy Farmers, Migrant Justice, UVM Migrant Education, and Bookends Ag Labor Service (H2A and H2B programs). Other state agencies provided key staff including health department, ACCD and Division of Fire Safety. There is a great need for better education on the wage and hour laws that govern farm labor as well as adequate housing for farm labor. A portal for farm laborers as well as employers to access up to date information as well as making a complaint is needed. The assembled group agreed on these next steps: 1. Prepare Q&A for farmers and laborers on wage and hour issues; 2. Prepare Fire Safety matrix on proper safety in housing; 3. Prepare a check list for safe habitable housing for farm labor ( interns, domestic and foreign); 4. Explore a portal at state government to allow for access for labor as well as employers for education and complaints; 5. Meet again in September to determine if materials will meet needs of laborers and employers. Once materials are developed to meet the needs of both parties – education for farm service providers to assist with dissemination of the information to all types of VT farms and presentation at farm related meetings will be undertaken. VHCB, VLT, Ben and Jerry's, Migrant Justice and dairy co-ops have all voiced concerns with the issue of farm labor housing and are willing to assist with this overall effort.

### **Agricultural Development:**

- Senior Agricultural Development Coordinator Alex DePillis provided ANR DEC Solid Waste staff preliminary language and suggestions for a revision of the solid waste rule. The revisions would clarify the conditions under which a farmer with a manure digester could accept off-farm food waste. This discussion of revision of solid waste rules is prompted in part by the timeline of Act 148, the Universal Recycling law, and the need for a place to send an estimated 40,000 tons per year of food waste that must be diverted from landfills. Whereas the state's existing 17 farm digesters could handle the 40,000 tons per year of food waste, at less than 10% of existing digester volume, composting facilities would have to be expanded and/or new facilities built. The Agency of Agriculture continues to work with composting stakeholders and with solid waste regulators to make sure both paths are open and are able to complement each other.

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

#### **Consumer Protection:**

- Henry Marckres, Chief, Consumer Protection received a complaint on syrup being sold in Vermont, labeled, Polar Maple Syrup, with flavor in very small letters. The product was 100% rice syrup. This violates Vermont maple law. Henry removed the product from sale, and sent a report of corrective action to the company in California. Henry received notification from the company that they are changing their labels to comply with Vermont law.

#### **Meat Inspection:**

- Meat Inspection is continuing with the second phase of interview process and should have candidates selected by end of next week
- Reviewed Custom plant operation in Sutton for reopening after prolonged closure should be ready to re-start next week
- Participated in pre NASDA tour visit to a couple of farms in Chittenden county
- Hazard Analysis Critical Control Point Plan submitted for review for Ready to eat/ Not Ready To Eat products for State inspected processing plant in Burlington
- Supervisory personnel covering several days operations at state inspected plants in order to have other state personnel assist USDA in meeting their required inspection duties

### **Agricultural Resource Management:**

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

- Staff conducted one technical assistance visit to a MFO in Addison County to evaluate a manure field stacking area the farm manages in Rutland County. This was also part of the LFO permitting process as they are transitioning into the LFO permit program.

- Staff are assisting with drafting a letter with the Attorney General's Office regarding an ongoing case with two MFOs in Orleans County.
- Staff are drafting inspection reports and memos for complaint investigations, enforcement actions and ongoing inspections.
- Staff attended a public information meeting for a proposed animal increase and animal housing project on a MFO that is transitioning into a LFO in Addison County. No members of the public attended the meeting.
- Staff are gathering and updating compliance and BMP information for MFOs and LFOs in Franklin County.
- Staff are working with NRCS to develop a strategy to potentially fund NRCS winter crop applicants that do not have contracts with NRCS this fall. The Farm Agronomic Practices (FAP) Program may be able to assist farms that applied for NRCS funding and have yet to receive a contract. There are currently 56 farms that requested but have not received funding for winter cover cropping this fall.
- Staff are working on finalizing ARM Division grants:
  - Staff are reviewing invoices submitted for the FAP and nutrient management plan (NMP) grant the Agency has with UVM Extension. The grant amount is \$398,000.00 and it provided funding to ~35 farms for NMP assistance and to ~125 farms for soil based FAP practices, such as cover cropping, manure injection and reduced tillage, throughout the state.
  - Staff processed spatial GIS data from a NMP grant with a technical service provider to work with farms on nutrient management. The grant amount is \$120,000 and it provided NMP assistance to ~55 farms throughout the state.
- Staff are continuing to process LFO permit applications and permit amendments. There are several farms that have submitted permit applications for building, expansion and general operation. Staff worked with one farm to set up a LFO public information meeting for proposed building. Two LFO permits for farms in Addison County are awaiting signature by Secretary Ross.
- Staff are working on developing the water quality section of the new CAI USA Food Safety water quality database.

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

- Staff prepared for upcoming field visits to farms with potential CREP projects.
- Staff processed field data gathered for planning CREP projects in ArcMap.
- Staff conducted a site visit to a MFO in Enosburg to gather field data needed to prepare a CREP estimate for the farm.

#### **Secretary's Comments:**

##### **Major News:**

- Toured Missisquoi Bay with Commissioner Mears with a state boat and state scientists on Wednesday. Examined the blue green algae bloom. Incredibly powerful experience – very sobering, disgusting and discouraging. The bloom covered the whole bay and with varying degrees of intensity but all parts were affected. In all portions the wake of the boat rolled green and some portions the algae was so thick it was chunky and visibility in the water was less than three feet. The bloom is something I strongly urge the Governor to view in person. VAAF is working with local water quality organizations to try to arrange an opportunity for farmer to view the bloom from a boat.
- NASDA Annual Meeting: All planning and preparation for the meeting is coming together well. The theme of the conference is "Addressing Agricultural Literacy" and will feature a Plenary Panel discussion including Gary Hirshberg, Jim Mosely, Charlie Arnott and Jean Richardson. Deputy Secretary Krista Harden will be attending as well. Over \$535,000 of funding has been secured or pledged to support the conference from a wide variety of sources representing a balanced source of funding from many sectors of the ag and food communities.

## **MEETINGS**

- FDA and NASDA phone call on FSMA: outlined process by which states can work with FDA through NASDA to develop a coordinated implementation framework and action plan in anticipation of various FSMA rules being adopted.
- Department of Finance, AOT, ACCD and ANR regarding budget for Lake Champlain and water quality clean up: met numerous times with various state government partners and stakeholders to outline a budget plan that integrates many resources to fund many water quality improvement efforts – many are necessary and complimentary components of the TMDL
- State VAAFMM and ANR lab: met ANR and VAAFMM leadership on plans for advancing conversation on state lab AND met with employees to discuss plans in an effort to be totally transparent – many employees have concerns and suggestions.
- Tom Vogelmann, Dean of College of Ag and Life Sciences: monthly meeting to discuss state lab directions and water quality concerns, specifically the apparent inadequate coordination between state and UVM on monitoring and research.
- Sodexo and Kevin Ellis: discussed how and when to coordinate an announcement of Sodexo's "Vermont First" commitment where they will outline their plans to amplify their commitment to buying Vermont product to incorporate into the 34,000 meals a day they serve in VT.
- USDA monthly call with NASDA: Facilitated monthly call between 54 NASDA members and Deputy Secretary Krista Harden of the USDA.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont**  
**Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**

**From: Justin G. Johnson, Deputy Secretary, Agency of Natural Resources**

**Date: August 22, 2014**

**Subject: ANR Weekly Report**

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**Governor Level Issues**

We have had a relatively subdued response to the Berlin Pond decision. All parties will have an opportunity to comment on the rules implementing the decision and we will continue to be considered and thorough as we write these rules. At their request, the Fish & Wildlife Department is continuing work with Berlin on the possibility of a carry-in canoe/kayak access to the pond however Louis is not rushing this process.

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**EVERYTHING ELSE**

**Press Issues/Releases**

**Use of Public Water Petitions (Berlin Pond):** DEC announced its decision to grant the City of Montpelier's petition to restrict use of Berlin Pond, in part, and to deny the Citizen's to Protect Berlin Pond petition. The City of Montpelier had requested the prohibition of all petroleum products, internal combustion motors, and ice shanties on the pond due to concerns about risks to Montpelier's drinking water supply. The citizen's group requested the prohibition of all recreation on the surface and the shores of Berlin Pond, including boating, swimming, hunting and fishing. The Department found that all internal combustion motors should be prohibited from use on the pond because of the risks these activities can pose to Montpelier's drinking water. Petroleum products and ice shanties were not prohibited because the risks associated with their uses are covered under existing law. The Department declined the request of the Citizens to Protect Berlin Pond's petition because those activities would not threaten Montpelier's drinking

water, and that proper enforcement and education regarding existing laws and rules would adequately address the potential for a conflict between recreation and other uses. The Department of Fish & Wildlife will now respond to questions from the Town of Berlin regarding the possibility of building a carry-on access for kayaks and canoes to Berlin Pond. This issue was covered by all major media outlets.

**Blue-Green Algae in Lake Champlain:** Following Toledo, Ohio's water supply contamination from blue-green algae (cyanobacteria), multiple media outlets continued to cover the outbreaks on Lake Champlain. DEC's primary message has been that though it is possible for a Toledo-like incident to occur in the Lake, it is unlikely, given the proactive steps that the state and municipalities have taken. Toledo does provide a good opportunity to focus public attention on this challenge.

**Bear Hunting Seminar:** In an effort to increase interest in bear hunting, Fish & Wildlife held a free "Getting Started in Bear Hunting" seminar at the Kehoe Conservation Camp in Castleton on Aug 16, 2014. "Bears can be challenging to hunt, but hunters who know where to look for them and how to hunt them can greatly improve their success rate," said John Pellegrini, hunter education training coordinator for Fish & Wildlife.

**Vermont Has Two Bear Hunting Seasons:** Vermont has two bear hunting seasons. The early season, which requires a special bear tag, is Sept 1 through Nov 14. The late bear season begins Nov 15 and continues through Nov 23. The bear tag that comes with a hunting license is for use during the late season, which partially overlaps with the Nov deer season. The early season bear tag costs \$5 for residents and \$15 for nonresidents. A hunter may only take one bear during the year.

**New VT Record Bear Announced:** Curtis Smiley with the Vermont Big Game Trophy Club says a huge bear taken in the 2013 hunting season is the heaviest bear taken in Vermont by bow and arrow since 1898, and that it is a new record according to skull measurements. Kevin Lamere of Brownington, VT shot the bear on Oct 5, 2013 with a bow and arrow in Orleans County. The dressed weight of the bear was 450 lbs.

**Vermont's Migratory Bird Hunting Seasons Are Announced:** The Fish & Wildlife Board approved the 2014 migratory bird hunting season dates at its Aug 13 meeting in Montpelier. A printable copy of the regulations can be downloaded from the department website ([www.vtfishandwildlife.com](http://www.vtfishandwildlife.com)). A printed version also will be available from license agents and post offices in early Sept.

### **Significant Events/Meetings**

**Blue-Green Algae, Lake Champlain Meeting:** Members of DEC's Drinking Water Groundwater Protection Division and Watershed Management Divisions, the Department of Health, and Vermont Rural Water Association met with the Coalition of Lake Champlain Municipal Water Suppliers to discuss the management of blue-green algae in Lake Champlain. The Coalition consists of all municipalities using Lake Champlain as their drinking water source.

Topics discussed included the State's proactive monitoring program for cyanobacteria blooms, water analyses for related toxins, how information is shared through e-mail reporting and web-based formats, and treatment options if toxins were to be found in a water treatment plant. The water systems were reminded to follow of the algal detection practice that was previously, jointly put into place by the attending parties. The algal detection practice will be reviewed and revised, if necessary, over the next year.

**Bristol Landfill:** The Town of Bristol was recently issued an NOAV and a cease and desist order for failing to maintain an adequate closure fund and other operational matters. Representative Sharpe called concerned, noting that the Town would be unable to come up with closure funds in the future if it was unable to operate the landfill. Waste Management and Prevention Division staff spoke with the new Town Manager about the facts, process and options for resolving the outstanding matters. The Selectboard will meet next week, after the Manager meets with the Town's Solid Waste Advisory Board, to discuss options. The Selectboard declined our offer to attend their meeting. Representative Sharpe has been kept apprised and appreciates the outreach. The Town will need to either restore funding moving forward and commit to keeping the fund on track for 2029 closure, or join a Solid Waste Management District and convert the landfill to a transfer station.

The **Vermont Fish & Wildlife Board** held its monthly meeting on Aug 13. The agenda included: a vote on the 2014 Vermont Migratory Bird Hunting Seasons; a re-vote on the Drone Rule; a Fish & Wildlife Department History, Responsibilities and Overview presentation; and the Commissioner's Update.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Waterbury Wastewater Treatment Facility (WWTF) Phosphorus Removal Upgrade:** The Waterbury WWTF improvements are nearing completion and expected to be over-budget. We anticipate the need to approve several additional change orders and small purchases in the coming weeks. Determining phosphorus grant eligibility for additional work will be an important part of that approval process. The revised amount will be proposed as part of the Department's pollution control budget request in the capital bill. This past spring, we testified before House Institutions that additional funds will likely be needed for the project in FY16.

**Enforcement Complaint Tracking Mini-Lean Event:** DEC held its first mini-Lean event, utilizing a new tool called the product process matrix. The goal of the event was to determine the best tracking business process for enforcement complaints, and to assess our current enforcement complaint database. The process strengthened relationships across regulatory programs, and provide good options for tracking improvements.

**SharePoint 2013- Vendor:** ANR IT and DEC Administration & Innovation Division staff continue to search for a SharePoint vendor. The initial vendor could not provide the assistance

the Agency and Department needed. The second vendor would not meet the State's terms. Staff held a conference call with another vendor, 22<sup>nd</sup> Century Technologies, to discuss their potential technical support service options for SharePoint. We have received positive feedback on 22<sup>nd</sup> Century Technologies, which has helped other Vermont entities with SharePoint. We also have service information and costs from AdvizeX and will be making a decision shortly on who to contract with.

**Hazardous Waste Case Settled:** Sisters and Brothers Investment Group, LLP has admitted violations of Vermont's Hazardous Waste Management Rules at a pair of Riverside Ave. Burlington properties and has agreed to pay \$70,000 in civil penalties for the violations. The case, prosecuted by the Attorney General's office, resulted from the investigation of a reported spill in 2012. DEC's Spill Team, enforcement and hazardous waste inspectors found over 70 drums and containers of hazardous waste and used oil, in bad condition, stored in an un-heated building. The responsible party was directed to construct a containment area, conduct daily inspections, have samples taken and analyzed to determine the contents, and hire a contractor to properly transport the wastes for disposal. Those activities were completed in late 2012; therefore the case was settled with penalties only.

**Shadow Lake Association – Use of Public Waters Rule Petition:** A public informational meeting on the petition to close part of the Shadow Lake for invasives treatment was held at the Glover Town Hall. Generally, the meeting went well. 35 people attended, with slightly more in favor than opposed. More opposition was present than anticipated. A meeting to debrief management is anticipated to be scheduled some time next week. The attendees were notified that a decision is unlikely to occur in time for the closure to be effective this year.

## **Fish & Wildlife**

**Lake Champlain Cooperative Policy Committee:** Staff as well as the F&W Commissioner, Fisheries Division Director, Lake Champlain Fisheries Scientists, and the Ed Weed FCS Supervisor attended the 2014 Lake Champlain Fish and Wildlife Management Cooperative Policy Committee meeting in Albany, NY on Aug 12 to discuss interagency initiatives and priorities associated with fish and wildlife management on Lake Champlain. Agencies represented at the meeting included VTFWD, NYSDEC, USDA, and USFWS. Policy Committee members Patty Riexinger (NYSDEC Division of Fish, Wildlife and Marine Resources Director), Wendy Weber (USFWS Regional Director), and Commissioner Porter were briefed on the status of the sea lamprey control program; smelt, alewife, and salmonid population assessments; American eel restoration; cormorant management; Lake Champlain fisheries research projects; and the invasive spiny water flea in the Champlain Canal.

**Electroshocking to collect data on Molly's Falls:** Staff conducted stream electrofishing surveys in the upper Winooski River watershed to update fish population assessments in preparation for discussions of potential impacts from, and improvements to the Molly's Falls hydro project. Staff also summarized past fish population assessments in this area in response to the consultant retained by GMP for this project.

**Nuisance and/or Sick animals:** Wardens continue responding to many reports of bats inside of houses causing possible rabies exposures. The bats are then submitted to the lab for testing. Fortunately, none have tested positive for rabies.

**Legal Counsel Updates:** Department personnel are meeting with VTrans and AAFM to discuss and resolve any issues regarding the proposal to list 3 bumble bees as threatened and endangered. The Department is proceeding with filing administrative rules on behalf of the F&W Board prohibiting aerial and drone hunting. Emergency rules have been filed with the Chair of ICAR for the 2014 Migratory Game Bird Hunting Seasons.

**Goose Banding Continues:** Baiting and maintenance of goose banding sites are in full swing. The sites need to be baited seven days a week at this point. Staff anticipate conducting rocket netting on all four sites next week.

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

**Appeal of Plum Creek Maine Timberlands, LLC (CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED - ATTORNEY WORK PRODUCT):** Plum Creek has filed its brief as Appellee with the Vermont Supreme Court. In addition, the Vermont Forest Products Association and the Vermont Forestry Foundation filed a Motion for Leave to File Amicus Brief and an Amicus brief supporting Plum Creek and arguing that the Superior Court's decision should be affirmed. The President of the Vermont Forestry Foundation is Robbo Holleran who was the lead expert witness for Plum Creek in the trial below. Also, Mark Doty, an official representative of Plum Creek and a witness at trial is a trustee. Both Mr. Holleran and Mr. Doty are directors of the Vermont Forest Products Association. FPR staff will be working with the Attorney General's office to prepare the State's reply brief which is due Sept 17 and a response to the Motion for leave to file Amicus brief by VFPA and VFF.

**State v. Riendeau (CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED - ATTORNEY WORK PRODUCT):** The State and Mr. Reginald Riendeau will be engaging in mediation on Aug 29 in an attempt to settle this litigation regarding violations of the heavy cut law, the AMPs and 10 VSA §1259 for multiple discharges into state waters without a permit and violations of the Vermont wetlands law and regulations.

**Land Transactions:** The Duxbury Selectboard will be considering whether or not they are interested in purchase of the Father Logue's Camp property in the coming weeks. Revised applications were completed and submitted to the National Park Service for Land and Water Conservation Funds, in cooperation with the Parks Division, to assist with the Dern acquisition at Emerald Lake State Park, Mendon Brook parcel at Coolidge State Forest and Bean Pond parcel at Willoughby State Forest. Other projects include transfer of a portion of Grand Isle State Park to the Town of Grand Isle for recreation, sale of Lafreniere homestead parcel at Camel's Hump State Park, sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation,

acquisition of Hayward parcel at Victory State Forest, acquisition of the Molly's Falls Pond property, and several Forest Legacy easement projects.

**State Parks Visitor Numbers:** Seasonal state park attendance remains 12% ahead of 2013 to date.

**Bomoseen Plans:** Conceptual plans for redesign of the day use area at Bomoseen State Park have been completed and are being reviewed internally. Construction having a focus on renovating the historic beach house should begin later this fall and be completed by next summer. FPR staff have engaged DEC staff in positive discussions about the plan's approach to storm water control and other shore land protection efforts.

**Thanks to Volunteers:** The annual State Park Volunteer Appreciation meeting is being held this week. It is our annual opportunity to express our gratitude for the thousands of hours of valuable work contributed every year by an enthusiastic group of hardworking campground volunteers. They work beside paid staff on a daily basis, helping considerably to uphold the State Parks' reputation for service quality.

**LWCF:** Applications for grant funding from the federal Land and Water Conservation Fund program are being submitted this week for over \$850,000 to assist with 6 high priority FPR land acquisition and state park construction projects.

**Trails Meeting:** The Vermont Trails and Greenways Council had its regular meeting last week to discuss a variety of trail-related issues. Topics included providing feedback on several FPR policies, consideration of changes to the Recreational Trails Program and clarification of the Council's role given the revived FPR recreation service coordinating emphasis.

### **ANR Business Office**

ANR is implanting a new **Electronic Check Depositing** solution offered by TD Bank. With the assistance of the Treasurer's Office, ANR Management services has installed a computer and check scanner at an empty workstation. The Scanner will be a schedulable resource used by all departments and the NRB which will allow them to make check deposits directly from this workstation, store copies of all checks deposited, and run reports. This will eliminate the need for daily trips to the bank by multiple staff members. Installation and training will be held in the next week or so.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Darren Springer, Deputy Commissioner

Date: August 22, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**VGS Phase 2 MOU:** VGS sent the Department an email on Wednesday indicating it did not believe it could reach agreement with the Department on any of the points raised to improve the project's public value for Phase 2, including a solar hot water program for customers, a percentage requirement for renewable biogas, a contribution to clean energy technology funding, and others. The Department will meet with CLF next week to discuss areas of common interest, and may advocate for these items independently before Board regardless of MOU discussions.

**VGS Eminent Domain:** As part of Phase 1, VGS filed condemnation petitions at PSB for properties in Hinesburg, Williston, and St. George.

**VGS Rates:** In its preliminary assessment of its 2015 rate need, VGS included a large portion of the Phase I pipeline costs, as well as deductions from the System Expansion Fund. The Department has been conducting informal discovery on this filing and has had discussions

with VGS about it. The Department was concerned that these costs were not likely to be used and useful in the rate year and questioned their inclusion. AARP also recently made a filing challenging recovery of costs associated with the Phase I project and use of the Fund. On August 14, VGS “clarified” that it would not seek to recover Phase I costs in its Final rate request, to be filed on August 28. While this was a surprise, given the contents of the preliminary assessment, it is the right outcome.

**GMP Declaratory Order on Entergy Excess Revenues (no docket):** On August 18, GMP and VYNPC filed a petition for declaratory order asking the Board to confirm that the approx. \$18 million Excess Revenues (as established by an MOU entered into when VY was sold to Entergy) belongs to GMP for the benefit of its ratepayers. GMP is now the sole owner of VYNPC, but at the time of the sale, GMP and CVPS owned 55% of VYNPC (with non-Vermont utilities owning the balance). Given certain ambiguities there could be a dispute as to whether GMP is entitled to the full \$18 million or only 55% of it. GMP and the Department believe it should receive the full amount for the benefit of GMP ratepayers. GMP sent notice to the non-Vermont former VYNPC owners of its filing. We will now see if any of those entities will challenge GMP in the Board or seek a portion of the proceeds through commercial arbitration or at FERC.

**IBM Sub-Metering and Net Metering:** After another call with IBM on this subject, the plan is to leave their current tenant billing situation at status quo, and they are pursuing a sale/transfer of infrastructure to GMP so they can direct bill any future tenants that are larger or more variable energy users such as manufacturers. Relatedly, GMP is working on plans with IBM for the 5 megawatt solar net metering project authorized in ACT 99. GMP’s tentative plan is to provide IBM a nominal portion of the power, for GMP to take about 1/3 of output to reduce costs for their whole customer base, and for remaining 2/3 to be available for economic development purposes to attract new tenants to IBM campus.

**Morrisville Hydro:** Morrisville Water and Light came in to brief the Department on developments with their hydro permitting which requires a FERC re-license and ANR water quality certification. They claim after voters approved an investment in new equipment to raise output at the facility by 3 million kWh a year, that water restrictions imposed by ANR will reduce output by 3-4 million kWh per year and limit their ability to reach a goal of sourcing 100% of their power locally from renewables. They also state that they have offered to make some changes to meet ANR halfway and been rebuffed. This is not PSD’s jurisdiction, but the concerns they raised about reduction in power output and corresponding expected rate impact of 4 to 5% were troubling.

**Note from Chris Recchia on regional initiative:** Chris is out of the office but relays that the states are still working on a joint statement from Governors on how to move forward, that grew out of the CONEG meeting.

### **Meetings this Week:**

Aug 19 – PSD meeting with Matt Cota to discuss thermal finance program rollout

Aug 20 – Darren and Geoff meeting with Morrisville Water and Light to discuss hydro permitting; Darren and Asa call with IBM to discuss sub-metering for tenants

Aug 21 – Darren meets with Rebecca Ramos

Aug 22 – Darren calls in to UVM regional energy meeting and participates on Clean Energy States Alliance webinar on Rutland solar project

### **Meetings next Week:**

Aug 25 – Chris has monthly catch-up with Jim Volz; Darren participates in Q&A at all-staff meeting for SunCommon

Aug 26 – Chris interview on WCVR; Chris, Darren and team meet with Sandy Levine of CLF on VGS; Chris attends monthly VY meeting

Aug 27 – Chris, Darren and Asa meet with Kristin Carlson to discuss GMP/NRG partnership; Chris, Darren and Geoff meet with John Zimmerman of Northeast Wind to discuss proposed Waterbury project; Chris meets with Janet Doyle and Jay Dietrich

Aug 28 – Chris meets with Brian Shupe and Johanna Miller of VNRC; Chris attends stretch codes meeting at ACCD and meets with Pat Moulton after

Aug 29 – Chris and Darren meet with Laura Gray and Aly Richards on legislative issues; Chris, Darren, Asa and TJ meet with Gerry Tarrant and Jason Day of Starwind; Chris, Darren, Asa and Geoff meet with Nate Adams, Kristin Carlson and Charlotte Ancel of GMP for an update on projects

**Media:** Continued media coverage relating to VGS, including Phase I cost over-runs, eminent domain, and examples of how some other states provide property rights assistance/information (Zach Desparte – Addison Independent); VTDigger stories on continuous noise monitoring, and part two of John Herrick story on wind in Vermont

### **Everything Else:**

#### ***PERD***

#### **Residential and Commercial Building Energy Standards (RBES & CBES)**

- Code Update:
  - Rule documents were filed with the Secretary of State. This included announcement of the public hearing date and location, which will be September 19<sup>th</sup> at the Statehouse (Room 11). The announcement will be posted in the newspapers on Wednesday, August 20<sup>th</sup>.
  - The revised versions of the energy standards that were filed with the Secretary of State will be posted on the PSD website this week.
  - A summary of stakeholder questions, with PSD responses, will be posted on our website this week.

- An email will be sent to all stakeholders notifying them of the public hearing date/time/location as well as the additional documents that have been posted on the PSD website.

**Net Metering**

- To ensure net metering applicants complete the Renewable Attribute Election portion of the registration/application forms the Department instituted the policy to consider any application/registration omitting the information as incomplete and send a letter to the PSB recommending it find as such. Ten such recommendations were sent to the Board this week.

Incomplete	10.9%
Retain	59.8%
Transfer	
Util	7.6%
Blank	21.7%
	100.0%

**Net Metering Activity 8/2/14 – 8/14/14**

	Registrations*	Applications	CPGs Granted
<b>Count</b>	75	17	47
<b>kWAC</b>	471.853	2412.000	298.038
<b>Ave Size kW</b>	6.104	141.882	6.341

**Cumulative Capacity of Registrations and Applications Submitted**

Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of 15% CAP
7133.99	1188.10	50420.26	~ 33.05%

\*Note: As of April 1<sup>st</sup> projects up to 15kW are now eligible for the registration process. Prior to this change, systems larger than 10kW were required to file an application.

**Total Energy Study**

- Quality control of REMI inputs completed. Some top line results were discussed with the group. It remains unclear how best to represent the benefit side of the increase in TREES scenario spending due to the cost of renewable certificates. The current structure of the model is capable of representing the prices of the certificates as an increased cost of production, which raises prices and reduces local industry market share, with follow-on negative effects on business investment, income and employment. The revenue earned on TREES credits could counter this effect in two ways, depending on what assumptions

are made about the effect of this type of non-operating income on energy suppliers: 1) as a general decrease in production costs, under the assumption that some or all of the TREES revenue earned by renewable energy suppliers will go to reduce their own production costs, and that the savings are passed along to business generally. 2) as an additional source of revenue to the renewable sector that would flow through the supply chains of industries earning TREES revenues, stimulating investment and employment. The latter approach would distort our representation of the spending patterns determined by FACETS and also treats TREES revenue like operating revenue. It is debatable whether costs/benefits of TREES certificates need be captured at all, since the spending patterns in place already represent the shifts in demand that took place because of the prices of certificate prices that were embedded in fossil fuel purchases. The group is preparing for a final discussion of the pros/cons of each treatment/no treatment. Scenarios will be presented with and without TREES certificate revenues for comparison.

- Staff agreed to present on the TES leading into the 2015 CEP at the EAN conference on October 5-6.

Other: Staff completed a draft potential scope of work for 3 RPCs to undertake advanced energy planning in support of the 2015 CEP, as well as building off of the recommendations of the Governor's Energy Generation Siting Policy Commission. We expect to share the draft scope with RPC chairs at the Sept. 4 VAPDA meeting. The bulk of the scope focuses on building regional energy plans to address transportation, thermal energy, and energy efficiency. One portion addresses the land use implications and potential better and worse sites for siting generators. EAN and VEIC are engaged in the conversation to provide modeling assistance.

## ***Engineering***

### Comments on VY ISFSI Received from Windham Regional Commission

The Windham Regional Commission (WRC) submitted comments to the Public Service Board regarding Entergy's proposed construction of a second Independent Spent Fuel Storage Installation (ISFSI) at the VY site. The comments include reminders of several items that Entergy previously agreed to during the Certificate of Public Good proceedings for the first ISFSI that would be considered when the second ISFSI was eventually proposed. Most notably, Entergy agreed to consider locating the second ISFSI away from the first ISFSI rather than immediately adjacent to it. The WRC comments should be carefully reviewed while evaluating the merits of the second ISFSI.

### NRC Requests FEMA Review of Proposed VY Emergency Plan Changes

The US Nuclear Regulatory Commission (NRC) Region 1 Office has notified the State Nuclear Engineer that the NRC has formally requested that the Federal Emergency Management Agency (FEMA) review the VY Site Emergency Plan (SEP) on-site and Emergency Response Organization staffing level changes proposed by Entergy in letter BVY 14-018 to "provide the NRC an evaluation of whether these changes would preclude offsite agencies from implementing their approved emergency plans." The proposed changes would take effect after VY's final shutdown

and permanent removal of nuclear fuel from the reactor vessel. The NRC has requested that FEMA complete this evaluation by August 29. The proposed BVI 14-018 changes are currently open for public comment. While this comment period is scheduled to close at 11:59 PM on August 21, the requested FEMA review will allow public comment on the changes to continue through August 29 as well. (Regardless, the State Nuclear Engineer will submit comments to the NRC on these proposed changes before the August 21 deadline.)

#### Tri-State Directors Meeting

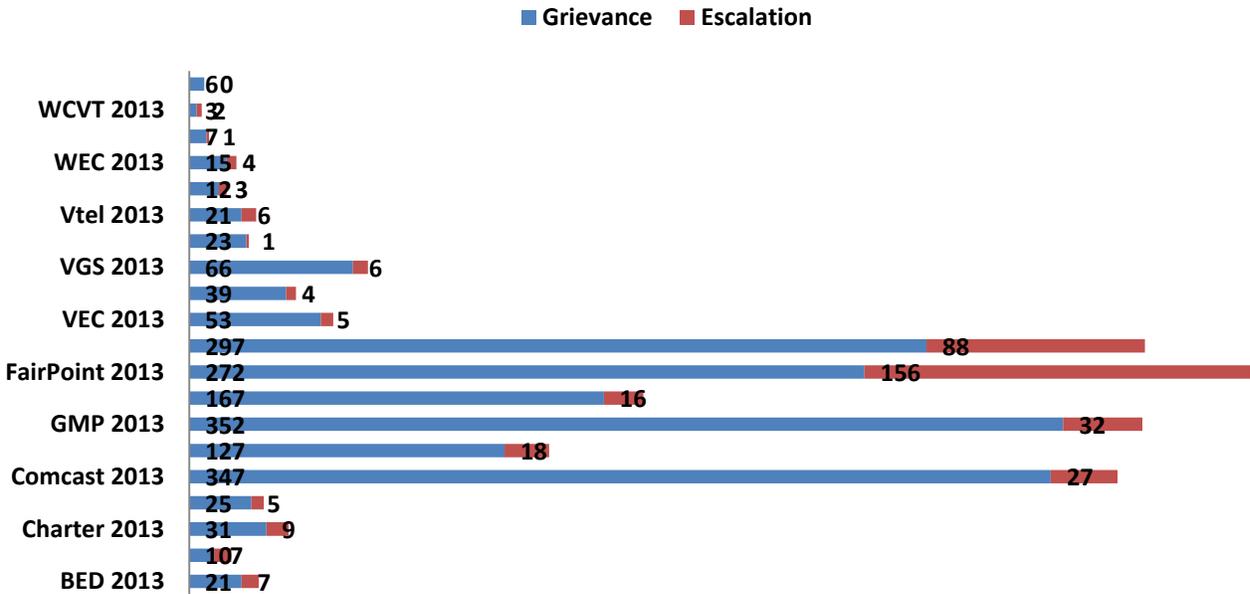
Engineering attended the Tri-State Directors meeting on August 14. Agenda items included updates from the six New England states, the nuclear plants within New England, the NRC, and FEMA. The NRC announced that Bill Dean, the former Regional Administrator, has moved to NRC headquarters, and that Dan Doorman will become the new Regional Administrator (start date TBA). Mike McKenney from Entergy went through the proposed changes to VY's Emergency Plan. VDH mentioned that states need to be funded for independent assessment/verification of off-site dose due to fires, etc., during the time period between shutdown and when all fuel is in dry storage because it is just as important to the public that the State can independently verify that there was no release.

#### **CAPI**

*Please note that this report covers activity from Sunday to Saturday, August 10-16, 2014.*

#### CALL DATA

## Number of Complaints Investigated, by Company YTD 2013 and 2014



### CONSUMER COMPLAINTS

Complaint topics included, but were not limited to:

- (15) FairPoint service restoration complaints including 4 calls from residents in Sharon regarding a FairPoint outage that impacted 44 customers.
- (1) Complaint regarding a business that has BCN as its LEC not being able to receive calls from Verizon Wireless customers.
- (1) Enosburg Electric complaint from a consumer with a \$0.02 delinquent balance, consumer paid last bill in full on time
- (1) Complaint from a consumer about intermittent loss of service on a TracFone
- (1) Crystal Springs water disconnection

### POST CPG WIND COMPLAINTS

(1) Noise complaint against First Wind

### OTHER DIVISION ACTIVITY

Lifeline Awareness Week: CAPI is working on outreach for Lifeline Awareness Week (Sept 8-12) to encourage eligible Vermonters to apply for the Lifeline discount.

Transfer of Electric Customers From Lyndonville Electric to Vermont Electric Co-op: Last winter, CAPI investigated a consumer complaint about poor service quality from Lyndonville Electric. Investigation revealed that customers on this road were served by a cross country line that ran over a mountain making it prone to outages from downed trees and difficult to maintain. There

is roadside service nearby provided by Vermont Electric Co-op. CAPI, LED and VEC explored the possibility of changing customers to VEC service. VEC was willing to make the change if all the customers on the road agreed to change to VEC. Earlier this week, LED let us know that the customers have submitted a letter to LED asking to be changed to VEC service and LED is ready to make the change. PA and CAPI will work with the utilities to facilitate this transfer.

### ***Public Advocacy***

Rule 4.100 Winooski One Proceeding – Docket No. 8010 – VIPPA has sought additional information regarding the Department’s August 7 avoided cost rate filing (made pursuant to Rule 4.100). Department staff discussed the request with counsel for VIPPA and noted that where possible, the Department would provide the requested information. However, because some information is likely trade secret information belonging to the Department’s expert, some disclosures would not be made unless and until a protective order was in place in this proceeding. The response seemed acceptable to VIPPA and the Department will likely provide an initial response by week’s end. Separately, VIPPA seemed pleased with the Department’s expedited procedural suggestions, as it hopes to have Board-approved rates in place by year’s end.

VGS-AgriMark – Special Contract No. 1003 – This is a novel agreement in which VGS plans to sell gas to AgriMark for a one year term prior to the Phase I pipeline reaching Middlebury. Because VGS is not yet interconnected to AgriMark, it has contracted with NG Advantage to be an intermediary and to deliver CNG from VGS’s system to the AgriMark facility. The arrangement raises a number of regulatory questions and staff is currently attempting to learn more about the service and the contract. Staff has also reached out to NG Advantage to better understand the arrangement and to determine whether this arrangement may impact the jurisdictional waiver granted by the Board to NG Advantage (given that NG Advantage is entering the transmission space, rather than solely the distribution space). The Department also understands that there will be additional, similar special contracts being filed in the near term. A recommendation is due to the Board by September 8.

Investigation into Use of Poles Treated with Pentachlorophenol – Docket 8310 – The PSD participated in the prehearing conference. A near-term schedule was adopted and includes the state agencies making a simple proposal for a working group process with 12 members (4 state members, 4 utility members and 4 public members) by August 20<sup>th</sup>. Comments on the agencies’ proposal and intervention requests are encouraged by September 3<sup>rd</sup>.

GMP White River Junction Substation Project – Docket 8322 – The PSD has been working with Morris Silver (who was representing GMP) and ANR toward setting a schedule. It appears as though Joslyn Wilschek is going to be representing GMP. A schedule is due by April 22<sup>nd</sup>.

Barton Solar – Docket 8148 – The petitioner responded to the Menards’ CPG violation filing by stating they have done only the work required by the CPG conditions that require the petitioner to follow BMPs for Erosion Prevention and Sediment Control, comply with state and federal

permits, and comply with all Vermont Agency of Transportation permit conditions. Additionally, the petitioner's counsel has requested the PSB amend its order granting the Menards permissive intervention to require them to engage a competent attorney to appear on their behalf in order to prevent further complaints or to require the Menards to post a bond so they have something at stake if they bring a meritless complaint. The PSD is of the opinion that the petitioner is conforming to the CPG conditions. The PSB has not sought the PSD's opinion on the matter.

Vermont Water Utilities Petition for Proposed Rate Increase – Tariff 8517 – The PSD issued informal discovery requests on the petitioner, who responded promptly. Additionally, the PSD reviewed and provided the petitioner with suggested changes to the utilities' current disconnection notice, as well as rules and regulations.

Charter Cable CPG Renewal – Docket 7820 - The Department filed its prefiled testimony on August 14<sup>th</sup>. The Department is reviewing VAN's testimony and will be moving forward in settlement discussions.

GMP 16Y3 Distribution Line Upgrade – Docket 8264 – A final MOU was filed with the Board on August 18<sup>th</sup>. A technical hearing will be held on September 15<sup>th</sup>.

PSB Draft Standards and Procedures Regarding Special Contracts and Notice-Only Special Contracts – no docket – The Department filed comments on the Board's proposed standards and procedures on August 15<sup>th</sup>, indicating that the Department had no concerns and supports the Board's proposal. GMP and VEC filed comments supportive of the Board's proposals; the only other comment we received was from FairPoint, which asked for some clarification but was also generally supportive of the PSB's draft.

Hardwick Electric & Hill Farmstead Dispute – No Docket – Hardwick and Hill Farmstead Brewery have had an ongoing dispute about upgrades to the system that are needed to accommodate Hill Farmstead Brewery operations. A meeting has been set for August 21 between Hardwick, Hill and the Department in a further attempt to resolve this matter. If this effort fails to resolve the dispute PSD is likely to recommend that Hill file a complaint with the PSB.

Addison Expansion—Docket 7970 – The Board has still not approved the post-CPG schedule submitted by the parties in late June. The parties continue to follow the schedule however and non-Petitioners are due to file testimony on August 27. The Department will probably submit brief testimony from our aesthetics consultant supporting the current VGS proposal, which was ordered by the Board. Kristin Lyons filed her reply brief at the Supreme Court, together with a request for oral argument. On August 18, Vermont Gas filed a response to the comments of Monkton and certain individual landowners on the Soil Management Plan that VGS presented to the Board. Vermont Gas did not ask for relief from the stay, presumably because ANR had advised Vermont Gas that it would not consent until the validation testing is complete and the Board has approved the SMP. Communications with landowners over easement and legal representation issues continue.

Addison Expansion Phase 2—Docket 8180- The Department served discovery requests on VGS's rebuttal testimony; responses are due on August 29, with non-Petitioner rebuttal testimony due on September 12. The Department had several additional discussions with VGS to discuss MOU provisions, but VGS has determined that it will not agree to the requested initiatives. We will discuss how to incorporate these items into our rebuttal testimony. We also continue to discuss rate recovery/system expansion fund issues. The final base rate filing is due on August 28 and we are engaging in informal discovery with the company.

Energtek-North Country—Petition for Declaratory Ruling re: CNG facility and Board Jurisdiction-Docket 8303-Following the prehearing conference on August 4, a PHC Memo and Scheduling Order was issued. ANR and Vermont Gas have intervened. The schedule provides for a brief discovery period, followed by the filing of a MOU among all the parties. Engineering staff continues to review and if they find the project acceptable, the Department will support the requested ruling much like we did in the NG Advantage matter.

Burlington Telecom – Docket 7044 – The Department, City of Burlington, and the Burlington Access Management Organizations filed briefs in the docket. The Department and the City differed on whether it is appropriate for the bridge lender to seek Board approval for acquisition of control of BT pursuant to 30 V.S.A. § 107. The City's petition did not seek § 107 approval. The Department concludes that § 107 approval is appropriate as the bridge lender will acquire a controlling interest in BT during the term of the bridge lease and beyond under the terms of the Citibank settlement and sale and lease agreements. The City argues that a controlling interest is not acquired because voting securities are not being transferred to the bridge lender under the bridge lease agreement. BAMO has requested that the Board impose CPG conditions on any bridge lease approval requiring public input regarding the ultimate sale of the BT system to a third-party in the future. Reply briefs are due August 21. The Department does not intend to file a reply brief.

Comcast Charter Merger – Docket 8309 – The Department issued an initial set of discovery requests to Comcast and Charter focused primarily on the impacts to current Charter customers that will be absorbed by Comcast as a result of the merger. Initial responses are due to the Department on August 22. Both FairPoint and Vermont Access Networks have sought intervention in the proceeding on grounds that are arguably outside the scope of this docket – pole attachment rates and public access conditions under the Comcast CPG respectively. The Department does not intend to oppose permissive intervention of either party, but will note that each party's issues are better suited to be litigated in other proceedings. DPS responses to intervention are due August 21.

Cold River Solar – Docket 8188 – The Board has convened three days of technical hearings in the docket from August 20 through 22. Two intervenors opposing the project are present, and the Department has not signed an MOU with the Developer in this instance. Major issues explored at the technical hearing so far include aesthetics, the calculation of the

decommissioning fund amount, fencing, noise, and the applicability of the Rutland Town solar siting standards that are currently in the adoption process.

Sheffield Wind – Docket 7156 – The Department continues to work with its sound consultant, Jim Barnes, to determine the findings of an outdoor-to-indoor attenuation test conducted at the Paul Brouha residence on July 1 in response to a complaint filed by Brouha. The Department continues to have outstanding questions regarding the time increments used to arrive at average sound levels outlined in Vermont Wind’s sound data compiled during Board ordered quarterly monitoring reports, and how to apply that data in a meaningful way to the attenuation test results to determine whether CPG violations are present at the Brouha residence.

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

#### Electric

Swanton –Tariff Filing 8518: requesting a rate increase of 7.42% or \$490,499, to take effect September 1, 2014. We have completed the review identifying adjustments totaling \$90,125 and have completed a recommendation supporting a rate increase of \$400,374 that was due this week on August 14, 2014.

#### Gas

VGS 2014/2015 Base Rate Filing – The Company filed its ‘preliminary’ cost of service on June 30, 2014 for the 2014/2015 rate year. Its final cost of service is scheduled to be filed on August 28. This week (August 18) we received ‘major’ modifications to the filing that removes Phase I rate base adjustments and the use of rate payer provided funds. We support this modification because the initial assumptions in the June 30 filing have not and will not materialize regarding its proposed adjustments to its rate base. Issues remain with the modified filing regarding adjustments for expenses and other rate base additions where there may not be adequate supporting documentation. The Department continues its review of the filing; has had teleconference discussions with VGS staff on the filing; and, has issued additional discovery on the revised preliminary filing. The preliminary filing requested a 2.34% or \$2,007,874 rate increase that will be substantially less with the modifications and other changes that will be made with the ‘final’ cost of service. We are considering a recommendation that requests an investigation be opened which would allow more time to adequately review the revised filings. Our recommendation on the August 28 filing is due on September 26, 2104.

### ***Telecommunications***

Comcast/GMP Pole Attachment Rate Issue – According to Comcast, negotiations with GMP regarding a lowered revenue-neutral pole attachment rate have stalled. GMP’s latest proposal involved including what it considers to be past due fees in the new rate. Comcast is going to have one further conversation with GMP and then revert to attempting again to having the Board open a generic rulemaking.

248a Citizens Guide – The Division staff is writing a guide for residents and towns that explains 248a process for siting and construction of telecommunications facilities. This guide is a statutory requirement and is due September 1, 2014.

ItsOn, Inc. – ItsOn, Inc. petitioned the Board for revocation of its CPG. In this instance, the Department has objected to the petition because ItsOn has not filed an annual report or paid its gross receipts tax.

Telecommunications Plan Comment Period – The Department has scheduled public meetings for and solicited public comment on the Telecommunications Plan. Despite the interest in, and reporting on, the Telecommunications Plan by various media outlets, the Department has received no written comments from the public.

Wireless Telecommunications Facilities (248a) Report –

A summary of activity in the past week about wireless telecommunications facilities:

<b>Date</b>	<b>Applicant/Location/Type of Filing</b>	<b>Brief Synopsis and if applicable DPS recommendation to the Public Service Board</b>
8/14/2014	VTel/Bennington/ project of limited size and scope	Construction of a new 90' matte gray monopole; DPS recommended approval; Bennington Planning Commission and Bennington County Regional Commission support the project.
8/14/2014	Verizon/Brandon/ project of limited size and scope	Construction of a new 110' brown-finished monopole and antennas; DPS recommended approval.
8/14/2014	VTel/Castleton/response to Town's concerns	In response to Town's request to intervene and for VTel to consider co-locating on a new fire tower the Town's constructing, the DPS recommended intervention as of right under the new law 30 VSA 248a(m) and that the PSB wait to act until VTel decides whether it can co-locate.
8/18/2014	AT&T/Townshend/full project application	AT&T is working with the town to address some of the town's concerns regarding the proposed 120' monopine; the Board granted permission for DPS to submit comments after an update from AT&T
8/19/2014	Verizon/Burlington NE/ project of limited size and scope	Verizon notified the City of Burlington and other concerned parties that the mock up of its proposed telecommunications site atop two buildings on North Winooski Avenue had been installed. DPS and the City have already received some comments and concerns. The mock up will remain installed for approximately one week.



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

To: The Honorable Peter Shumlin  
From: Keith Flynn, Commissioner of Public Safety  
Date: August 22, 2014  
Subject: Weekly Report

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## **A Troop**

16 total arrests, 6 DUI

Troopers were called to assist Senator Sanders in Cabot where a crowd got vocal and the senator did not feel comfortable. VSP presence was all it took to calm the crowd.

Troopers conducted a car stop which lead to consent, an embezzlement case, an indoor grow (70 plants) and more charges and suspect potentially coming.

Assault at CCCC on a CO by inmate. This case came in over the weekend and has been assigned for investigation.

Brianna Maitland Tip over the weekend, DEA informant in Mexico City reports that there is a girl there by the name of Brianna Makeland with another girl from CA, both were kidnapped into prostitution. Det. Sgt. following up.

Suspicious (drug related) case in Highgate involving "acid"

Suspicious (drug related) case in Underhill involving UPS driver and vehicle making numerous meets per week.

## **B Troop**

29 total arrests, 8 DUI

Obtained heroin & marijuana from a MV stop.

Derby Troops responded to an ATV fatality which occurred in the Town of Glover.

Troopers responded to a report of a lost Hiker on Jay, SAR was contacted and the subject was later found by F & G.

## **C Troop**

16 total arrests, 5 DUI

Domestic Assault arrest involving 2 gunshots, Mt. Holly

New sex assault case- 47 year old woman reports being forcibly raped by a friend. Long history of mental health problems and false reports of assaults. Investigation continues.

## **D Troop**

20 total arrests, 6 DUI

Completed a search warrant on a vehicle and arrested one for Possession of Crack Cocaine

Stopped a vehicle on I91 in Springfield; 0099 done; arrested two for Possession of Heroin (350 milligrams) and also one had a Poss of Suboxone charged added on

Stopped a vehicle on I91 in Rockingham; arrested one as a Fugitive from VA; and another for Possession of Crack Cocaine (25.4 grams)

Worked on a past burglary investigation (Higley Hill Road, Marlboro) and identified the accused. Had checked the Pawnshop Database and found that accused had sold two of the stolen downhill bicycles.

Shooting – Stage Road/Guilford. Injured man was transported to BMH by a pickup truck in the early morning hours. Had sustained a serious gunshot wound to the abdomen. The initial report by the two witnesses was that it was a self-inflicted wound from a shot gun. Troops set up a perimeter and finally made contact with someone at the residence. It was later determined that the other person had shot the man during a heated exchange; at close range with a slug.

Shooting in Guilford, subject shot friend over dispute, alcohol/MJ involved.

## **Arson**

Incendiary fire in Berlin. The fire was set in a detached barn about 30 feet from the main house. The owner's son has been diagnosed with having schizophrenia. The owner's advised there was no indicators that their son was upset about anything.

Owner's advised they arrived home from a long trip and had dinner together. During dinner the son stood up and walked outside. A short time later the parents noticed flames outside the window and the barn was fully involved. The son had taken off but returned while the FD and Berlin PD was on scene. Son confessed and was taken into custody. Fire Unit Detectives responded and took samples to send to the lab and confirmed the fire was intentionally set. Working with Berlin PD on the case.

## **Emergency Management and Homeland Security Report**

Issues/Updates:

DEMHS representatives met with counterparts from the state of Rhode Island. Topics discussed included: Cyber, FEMA Public Assistance, GIS, data collection, Managing social media & VTAAlert – presentation by VT.

Final financial numbers from NH and MA were forwarded to PSD this week for inclusion on a future proposal sent to Entergy for emergency planning.

The contract for the SEOC process mapping is being awarded to Mind Alliance with a prospective date range for the session set for October 20-22. The contract materials have been sent to the AG's office.

The RERP HAB exercise (VY) contract has been scored and it appears that Leidos has won the contract. The Director has been briefed and Leidos will be notified of our choice.

There was press coverage over the past weekend regarding some outreach the NRC did to FEMA about VY's pending exemption request and the shrinking of the EPZ. It is not clear what the purpose of the outreach was (intended outcomes or deliverables) so the Planning Chief will be reaching out for more information.

At PAO's request, FEMA and VTrans personnel went out for additional site visits in Chester on 08-19-14. FEMA is revising PDA tally accordingly, and we do not yet have final validated numbers. The statewide total will be at or very close to the \$1 million threshold. A declaration request from the Governor or Acting Governor (or a time extension request) is due to FEMA by August 27.

VPR is working on a story for the third anniversary of Tropical Storm Irene, focused on Bennington's ongoing eligibility challenge and the overall recovery of Vermont's road system. Recovery and Mitigation Section Chief has been providing background data to reporters Susan Keese and Nina Keck.

## Legislative Contacts:

Working with staff of Senator Leahy's office to provide background for a D.C. meeting regarding status of the Roxbury Fish Hatchery PW. This is one of the largest projects from Irene which has still not been written or obligated. FEMA has agreed to extend the deadline for acceptance of an SRIA fixed estimate for this project to 10-17-14.

## Administration

***Firearms Storage Loan Program:*** We have received one request form a FFL in Rutland wanting information on the guidelines for receiving money out of the loan program. We have not created these guidelines as yet.

Also with regard to the identification of firearm storage locations we have not received any more requests to become an approved location.

## Fire Safety

The Division received \$5.25 Million in new plan review construction valuation collecting \$29,500.00 in permit fee revenue.

Large scale lumber yard fire in Rutland with major loss. Investigators are on scene at this time.

Fire Dynamics seminar on Sept. 5 at Lake Morey resort with 75 signed up as of today. The fire academy received a FIREACT grant award of \$205,785/applicant share \$36,315. Money will be used to replace worn out fire fighter gear and equipment, new SCBA units, spare cylinders, forcible entry trailer, and a cascade/compressor system for the VTC building.

## Criminal Justice Services

### **Probation and Parole officer notification system in VJISS**

The subscription service for probation and parole officers went live statewide on Monday August 18<sup>th</sup>. This has been well received. However, there have been so many notices sent out that some locations, for example Rutland, have been inundated with requests for information from probation officers that they have struggled to provide information. This has prompted a request from probation and parole to have at least one person in each district have access to the full VJISS database so they can look up information themselves. This request will be presented to the Advisory Policy Board.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** August 22, 2014  
**SUBJECT:** Confidential Report to the Governor

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**SECRETARY'S OFFICE**

**Legislative Issues/Contacts:**

Chief Performance Officer Susan Zeller testified before the Government Accountability Committee (GAC) on the July 30<sup>th</sup> Population-Level Outcomes and Indicator report required by 2014 Act 186. The report was well received overall. She will testify on the report again before the Joint Fiscal Committee on September 5, 2014. The GAC has requested Zeller hold a 2 hour results-based accountability training session for the members at their September 16, 2014 meeting.

**BUILDINGS AND GENERAL RESOURCES**

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

**Contracting:**

- NASPO Annual Meeting: Deb Damore reports that over 49 member states will be represented at the annual meeting that is happening in Burlington on September 7-10. Over 200 NASPO attendees will be descending on Vermont in a couple of weeks.
- Salt: Contracts have been executed and were posted on the website this week.
- Fuel: Deb Damore and Brian Berini are to meet with Obie/Wanda on Thursday or Friday to discuss.

### **Westminster Public Safety:**

- New Construction: Emily Montgomery completed an agreement with Green Mountain Power regarding the tower “fall zone” that the Town was looking for. The DRB stated that the agreement with GMP is what they needed to close the hearing and will be making a decision soon. On Monday afternoon, we received the Act 250 permit; the only conditions required are those that are standard, no conditions on the tower. Still waiting for the DRB permit from the Town. The design team will be finalizing the bid documents. If all goes well and Joe gets the documents reviewed while on vacation, there will be a prebid the second week of September. If not, it will not be until the fourth week of September due to scheduling issues.

### **Randolph - Vermont Veterans Memorial Cemetery:**

- Master Plan: The College is now reconsidering swapping 2.55 acres of agricultural land for the new Welcome Center, for the existing 3.5 acres of VVMC land near the Fire Station. On Thursday 8/21/14, Tricia will try to meet with project civil engineer Ron from Dubois & King to review the agricultural land use requirements for the project. Sandy and Bob Rea will be on site that day to review the adjacent site for the Ag Lab project and place stakes to delineate the proposed building corners and parking area. We plan to include a video of the site in the power point presentation to the legislature.
- Master Plan Grant Application: The grant pre-application was submitted by 8/15/14. There was an issue because the Feds required that only one “Certification of State Matching Architectural and Engineering Funds” be submitted by the Department of Veterans Affairs. Col Heston was able to re-submit the certification for support of \$400k, which was acceptable to the federal grant manager.

### **Lamoille County Courthouse Renovations:**

- Excerpt of Meeting Notes from Hyde Park Select Board Meeting 8/14/14: “Lamoille County Courthouse 19 VSA 1111 permit – The Board discussed the approval of proposed improvements and possible permit conditions, such as county maintenance of the travel lanes, upkeep of any improvements constructed in the right-of-way and requiring the County or Larson to resurface the swale along the north side of the Larson barn. BJ noted the recent work on a barn along Route 15 in Wolcott might work for the Larson barn. Motion by PC to approve the 19 VSA 1111 permit, per the submitted site plan, and conditioned on the applicant or others coming back with a solution to the deteriorating swale at the Larson barn, the County performing winter plowing of the Class 4 section of Commonwealth Avenue and the County maintaining their improvements within the Commonwealth Avenue right-of-way in good condition. Seconded by BJ. Voting: 5 in favor, 0 against, motion passed.”
- Road Re-Classification: Approval still pending appeal process timeline which expires 8/21/14.
- Fuel Tank Removal: FPH Tank successfully removed the UFT in one day, August 15<sup>th</sup>.
- Temporary Lease Space: On 8/13/14 The Court Staff met with Judiciary-Security & IT, and BGS- Robert F., Tricia & Keith Z., to review staff layout/floor plans as outlined by Kathy Hobart for the Morrisville Hotel. The reconfiguring for the space work is limited to adding 10 new doors and one new wall. Once plans have been finalized, Prop Man will get pricing from Manosh. If pricing is excessive for the work we have the option to have the State Wide Contractor Josh Walker do the retrofitting of the space.

- Re-Start of A & E Construction Documents: On August 20<sup>th</sup> the design team will reconvene to review Judiciary's concerns and suggestions for security improvements. This work may require a redesign since Design Development had been finalized in November 2013.
- BGS Counsel is moving on the MOU for the Lamoille County Courthouse to outline the relationship between the parties (county, judiciary, and BGS) for the renovation project.

**Bennington Vermont Veteran's Home Mold:**

- Started Mold Phase 2 – off to a rough start due to poor existing conditions in the basement. This is not part of the contract but rather due to poor maintenance practices. VVH will work on maintenance practices and Peter Hack is holding tight onto the contingency. CMS has a good handle on things so far.

**Capital Planning:**

- Deputy Commissioner Minoli, Emily Montgomery, and Julie Gutsell are meeting weekly to develop the 10-year capital plan. The focus for next week is how to work with agency and departments to capture their long-term capital needs/plans as part of the statewide plan. Planning October request/training to departments.

**Act 135 – Smoking:**

- A request from the Mahady Courthouse was referred to DHR. An ash can was moved to a spot away from the building to be in compliance with new law.

**Status of Governor's Priorities:**

**Legislative Issues/Contacts:**

- AG/ANR Lab: Meetings with House Corrections & Institutions Committee on 8/27 at 10 A.M. to discuss site selection for the new AG/ANR lab. If a site recommendation is made, then will appear before JFC on 9/5.
- Special Investigations Unit: Meeting with SIU finding study committee on 9/10.

**Significant Events/Meetings:**

- Bennington Welcome Center: Change Order to Ingram Construction has been executed. Payment will be forwarded to VTrans for processing. Anticipating meeting with Ingram to discuss remaining issues in dispute (BGS recoupment of administrative costs, as well as other claims by Ingram).
- BGS Conflict of Interest Policy: Emily Montgomery presented the draft policy to BGS Directors and DFMs at the staff meeting on 8/11 with an opportunity for feedback. With no further feedback received, the policy is being considered final and will be sent to directors for implementation.

**FINANCE AND MANAGEMENT**

**No report**

**HEALTH CARE REFORM**

Lawrence Miller will send a supplemental report later today via email.

## HUMAN RESOURCES

### Press Contacts:

- Director Harold Schwartz spoke with Morgan True of VT Digger about the medical plan and the recently released PEW STUDY on state government employee medical plans.
- Director Harold Schwartz spoke with Bridget Shanahan from WPTZ regarding the deductible issue with ESI. This issue surfaced last week, and was resolved by Thursday night. Patients will get refunded through their pharmacists. Harold informed the unions. ESI will issue an apology, with input on language from the state.

### Evolving Issues:

- Initial meeting took place with Agency of Administration and DHR Benefits around the significant rising cost of health care claims. There is a risk of potential 10-15% premium increase for 2015. Further analysis is underway in preparation for premium rate setting work to begin in September.
- A disturbing audit report was received regarding Cigna's error rate of claim payments. A presentation was provided to the Agency of Administration. Guidance was received to connect with Jaye Johnson to discuss options in our contract. Contact has been made and further strategy is being developed.
- DHR is planning for an implementation audit with BCBS to ensure appropriate cost containment.
- Tom Ball, after 36 years of faithful service to the State of Vermont, will retire on 8/23/14.
- Initial bargaining data is being generated for the upcoming VTA negotiations. A strategy session with the Administration should be scheduled shortly.
- Held kick off meeting with AOT, ANR and DHR training resources to develop a working team to develop and launch the new supervisory core training.
- Christine Hetzel has reached out to Diane Dalmasse to communicate our acceptance of the Invest EAP bid. They will work together on an MOU as well as develop improved methods of communication around performance.
- Flexible Spending Account – RFP was published, bids have been reviewed and a vendor has been identified. Under separate cover, justification will be provided to the Administration to seek their approval on awarding the bid to the incumbent, ASIflex.
- Flu shot vendor contract was finalized.
- There is an EGWP meeting scheduled with the unions for September 8<sup>th</sup>. Communication material development is underway, ESI (Express Scripts) will be presenting. ESI will also attend the retiree member meeting on September 9<sup>th</sup>.
- Benefits Advisory Committee Meeting scheduled with unions for September 9<sup>th</sup>.
- Temporary Employee maximum hours worked waiver guidance was sent to Agencies and Departments.
- Based upon the new contract, the deadline for class action reviews are due by August 31<sup>st</sup> and are currently being received.

## **INFORMATION AND INNOVATION**

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

#### *Healthcare*

- CGI Knowledge Transfer sessions have started and will consume much state of Vermont staff time for the next 6 weeks. These sessions are intended to bring Optum, the new system integrator (SI), up to speed as fast as possible for continuation of development efforts and other system work affecting the Health Service Enterprise Platform (HSEP) and Vermont Health Connect (VHC) running on the platform. In addition to system development work, Optum is transitioning all the Tier 2 application operations and maintenance of both HSEP and VHC. Unlike CGI, Optum understands the importance of separating development efforts from maintenance and operations.
- Initial meeting with current infrastructure hosting provider CGI GIS was held. As part of the CGI transition agreement, the state and CGI GIS will be drafting a new amendment/contract to define clearly what CGI GIS roles, services and states expectations are. This work should be completed within the next 4-5 weeks with the state's focus on CGI GIS service delivery, engagement management, and transition plan to move to another hosting provider in the future.

#### *ITOP/SOV private Cloud*

- The state's private cloud (iTOP) project continues. We are moving the last systems out of the 133 state street data center. The remaining 2-3 systems are scheduled to move to National Life or TechVault data center by the end of August.

## **LIBRARIES**

**No report**

## **TAXES**

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

#### **Ed Finance**

No insights emerged from observing the meeting convened by municipalities last week. General consensus that there is a problem, no one agrees what it is or what the solutions are. The Commissioner met with Aly and the Secretary. We discussed overall messaging and background work to be prepared for the session. The most concrete next step is to have our information experts collaborate to illustrate key concepts.

#### **Streamlined Sales Tax**

The Commissioner spoke with Craig Johnson, Director of the Streamlined Sales Tax Org, which VT belongs to. The Governing Board is considering holding its spring conference in VT (attracts about 100 state tax officials and interested businesses over a three day period - since it is difficult for us to actively participate in the meetings as a small state, staff joked we forced them to come to us). I spoke to Craig about the U.S. Senate's move to link extension of the Internet Tax Freedom Act to the Marketplace

Fairness Act – not likely to sway the House on MFA (short extension of ITFA most likely compromise). ITFA prohibits taxes on internet access; we have no good data on what this prohibition costs VT. Craig pointed out that his former state, Wisconsin, is one of the ITFA grandfathered states taxing internet access and at this point that revenue outstrips what they think they would gain from passage of MFA. However, Amazon now has distribution centers in Wisconsin so it collects sales tax there – and apparently accounted for 80% of their estimated loss of revenue from remote sellers.

At this point, the real action on MFA centers on the small seller exemption, and ideas including basing the exemption on total sales by a corporation (not just remote sales), and starting very large with a phase down (which is sensible if Amazon really is 80% of the problem). Since the current MFA proposals do not require membership in Streamlined, Streamlined is trying to position itself as the go to organization for certified vendor compliance software and multistate audit procedures. Craig mentioned lobbying for MFA with NH legislators based on how easy it would be for NH sellers to do the unthinkable – collect sales tax - by using Streamlined software. Senator Ayotte’s recent editorial in the Concord Monitor railing against both expiration of ITFA and enactment of MFA suggests the futility of that tact.

### **Operations** **Processing Stats**

On income tax, we still are running ahead on number of returns filed at this date. We are holding at 78% e-file (the more complex returns filed on extension can require a paper filing and drag down this number).

On property tax, both homestead declarations and property tax adjustments were due April 15 (on a combined form). We received timely homestead declarations from over 165,000 households – since we believe we have about 171,000 total homesteads, that would mean about 97% were filed timely. Despite complaints, the filing of annual homesteads is becoming routine for taxpayers, and is leading to improved efficiency and accuracy in ed tax billing by the towns. We have sent less than 1000 letters to people who filed for a property tax adjustment last year but not this. This is a significant decrease because we provided a checkbox on the declaration for people to state that they did not intend to file an adjustment – this both prodded people to continue onto the adjustment part of the form, or, if checked no, gave us evidence that the lack of claim was intentional (likely due to an increase in household income). We generally get a spike of calls on property tax in August, when most towns send their first bills. The call volume has been much lighter. We would like to think that some of the improvements we made to help people file correctly as homesteads and claim adjustments helped on this score.

### **VTax Project**

Testing continues to impact our operations, with the sheer number of staff involved, but is still on track. The testing scenarios are developed by the implementation coordinators from each division (generally business analysts), and the only delays have been attributed to the thoroughness of their work in identifying every possible circumstance that might be encountered on a return. If a scenario is not passed by three testers, FAST developers are on hand to fix the code. The Tax and FAST teams are mutual admirers at the moment. Tax is happy with how fast the fixes come. FAST has said that our testing is some of the best they have seen.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: August 22, 2014**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

- Working on ideas for the FY16 budget and what are the expected needs of the Department as we continue to grow our business.
- I will be speaking and moderating a panel on marijuana at a national conference of multiple states in October. Some of these states have the issue coming to a ballot initiative or a potential legislative change.

**Legislative Issues/Contacts/Updates:**

- **Looking at potential issues for the upcoming session. I don't see many on the alcohol side with maybe some small fixes.**

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

**Significant Events/Meetings:** Next Board Meeting 09/03/2014 - Enforcement Hearings.  
Staffing for Champlain Valley Fair and Booth set up.

**Evolving Issues:**

- ERP/POS Project underway. Excellent Progress! Recent meeting with vendors and staff working through the particular functions of the front end and back end systems.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in August-September.
- Planning an alcohol symposium for early December for policy makers, licensees, and industry partners.
- Working with VIC on break open ticket reporting process. Prototype has been developed. Working with Tax and should roll out this reporting process in January 2015.

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**Summary of Key Department Activity:**

- Working on a Pilot Program to help the Department increase its business and eliminate some of the impediments to future business growth.
- Trying to foster some partnerships with big out of state distillers so that they can find ways to work with our instate distillers in a market that is bursting at the seams.

**Commissioner's Commentary:** Sales are good for August.

Have a great weekend.