

WEEKLY REPORTS

Checklist
2/21/2014

Elizabeth Miller/Aly Richards

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

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

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

To: Governor Peter Shumlin
From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development
Date: February 21, 2014
Re: Weekly Report

LEGISLATIVE ACTIVITY

- **Budget:** Deputy Secretary Leriche, Commissioner MacKay, Deputy Commissioner Hollar, Commissioner Gosselin, Commissioner Smith, Vermont Life Editor May Knowlan and Associate Publisher Sky Barsch presented our FY15 budget to House Appropriations on Wednesday, February 19th. No major concerns were raised.
- **S. 220:** Version 3.1 includes the housing incentives proposed in H. 823 (currently in House Natural Resources), among other updates. Chris Cochran provided the Senate Economic Development Committee with background on the need for more housing and explained how the proposed changes would help address these needs in designated areas. He also briefed them on updates to H.736 that provides a 50% credit (up to \$30K) for qualified technology investments in buildings located within designated downtowns and village centers. The draft incorporates concepts proposed in the “Ralston and Scheuermann Bill” into the existing program framework.

It appears likely that S.220 and H.736 will end up significantly the same in content. In addition to the housing pieces and tech tax credits mentioned in the previous paragraph, The ACCD team is also working on other sections for both bills, including the One Stop Shop for businesses, a study on special electricity rates for manufacturers, and the cloud tax. Fred testified in House Commerce and Senate Economic Development regarding VEGI provisions in H.736; we do not support the elimination of the “but for.” provision.

- **H.852:** Lisa testified before House Commerce on H. 852 along with Deputy Secretary Lucy Leriche and Beth Demers of the Vermont Training Program. The bill, which focuses on workforce development at all stages, proposed to substantially change the Vermont Training Program and make it difficult for businesses to use the program for existing hires. Testified as to the value of the program in training workers on the job and the benefit that provides the worker. Also noted the role it plays in helping businesses innovate and grow in the most nimble ways.
- **Track 1 Legislative Update: Growth Center Process & Incentives**
 - **H.809:** Growth Center Process bill passed out of the House and was assigned to Senate Commerce. Senate Natural is also interested in seeing this bill along with the incentives bill – H.823.
 - Noelle has spent most of these two weeks in House Natural Resources and outside working on the incentives bill **H.823**. Rep. Klein is asking probing questions in order to ensure all the issues are raised and that they are addressed in the next version of the bill. He thinks they will vote it out just before cross-over.
 - Noelle testified in Senate Natural Resources on the **Act 59** report and previewed **H.809** and **H.823** for the committee.
 - Noelle presented **H.823** to the Affordable Housing Coalition.

- **Enterprise Zones and S.220:** Noelle tried to pull NRB, VNRC, ANR together to see if there are targeted benefits for industrial parks, but there are many issues of concern and shared this with Sen. Mullin. Testified again in Senate Ec. Dev on this. Provided an overview of the existing programs, their requirements and benefits and noted that EZs have no requirements and potentially millions in benefits. Also noted that if they are considering state support of infrastructure, there are many other needs to consider and I suggested others the committee should hear from regarding infrastructure needs. Also testified on the “technology credits” for the downtown tax credits and the other housing incentives from H.823 that Mullin added to S.220. We have heard from several RPCs, VPA members, and environmental organizations that they have serious concerns on Enterprise zones and much of the testimony also confirmed there is not a need.
- **LCAR:** The Downtown sales tax reallocation rule was pulled into Ways and Means and they raised the need to have a fiscal note. We requested that LCAR pause the rule making and we would work with the Legislature. We will be working with Tax and JFO to do the fiscal note and then move forward with that information.
- **Condemnation:** The Senate passed over S.168, which includes the condemnation language, on Tuesday and Wednesday due to the concerns among town clerks about the scope of a requirement that they redact social security numbers in documents released in public records requests. As of this writing, the bill is on the notice calendar for second reading and is expected to be acted on late in the week. S.168 also includes a clarification sought by the Department, the Vermont Planners Association and VNRC regarding development along Class 4 roads.
- **Miscellaneous Tax Bill:** The Ways and Means Committee took additional testimony from VLCT on H.833, which would clarify legislative intent regarding the valuation of limited equity homes. Jen continued to work with the Vermont Affordable Housing Coalition and Tax Department in support of adding it to the Misc Tax Bill. The committee appears inclined to include it and is now focused on whether there should be a straight percentage reduction in the assessed value of a home with a subsidy covenant or if the methodology previously advised in a Tax Department technical bulletin should be used.

An additional check-in with Ways and Means has cleared up their remaining questions on the proposed increase to the program as well as the tax credit “payment” to Latchis Arts in Brattleboro for their flood repairs. Fred presented technical amendments to TIF program.

- **Water Shut Off Bill:** Jen attended the bill-signing for S.41 which enables tenants to pay for water and sewer service directly if it is to be shut off due to delinquency by the landlord.
- **S.311:** Lisa met with Alyson Richards, Deputy Secretary Lucy Leriche, Dan Smith, and others on the Vermont Strong Scholars program. Discussed role ACCD could play in helping align program focus with business needs and how to help communicate the program, should it pass.

LUCY LERICHE, DEPUTY SECRETARY

- The carbon composite arm of Plasan, located on Shields Dr. in Bennington has decided to relocate its operation closer to its major market area in Michigan. This decision will impact 143 employees upon completion of the closure in May. The company will include a severance package for the employees who will be effected. This is obviously terrible new, but the local communities and the State of Vermont are gearing up to help. It should also be noted that the parent company has no intentions of relocating the armor division of the company at this time, and says it has made a long-term commitment to Vermont. They also made it clear that there was nothing the state could have done to prevent this.
- The GMCR/Coca Cola deal may present an opportunity for job growth and investment in Vermont. The deal should close in the next few weeks.

Fred Kenney got a call from GMCR regarding a potential fast-track VEGI application. When the deal closes, CC will want GMCR to quickly get into the business of producing the disposable cold beverage product that will be used in the new cold beverage platform now being developed by Keurig for CC. This product is designed to be CC's entry into the home "brewed" cold beverage market and will be a challenge to Soda Stream. The deal with CC was finalized much faster than anticipated and CC wants to push this product into the entire US market and 25 other countries very quickly.

Manufacturing the cold beverage product (soda equivalent to the KCup) requires a very different process than Kcups. GMCR is looking at entirely new sites for the manufacturing and is also looking at co-location at their current locations in Knoxville, Isle of White, California, and VT. They could also leverage CC facilities in Atlanta, which CC prefers.

Vermont is attractive because it would be near R&D. They are looking at the possibility of expanding in Williston without adding footprint. They would invest \$80-\$100 million in capex (almost all M&E) and could create 125-250 more new jobs over 18 months.

As a side note: GMCR person mentioned that they would not even be looking at VT for this expansion if the S&U tax change re production equipment did not pass a few years ago.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Lisa Gosselin, Commissioner

- Held third conference call with Massachusetts incubator around Iomics project. Call was initiated by David Snedeker and included Melody Burkins of UVM and Fred Kenney of VEPC. Incubator is looking for potential funding for this and other biotech startups from the Worcester-based incubator. Shared approved deck on the company with Cairn Cross of Fresh Tracks Capital and David Bradbury of VCET who are considering the project. If they are interested, we will set up a visit to Vermont. Will follow up with both early next week.
- Met with Auracom's Gordon McDermott and discussed ways the language translation company might grow in Vermont. Connected Auracom with Middlebury Interactive Jamie Northrup. Also spoke with Middlebury Interactive which is in the process of moving more than 30 people to Vermont where it has consolidated all operations and is planning for additional growth. Encouraged MI to work with Robin Scheu as well as DED's Fred Kenney, Beth Demers and Robin Miller on helping where possible in this growth phase. Middlebury Interactive is very interested in PTAC and may qualify for VTP and VEGI.

VERMONT ECONOMIC PROGRESS COUNCIL ♦Fred Kenney, Director

- Worked with following companies on potential VEGI applications: Blodgett Ovens, Senix Corp, New Chapter, and Open Tempo

RECRUITMENT, Continued work on potential recruitment projects

- Prestige Ameritech, Texas (surgical masks)
- Asteria Performance, Quebec (truck brakes)
- Trace Engines, Texas (airplane engines)
- Principelle, Netherlands (wound care products)
- 1366 Technologies, Mass (Silicon wafers for solar technology)- VEGI Pre-Application

- Cognitive Electronics, NH (big data storage and analytics)
- Northern Pencil, Que (pencils)
- Resolute Paper Products, Que (Forest products)
- Marie Morin, Que (specialty desserts)
- Shockwave Motors, startup, electric vehicles
- Turmaks, Turkey (pallets and other products from recycled plastic)
- EBM Laser, Que (laser cutting)
- MassBioMed, Mass (Several small companies graduating from incubator phase)

VERMONT TRAINING PROGRAM ♦ Beth Demers, Director

- **Leader Evaporator:** Beth Demers has been working with Gary Gaudette, President, and Bradley Gillman, Sales Manager, since November on the development and revision of a proposal for employee training funding to the Vermont Training Program. This week, a grant was drafted that will include training for new hires and upgrade classroom training in the areas of lean manufacturing. This employee training will allow the Swanton Company to add a second shift, develop new products, and move to take more of the market share. The VTP portion of the training cost is a maximum of \$54,845.00. The grant term will run from 2/24/14 – 2.28/15.
- **Liquid Measurement Systems:** Beth Demers delivered a VTP grant agreement to Anita Prouty, HR Director, of Liquid Measurement Systems in Georgia that included training assistance for new hires, cross training of existing employees, and upgrade classroom training. The employee training will allow the company to diversify their product lines to include the development and sale of more commercial products. The VTP portion of the employee training cost is a maximum of \$7, 878.00. The grant term will run from 2/24/14 to 2/28/15.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Deputy Commissioner Hollar

- **Sunset Mobile Home Park:** The park was bought at foreclosure auction for \$31,000 by Bryan Millard, who intends to improve the water system and keep the park open. If he does so and is able to address the wastewater issues as well, it will end a long period of uncertainty and lack of drinkable water for residents. With Dale Azaria, met with DEC Deputy Commissioner Schuren and Counsel Gary Kessler to discuss next steps. DEC will reach out to new owner re: acting as a receiver to ensure the roads and water system are maintained until the transfer of ownership takes place as the current owner is not.
- **Climate Cabinet:** Attended the Climate Cabinet with Bob Costantino, Individual Assistance Officer of AHS. We have been asked by ANR Secretary Markowitz and AOT Deputy Secretary Minter to help develop recommendations based on our agencies' disaster recovery experience for improving federal programs for response as well as preparing for climate change. The work is in support of the Governor's participation in the White House Task Force on Climate Preparedness and Resiliency.

VERMONT COMMUNITY DEVELOPMENT PROGRAM ♦ Josh Hanford, Director

Regular CDBG

- The Vermont Community Development Board met on February 13th to consider applications from the Town of Hartford, and the Town of Putney. The CD Board made a recommendation to Secretary Miller to award funding in the amount of \$388,433 to the town of Hartford, and \$300,000 to the town of Putney. Secretary Miller approved the recommendations but communities have not yet been notified, as VCDP is awaiting confirmation of a potential award ceremony by the Governor. Funding to the town of Hartford will be provided to the Twin Pines Housing Trust via a long term deferred loan, which will enable TPHT to rehabilitate 34 units of affordable housing on 5 separate properties throughout the town. Funding to the town of Putney will be provided to the Windham and Windsor Housing Trust via a long term deferred loan to complete the “gut rehab” of the historic Dr. Laura Plantz House. The rehab will result in 11 new units of affordable housing. Also approved at the CD Board meeting was a \$22,875 planning grant to the town of Montpelier to be subgranted to Another Way Inc. Funding will be used to hire a consultant to determine the needed renovation to its community center and to enhance access to its facility.

DEPARTMENT OF TOURISM & MARKETING

RESEARCH & STATISTICS ♦ Greg Gerdel, Research & Operations Chief

- **Travel Industry Jobs Lead Recovery Nationally – and in Vermont:** While other sectors of the U.S. economy have yet to completely rebound from the recession, the travel industry nationally, and here in Vermont, has surpassed its pre-recession employment numbers.

Using the Great Recession low point of June 2009 as a benchmark, Leisure and Hospitality employment in Vermont increased 9.26% by June of 2013. By comparison, Private Industry employment overall increased 5.26% over the same timeframe. Leisure and Hospitality employment rose from 31,300 jobs in June 2009 to 34,200 jobs in June 2013, not seasonally adjusted. (*Source: Vermont Dept. of Labor*)

Since the recovery began, the travel industry has added jobs at a rate 19% faster than the economy as a whole, according to the U.S. Travel Association, the trade group for the nation's travel industry.

International travel to the United States, with increasing numbers of visitors from China, Brazil, Japan and Australia, has contributed significantly to this growth nationally. Through Discover New England and VDTM's individual initiatives, Vermont is experiencing greater interest and more travel planning inquiries from all of these emerging markets, although our more mature markets in Europe account for the great majority of visitors to Vermont, led by the United Kingdom and Germany.

While some economists characterize the travel and tourism jobs as low-pay, seasonal positions in Vermont they have provided relative stability and clear recovery in an industry that accounts for about 15 percent of the state's gross domestic product. [More info.](#)

- **Preliminary MRA Report Shows Strong November:** With room sales up 13.6% over the previous year, November's early snow bolstered Thanksgiving skiing and made a strong start for the winter season. All three components of the Meals, Rooms and Alcohol (MRA) report were up: Meals by 5.4% and Alcohol by 9.6%. In the Mount Snow region, Dover had the greatest surge of any community in the state, with room sales up 55%. Burlington's room sales were up 23.3%, likely due to the addition of Hotel Vermont to the downtown bed base.



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

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: February 21, 2014
Re: Weekly Report

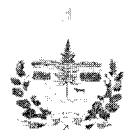
A handwritten signature in black ink, reading "Susan L. Donegan", written diagonally across the right side of the page.

Captives Division:

Deputy Commissioner David Provost spoke this week at the Vermont Captive Insurance Association 2014 Road Show, which was attended by captive owners and executives of companies who are considering forming a captive. Provost took part in a panel discussion entitled "Strategic Advantages of Captives" that focused on the basics of captive insurance companies, the reasons to form one, and cost structures and capital requirements. The four panelists also gave a brief overview of the Vermont domicile and described the captive climate and regulatory requirements here. Also on the panel was Steve Wilder, vice president of Risk Management for The Walt Disney Co., which has a captive in Vermont. Provost reported that he met with "excellent captive prospects."

Insurance Division:

The signing of the Legacy Insurance Management Act on Wednesday has generated coverage in more than 35 different media outlets including newspapers in San Francisco and Indiana, trade publications, and local radio, television and newspapers. The international media is also showing interest; Commissioner Susan Donegan spoke by phone this morning with a reporter from "Insurance Insider" in the United Kingdom.





120 State Street, Montpelier VT 05620-2501
(p) 802-828-3135 | (f) 802-828-3140

CONFIDENTIAL AND PRIVILEGED

MEMORANDUM

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: February 21, 2014

Legislative Update:

We continued to provide testimony this week at the State House on the Education Budget FY 2015, the Wallingford Elementary School Project, School Consolidation, and Governance. We also followed testimony on S.13, S.175, S.316, S.235, Teacher Evaluation, Privatization, After School Programs, H.852, and H.827. Next week we are scheduled to testify on the Education Budget and Governance.

The legal review work we have done with respect to S.91 suggests that there are some conflicts in existing statute and case law, and there are also a lot of gray areas and unresolved issues. It is our sense that this issue may ultimately be resolved through litigation.

Significant Events/Meetings:

Vermont Standards Board of Professional Educators (VSBPE)

We met this week with the NEA and VSBPE to try to move the conversation simultaneously on loosening recertification requirements, but strengthening practices around teacher quality. For example, the teacher quality progressions written by the VSBPE could be the basis for our AOE teacher quality initiatives, and the local standards boards could refocus their efforts from paperwork to facilitating growth and learning around the standards. We will continue to meet to see where we can take this conversation.

State Board of Education (SBE)

At the next SBE, we have been asked to present our revised processes for independent school approval, as well as our proposed work around teacher quality. We will also present our progress on the balanced accountability model. The next SBE meeting is scheduled for Tuesday, March 25 at the Capitol Plaza.

Evolving Issues:

Hazing, Harassment and Bullying Advisory Council (HHB)

The HHB Advisory Council, after having been told it could not ask for money, is now trying to meet as a parallel group outside the agency to continue this work. It is challenging for us to work with them. In addition, during the last recession that resulted in a significant reduction in force, the AOE (then DOE) lost its entire safe schools division. Thus, we have a very limited capacity to manage this work. This may be a fish we need to let get away.

Governance

Attached is the latest version of the draft plan for governance that Donna Russo Savage has been working on for the House Education Committee. We continue to be part of these conversations.

Rebecca



Potential Timeline: PreK-12 Education Systems (draft 4.1; 2/20/14)

Purpose: To create Pre-K-12 Education Systems that will provide students with more equitable access to world-class learning opportunities, greater flexibility in the management of public resources, and less volatility for taxpayers, while maintaining strong community involvement and support for our schools.

1. 2014 General Assembly Enacts Law:

- a. Declares that on July 1, 2019:
 - i. SUs will cease to exist
 - ii. All districts will be realigned into PreK–12 Education Districts that take into account practical & geographical issues, historical boundaries, etc.
- b. Requires that a new or continuing PreK–12 Education District shall:
 - i. Offers PreK-12 educational opportunities
 - ii. Be designed to achieve (“the 8 Criteria”):
 - I. Equitable access to world-class learning opportunities;
 - II. Fiscal efficiency;
 - III. Conditions for stable leadership;
 - IV. A connected, professional workforce;
 - V. Strong community involvement;
 - VI. Stability and sustainability for taxpayers;
 - VII. A responsive accountability system; and
 - VIII. Flexibility in the deployment of resources
 - iii. Enroll at least 1250 students or consist of at least 4 pre-existing districts, provided that the SBE [*in consultation with the DT??*] may grant a waiver to one or more districts demonstrating that #1b(i) and #1b(ii) above are met
 - iv. Have one elected school board for each new district
 - v. Operate with one budget based on district-wide grand list & tax rate
 - vi. Negotiate district-wide collective bargaining agreements
 - vii. Include school-based community councils appointed by the principals that are:
 - I. Made up of parents and other community members;
 - II. Representative of diverse voices within the community; and
 - III. Responsible for advising the principal on school-based initiatives that are designed to build partnerships among families, school staff, and the community and that improve student achievement
- c. Directs a Legal/Fiscal Work Group [*membership identified in bill*] (ceases to exist January 2015) to facilitate and inform decisionmaking in #1a & #1b above by:
 - i. Analyzing and developing guidelines intended to address:
 - I. *Brigham* considerations
 - II. School choice
 - III. Tax rate implications
 - IV. Voting / representation issues
 - ii. Reporting in January 2015 to the GA, AOE, SBE [*& DT?*] (incl. legislation)

Potential Timeline: PreK-12 Education Systems (draft 4.1; 2/20/14)

- d. Creates a Design Team (“DT”) (exists April 2015 [*earlier??*] – June 2017):
 - i. Secretary of AOE appoints members: former practitioners and experts on Vermont’s education system who are geographically representative and committed to overseeing a process of complex change over a long time period
 - ii. The DT shall (*see also* #3):
 - I. Conduct activities to engage the public in order to inform the design process, including targeted outreach to school boards and officials
 - II. Monitor progress of voluntary mergers (#2 below)
 - III. Develop the criteria, process, and overall plan for the move by 2019 to PreK-12 Ed Systems statewide
 - IV. Submit the plan to the SBE for approval through the formal rulemaking process, including public comment – submit by July 2017; rules adopted by April 1, 2018
 - V. [*add?*] Report regularly to GA, AOE, SBE, and Governor
 - iii. Costs funded by Education Fund
 - iv. Administrative and technical support from AOE
- e. Ensures [*how?*] AOE has capacity to provide technical support to [*whom? to both DT and local districts?*]:
 - i. Legal services
 - ii. Development of indicators to measure the 8 Criteria (#1b(ii) above)
 - iii. Analysis of data and indicators
- f. Amends RED provisions as necessary (*see* #2 below)

2. June 2014 – March 2017 — Current Districts:

- a. May design their own new districts that:
 - i. Meet the 8 Criteria established for PreK–12 Systems (#1b above) **AND:**
 - I. Operate PreK-12 for all resident students **OR**
 - II. Provide education by agreement with one of 4 historic “academies” for all resident students in those grades and operate school(s) for all resident students in other grades **OR**
 - III. Receive a waiver from the SBE to vary from (I) or (II) above pursuant to legal guidance provided by the Legal/Fiscal Work Group (#1c) [*and from DT? Or will DT’s work occur too late to be of much help?*]
 - ii. Follow process for unified union district formation in 16 V.S.A. ch. 11 **PLUS:**
 - I. SBE, in consultation with DT, reviews proposed plan/articles of agreement for consistency with #2a(i) above
 - II. Plan cannot be presented to the voters unless SBE approves it
 - III. SBE will not approve a plan that leaves a current district stranded in a way that would make it difficult to move ahead with a statewide plan

Potential Timeline: PreK-12 Education Systems (draft 4.1; 2/20/14)

- b. Electorate must approve articles of agreement no later than Town Meeting 2017
- c. Districts merging under the provisions of this #2 would receive
 - i. Act 153 incentives
 - ii. [??] School construction aid (moratorium lifted for these)

NOTE re: #2:

- (1) Explicitly recognize that this new PreK-12 Education Systems law is furthering the purposes of Act 153 and 156 and building on the work that districts have done in response to those acts **AND**
- (2) Repeal all of the Act 153/156 provisions except the incentives (this would be done for purposes of clarity because REDs are versions of unified union school districts and all pertinent RED provisions will be included in this new law) **AND**
- (3) [??] Repeal / delay requirement that SpEd move to the SUs on July 1, 2014

3. April 2015 [earlier?]- June 2017 — Design Team:

(required in #1d(ii) above)

- a. Conducts public engagement activities
- b. Monitors progress of voluntary mergers (*see* #2 above)
- c. Establishes criteria and process for assigning remaining districts to new districts
- d. Designs a statewide plan that includes both new voluntarily-merged districts and pre-existing districts that did not voluntarily form a new district under #2 above
- e. Submits plan to SME for review and approval through the rulemaking process
- f. [add?] Report regularly to GA, AOE, SBE, and Governor

4. September 2017 – April 2018 — State Board:

- a. SBE pursues rulemaking process to adopt DT's proposed plan
- b. Rulemaking complete by April 2018

5. April 2018 – June 2019:

- a. Process unfolds to bring all districts into the statewide plan approved by rulemaking
- b. New districts prepare and adopt budgets to go into effect on July 1, 2019

6. July 1, 2019:

- a. All new districts are in place (some may have begun earlier)
- b. All pre-existing districts and SUs cease to exist

VT COMMISSION ON LOTTERY

I am traveling today and have not items critical to update.

Greg

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, February 21, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Champlain Parkway Update

The merits hearing on the appeal of the Act 250 permit by 40th Burlington LLP has concluded and briefs are due from both sides by March 14. Judge Thomas Walsh has made it clear that he does not want to have to craft permit conditions so he wants an agreement. The City rushed to judgment, in our view, on a proposal by the appellant that would have imposed very specific conditions that required a certain Level of Service (LOS) for the intersection and even spoke to the number of seconds for traffic signals at the intersection of the Champlain Parkway and Lakeside Ave. Since it implied that additional steps would be required based on performance and required extra lanes of travel, etc., we knew it would be a contentious matter for the FHWA. The Mayor wanted us to sign on before he took it to the City Council but gave us only a few hours of notice in an effort, I guess, to force our hand.

The Council approved a plan that will change. Yesterday, FHWA signed off on a 4-way intersection at the site and we will attempt to get an agreement based on that plan without LOS guarantees that are unacceptable and not applied to any of our projects. If we can't get an agreement we will seek to have Judge Walsh impose that as a solution. By the way, this was an early plan that was agreeable to the appellant but the previous city administration opposed it.

Autroroute 35 Study

VTrans, the U.S. General Services Administration, U.S. Customs and Border Protection and the Ministry of Transportation Quebec (MTQ) are meeting to discuss a recently completed study that concludes there will be an increase in border crossings when the A-35 project is complete and that some of that increase will happen later this year when a 17-mile piece from Saint-Jean-Sur-Richelieu to Saint-Armand opens. We will need significant improvements to the Highgate border crossing before the last segment of the project opens from Saint-Armand to the border.

That raises the issue of funding for the last segment, which is not in the current MTQ plan. There may have been a change of heart from the Charest administration to the Marois administration. If you get a chance to mention that in a future meeting, it could help the planning process.

Winter Maintenance

We have just topped \$20 million in winter maintenance and have used more than 92,000 tons of salt. To put that in perspective, the average for the last five winters, in total, is \$20.6 million and 87,500 tons of salt. We are working with the legislature to see that we get through the year without significant problems and they are very cooperative on this issue.

In My Absence

I will be away for the next couple of weeks and the Agency will be in the capable hands of Deputy Minter who will be assisted in the legislative effort by Director Cole and the entire team. I will be available by phone and other electronic means.

Climate Task Force

Sue Minter was very pleased to represent you at the second meeting of the White House Task Force on Preparedness and Resilience in LA. The meeting was very productive, and the opportunity to meet with people from around the country dealing with the effects of Climate disruptions and extreme weather renewed her energy to advance the state's efforts on resilience. The Task Force is a priority of the President, and its recommendations may become part of the Obama legacy on Climate Change and preparedness. This initiative brings us in direct contact with federal agency leaders to work to improve their post-disaster work. It is also clear that many of the other Task Force members share your vision of this being about Climate Mitigation (carbon reduction strategies) as well as disaster preparedness. Recommendations on larger picture climate issues are likely to emerge through this process.

Another outcome of this effort will (likely) be a visit from the White House leaders of the Task Force, as well as Federal Agency leads we request. Sue will be in touch with your team to coordinate a time that works for you, as well as to orchestrate a visit that showcases Vermont's successes, as well as challenges, and how Federal Agencies can provide stronger (and more successful) partnerships and programs to benefit Vermont's resilience.

The Task Force was a topic at the Climate Cabinet this week which Liz attended. The Climate Cabinet will provide the coordinating function for state engagement on the Task Force work. Vermont is well represented on the Task Force by leaders from: VTrans, Ag, ANR, ACCD, AHS and Health to have our ideas present within each sub-committee of the Task Force. Sue will also be discussing at the Legislature's Climate Caucus next week.

NOTES FOR STAFF

Vermont Local Roads

As reported last week, this program provides training and technical assistance to municipalities utilizing a \$400,000 grant from VTrans. Given the recent performance of the program and the building of a similar capability in our Operations Division, we are pulling the grant and renaming the program the Local Technical Assistance Program. The Transportation Bill proposes to create three positions to replace those that provide these services but there will be no need for the Executive Director position. There are no budget implications and more of the money will go to direct service to the towns. The proposal was well received in a hearing in House Transportation yesterday.

This program when administered by Hank Lambert was a favorite of the legislature for many years but has not been the same since he retired. The current Director, David Antone, has been notified and has indicated that he will not fight the plan. Current employees are free to apply for the state positions.

Contract Administration Going Paperless

One of our most bureaucratic and complex areas, Contract Administration, is going paperless effective for advertised projects at the end of March. We are currently doing a pilot with a contractor to get the bugs out and developing a *Sharepoint* site to facilitate this change. Projects currently generate 5-10 boxes of paper each and a contracts specialist spends two hours per project just taping and packing the paperwork. It is anticipated that when this process is fully implemented (and it will need the full cooperation of engineering and construction firms) this could save considerable costs related to printing and storage. We are also likely to submit the plan to the FHWA to see if it qualifies for an innovation grant to help facilitate. The FHWA has just announced a program that grants certain initiatives up to \$1 million apiece.

To get an idea of what this could mean, just consider the steps taken by our reprographics staff in response to a contract addendum:

- Retrieve all the plans from Contract Administration
- Take the plans apart
- Replace the original pages with the revised
- Put the plans back together and bind them
- Return plans to Contract Administration'
- Send the revised pages to other Agency sections

Everything you see above will be done through an electronic posting within seconds of the approval of the addendum!

VTrans Engineers Get Top Awards from ASCE

Two of our bridge engineers, Carolyn Carlson and Jennifer Fitch, were presented with this year's Vermont Engineer of the Year and Vermont Young Engineer of the Year

awards, respectively, by the Governor on Wednesday of this week. They will be honored by the American Society of Civil Engineers at a dinner tonight.

Further, the grand award by the ASCE for Project of the Year is the historic bridge reconstruction and restoration on Route 2 over the Winooski River between Richmond and Williston. This was Carolyn's project and included a first of its kind widening of an historic truss bridge.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: February 21, 2014

Vermont Department of Health (VDH)

Board of Medical Practice Provided Testimony on H.123, a Bill that Proposes to Set the Standard of Care for Treatment of Lyme Disease in Statute:

On Tuesday, the Board of Medical Practice provided testimony on H.123, a bill that proposes to set the standard of care for treatment of Lyme disease in statute. The Board's Executive Director presented the Board's opposition to the bill in House Health Care. Foremost, the Board is opposed to setting the standard of care in statute because the standard of care is something that is subject to continuous evolution, and in all other instances, is usually based upon expert evidence. In addition, there are real and identifiable harms that may result for the affected patients, as well as the risk that inappropriate and unnecessary use of antibiotics may contribute to the development of dangerous drug-resistant bacteria.

Innovative Substance Abuse Prevention Practice Evaluated:

Howard Center Centerpoint School's Project Checkpoint is being implemented at Colchester High School, and has been nominated by the Division of Alcohol and Drug Abuse Programs for the SAMHSA sponsored Service to Science (STS) Program. STS provides significant technical assistance to community fostered innovative practices that demonstrate a potential to reduce substance abuse and develop into an evidenced-based practice. Project Checkpoint is an alternative program for students at Colchester High School who have violated the substance use policy of the school and face sanctions such as expulsion. It is based on a Screening, Brief Intervention, and Referral to Treatment (SBIRT) model.

Significant problems with VITL's performance:

VDH is experiencing difficulty with its relationship with Vermont Information Technology Leaders (VITL) and its subcontractor, Medicity. VDH has an agreement with VITL (through DVHA) to support compliance with Vermont statute and the Centers for Medicare and Medicaid Services' (CMS) meaningful use requirements. Based on VDH's assessment of the past three months, we have determined that VITL and its subcontractor, Medicity are unable to provide the level of technical expertise that is necessary to deliver reliable information to the Vermont Immunization Registry. VITL recently announced completely erroneous information in its newsletter regarding its role in successfully connecting providers with the Immunization Registry. The VDH had to ask for a correction to be sent to hospitals. Since November, there have been four times that the connection between VITL/Medicity has been down resulting in problems with receiving immunization data.

VDH's IT staff has provided significant support and direction to Medicity and VITL, but there hasn't been the same level of collaboration and dedication from their organizations. VDH is

considering suspending our relationship with VITL due to lack of productivity. Other options are being considered to meet Vermont Statute and CMS requirements.

New Non-Profit Dental Practice in Addison County:

On February 17th, a new non-profit dental practice opened its doors in Bristol. Opening Red Clover Family Dentistry has been a goal of a small group of dedicated Addison County volunteers for the last nine years. The practice was built with grant funds and private donations. Grant funds stipulate that 51% of the practice's patients are low to moderate income. Red Clover Family Dentistry is currently in negotiations with Mountain Health Center, the newly designated Federally Qualified Health Center in Bristol, to provide dental services to Mountain Health's patients on a sliding fee scale.

Department of Mental Health (DMH)

Vermont Psychiatric Care Hospital (VPCH) and Fletcher Allen Health Care (FAHC):

A contract for psychiatric medical services between VPCH and FAHC is being routed for signatures.

Fox 44:

Deputy Commissioner Reed spoke with David Hodges regarding comments made by a defense attorney in a court hearing in Hyde Park. The attorney stated that he would not be able to get a timely screening for his client given the state of the mental health system in Vermont. Deputy Commissioner Reed clarified that court screenings are given priority and would be provided if requested by the court, without delay.

Emergency Room (ER) Waits:

There is continued pressure in Emergency Rooms and Corrections.

DMH is working with Disability Rights Vermont to research a unique ER diversion program in Arizona.

Department of Disabilities, Aging and Independent Living (DAIL)

DAILs testimony on Developmental Services bill H.728 urges postponement; some members receptive:

H.728 proposes an overhaul of the 1996 Developmental Disabilities (DD) Act. Citing fears that recurring cuts risked stability of the entire program, Reps. Donahue and French suggested the DD Act might need to be amended to bring more legislative oversight. Politely reminding them that the legislature controls the budget and that the DS program actually enjoyed an average 4-6% increase in funding over the last 4 years, the Commissioner nonetheless agreed it was time to revisit this 20 year old law. The Department recommended that the committee wait until the DS Task Force wraps up its work this summer and that we work collectively on changes to the bill next year.

House Judiciary thoughtfully weighs options following additional testimony on H. 555, An act relating to the commitment of a criminal defendant who is incompetent to stand trial because of a traumatic brain injury:

Committee members listened attentively to DMH Medical Director Jaskanwar Batra and Commissioner Wehry and seemed to grasp the complexity of this issue for the first time. Dr. Batra and Commissioner Wehry reiterated their findings that no state as of yet has figured out what to do, though most place similar individuals in forensic units attached to state hospitals. Dr. Batra and Commissioner Wehry also pointed out that the current public safety program in DS runs in excess of \$25M and underscored the civil liberty challenges in the current Act 248 law. Rep. Lippert especially appreciated this point.

Sisters of Mercy met with DAIL's Division of Licensing and Protection (DLP) this week:

The DLP met with senior officials of the Sisters of Mercy yesterday and presented the Division's conclusion that the convent does not meet the definition of a home, that the aging sisters who live there do not meet the statutory definition of family, and that they need to apply for a license to become a residential care facility or appeal the decision to the Commissioner. By all accounts the meeting was cordial; an appeal is anticipated. This situation emerged from an unsubstantiated complaint by a former employee alleging neglect of nuns in the infirmary wing. The Commissioner is receptive to an appeal and is working with general counsel to navigate the likely legal arguments and implications for the Department.

WCAX News Police: Man stabbed over doughnuts:

A 27-year-old man with developmental disabilities, Gregory Rainville, who is a ward of the State's public guardian program, stabbed his respite home provider on Monday. Neither his disability nor his guardianship statuses were mentioned by the press. This is the fourth incident in as many years for this individual. The Commissioner has questioned the viability of another community placement and has directed Camille George, DS Division Director, to complete a quality review of his plan and a root cause analysis of this incident. DOC and DAIL are working together to address Mr. Rainville's needs.

Department of Corrections (DOC)

Puppies in Prison:

Southern State Correctional Facility (SSCF) will begin working with the Vermont Soldier Angels (VSA) and Pets for Vets Program.

Recently, the DOC was contacted by VSA Director Terri Sabens, regarding our ability to raise puppies to be used as service dogs for veterans. We have decided that we can sustain this program at the SSCF.

In the next week or so, Superintendent Potanas will coordinate with his management team in identifying staff that will be assigned as project managers for this task. Once the SSCF is organized, we will reach out to VSA.

Jason Michael Hann

Jason Michael Hann is convicted in Vermont for the offense of Murder in the 2nd degree. Mr. Hann is currently serving a sentence in Vermont of 27 to 30 years. His earliest release date is October 30, 2019 with a mandatory release date of October 4, 2021. He is currently in California

resolving charges of Murder and Cruelty to Child Causing Death; the prosecutor is requesting the death penalty in these cases. It is expected he will be sentenced to death today. After he is sentenced he will be required to be returned to Vermont to complete his Vermont sentence, he will then be returned to California for completion of his California sentence.

Population

The department's incarcerated population averaged 2,152 for the previous week. The incarcerated male population averaged 1,992 with 390 being presentenced inmates. The female population averaged 159 with 42 being presentenced inmates.

Department for Children and Families (DCF)

Temp Housing Update:

This January's temporary housing expenses were \$351,000 compared to last year's \$564,000. We attribute this to our more stringent eligibility rules and the availability of Harbor Place on Shelburne Road. When Champlain Housing Trust (CHT) converted the EconoLodge to a temporary housing program, we were able to negotiate a favorable \$38 per night rate versus the average \$63 per night rate in the Burlington Area. CHT is interested in exploring another similar venture; we will keep you updated on our discussions with them.

No Room at the Inn:

Some hotels are starting to refuse to take anyone through our General Assistance temporary housing program. Recently the Fairbanks Hotel in St. Johnsbury had police at their hotel repeatedly over the weekend to deal with disturbances. Hotel management has told us it is impacting their business as people are posting on travel media sites that unsavory people are staying there. They now refuse any consumers we send them. As a result of this, we had 26 people with nowhere to stay in St. Johnsbury on Tuesday night. We made arrangement for them to be served in Hardwick but only three took this offer. Some of the remaining consumers needed to be closer to St. Johnsbury for their Methadone treatment early the next morning. Others found somewhere else to stay. A hotel in Newport has also started to refuse consumers through our program because there are so many disturbances requiring police attention.

Department of Vermont Health Access (DVHA)

VHC review of misapplied checks:

VHC has identified a number of incidents of scanned checks being applied to the wrong accounts. This has led to information by one VHC user to be viewed by an unauthorized user. Additional checks have been misapplied without resulting in access by an unauthorized user. VHC has been contacted by the Attorney General's office about these incidents. Steps taken to address these issues have included:

- (1) Benaissance has retrained staff about procedures for applying checks without a payment coupon.
- (2) Benaissance conducted a review of over 2,000 checks processed without a payment coupon prior to this training. This review identified one additional misapplied check and one additional check that is under investigation.

- (3) The ability for users to view scanned checks will be removed from the system as part of the next code release scheduled for February 28th.

The AG's office asked for additional information related to initial training for Bennisance staff and CMS review of security and privacy policies and protocols. DVHA will be responding to these requests.

CMS Site Visit:

AHS staff along with CMS staff have been meeting this week to review and resolve any outstanding issues with the Health Services Enterprise (HSE) Advance Planning Document (APD). This addresses the alignment and funding of work being done to procure a new Medicaid Management Information System (MMIS), an Integrated Eligibility (IE) solution and Health Information Technology (HIT)/Health Information Exchange (HIE) efforts for building out our digital health information and human services environment.

Accountable Care Organization (ACO) Contract Update:

The ACO contracting process has begun on the State side; DVHA expects signed agreements next week, the following week at the latest.

116 STATE STREET
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: February 21, 2014

Secretary's Top Issues

Working Lands Enterprise Initiative - The Working Lands Enterprise Board (WLEB) met on Tuesday, February 18, 2014 and made award decisions on the Enterprise Investment applications. Award recipients will be notified by Tuesday, February 25. An official press release and press event to publically announce award recipients is scheduled for Tuesday, March 18, 2014 in Room 11 of the Statehouse (time to be determined). A breakdown of investment decisions (sector, county, dollars) will be provided in the next weekly update.

Feral Swine - State Veterinarians, Drs. Haas and Mehlenbacher, participated in a meeting with Department of Fish and Wildlife and USDA Wildlife Services colleagues this week to develop a plan for utilizing \$60,000 of federal funds annually appropriated for the next five years in order to prevent introduction of/eradicate any existing population of feral swine in VT. Wildlife Services will utilize the rabies hotline to receive complaints and reports of feral swine sightings, with support from VAAFM and F&W. VAAFM farm inspection staff will also be receiving training from Wildlife Services on recognition of telltale signs that feral swine are present on farm property. A media outreach effort will accompany this initiative.

FDA and Dairy - This week FDA did their evaluation of the Grade "A" dairy program for the last three years. This is a major event in that Dairy Section needs FDA to certify that we are in substantial compliance to maintain Vermont's ability to export its milk and Grade A milk products across state lines. The evaluator commented that our enforcement and sanitation scores on ratings are excellent and we have the strongest dairy program in the Northeast. To maintain this level of excellent will take continued diligence and hard work.

New Dairy Processor - There is a new milk hauling company and a processor that will be making Gelato this week. VAAFM is now at 102 processors it needs to inspect. 6 more processors have pending applications at the Agency and other entrepreneurs that are looking into processing milk into a variety of dairy products.

**116 STATE STREET
MONTPELIER, VERMONT
05620**



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

Chuck Ross, SECRETARY

**STATE OF VERMONT
AGENCY OF AGRICULTURE**

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: February 21, 2014

Status of Governor's Priorities:

Legislative Activities and Issues

Budget -House Appropriation - Secretary Ross presents the agency's budget.

- The budget presentation was well received.
- Main questions were on cuts to general fund program and increase in Working Lands program.
- The Secretary discussed two new positions for meat inspection.

Lab Update

- Have presented the Lab feasibility study to House Gov't Ops and House Natural Resources last week and presented conclusions to Senate Institutions and Senate Natural Resources.
- Ag, DEC and BGS continue to work on the details of language for the Capital Construction bill due to pass out of House Corrections and Institutions today or early next week.
- The \$500,000 appropriation requested by the Administration has been proposed to be reduced to \$300,000; BGS believes this is adequate to fund siting and preliminary design.
- State-owned land will be considered first; 3 sites have been identified for review.
- Timeline is VERY tight however all parties invested in reaching benchmark goals.
- Meetings begin Monday between the 3 agencies to launch project development. Another meeting will discuss FEMA and insurance funds.

H. 586 and H. 676

- Continue to provide testimony and feedback throughout the week to various committees regarding the water quality bill (H.586) and regarding flood plain management (H.676).
- Similar to TMDL discussions this bill could have long lasting impacts on how water quality and agriculture are managed in the future.

H. 590

- Provided impromptu testimony regarding H.590; this bill, as written, would require all dam owners to register with DEC annually.
- The current law provides authority over ag related ponds, dams and impoundments to the conservation districts; H.590 would eliminate this authority. The law only applies to impoundments greater than 500,000 cubic feet (3.7 million gallons); very large impoundments. The members of the committee did not immediately know that this law applies to manure pits. I explained the current requirements for manure pits and suggested that if they exempted waste storage facilities and/or waste management systems from the provisions of the bill then the result would be status quo in the ag world. They seemed to accept that solution.

H 771- capital funding for agricultural fair and field days-House Ag and forest product-Deputy Secretary Bothfeld

- Testified on the bill providing support for the guidelines in statute that will clarify

- who is eligible to apply for the grant,
- the use for capital improvements only, and
- the requirement of a match of a minimum of 15%.
- In kind support examples were provided to the committee.

H. 823- Growth Centers Incentives- House Natural Resources and Energy-Deputy Secretary Bothfeld

- Testified on the support of the Agency of Ag for 1:1 off site mitigation payment for designated downtowns and associated neighborhood development areas.
- The Agency supports incentivizing development in these areas and protecting natural resource areas (primary ag soils) outside of these areas.
- Presented Sec. Ross' list of where VT is number one and the committee asked for a copy.

H.448 Primary Agricultural Soils-House Agriculture- Diane Zamos (DZ)

- Tad Fyles – (Plunder Bay case) – described his experience with A250 under the current law, as a layperson. In general, believes the proposed bill will be an improvement because the Agency's hands may have been tied by the current law. DZ was called upon to answer a number of questions about the Plunder Bay case.
- Sheri Young – Was Tad's consultant in the Plunder Bay case, and is a soil scientist. Disputes accuracy of NRCS mapping in Addison County. Opined that the definition of "primary agricultural soils" should not include soils of statewide importance and wants NRCS to re-map and reevaluate clay based soils. Wants any offsite funds to be used to preserve farmland within the watershed, not the district.
- Sandy Levine, Conservation Law Foundation – Opposes H.448, claims it does not protect soils and gives too much discretion to the Agency which can be subject to political pressure. Off-site should only be used as a last resort. Believes H.448 is motivated by Exit 4 pressure and administration support of the project. Under questioning by Committee, agreed that an objective definition of PAS makes sense.
- DZ was again called upon to answer a number of questions that Sandy couldn't answer, including who has records of the on-site parcels, were they left to grow up and become fallow, are they being farmed, etc. DZ suggested the Committee hear from Ben Waterman, who could answer a number of the questions that came up about clay soils, small parcels, farmers seeking land, the NRCS system, etc. Rep. Michelson indicated Ben was going to testify.

S.220 Enterprise Zones- Senate Economic Development, Housing and General Affairs- Stephanie Smith (monitoring) Mike Zahner Vermont Chamber of Commerce

- Supports a master Act 250 permit process for Industrial Parks that would allow local boards to administer a District Commission approved Master Permit. (Ron Shems finds this problematic).
- The benefits of 1:1 mitigation would extend to new park development and would not be only for the build out of existing (as of 2006) permitted parks or expansions.
- Senate Chair Mullins asked if some agreement between stakeholders- (ACCD, NRB, ANR, AAFM, VNRC, and Vermont) could be arrived at so this bill could move forward, and set a deadline of Tuesday next week to come back to committee.

Other

- Listened to testimony from a beekeeper regarding neonicotinoid insecticides and bee health. This is in reference to S.232 a bill that would eliminate all uses of this class of insecticides in Vermont. We have not yet been asked to testify on this bill.

Jobs in Agriculture

- VAAFM's Agriculture Development Division hired Beth Fenstermacher to perform the Agency's review of "primary agricultural soils" and make recommendations to Act 250 District Commissions concerning mitigation. We look forward to her arrival on March 3.

Press

- **Meat Inspection** with Angela Evancie of VPR concerning the growth of the industry, the responsibilities of the Meat Inspection Program and the need for more Food Safety Specialist in order to accommodate the growth and provide the mandated daily inspection of slaughter and processing plants as well as coverage for the custom shops and the 1600+ retail stores.

Significant Events/Meetings:

- **FDA and Dairy** - This week FDA did their evaluation of the Grade "A" dairy program for the last three years. This is a major event in that we need FDA to certify that we are in substantial compliance to maintain Vermont's ability to export its milk and Grade A milk products across state lines. The evaluator commented that our enforcement and sanitation scores on ratings are excellent and we have the strongest dairy program in the Northeast. To maintain this level of excellent will take continued diligence and hard work.
- Agency personnel attended the **Vermont Food & Beverage Tasting** at the Statehouse on Tuesday. Members of the Specialty Food Association, the Cheese Council, the Grape and Wine Council, the Brewers' Association, and the Distillers Council sampled their products to legislators, state agency staff, and other attendees. Secretary Ross gave remarks to the lively crowd on the value of the Vermont Food and Beverage industry to the state's economy and culture.

Evolving Issues:

- **New Dairy Processor** - There is a new milk hauling company and a processor that will be making Gelato this week. VAAFM is now at 102 processors it needs to inspect. 6 more processors have pending applications at the Agency and other entrepreneurs that are looking into processing milk into a variety of dairy products.
- **Compliance for Haulers** - Three NOV's were sent out to milk hauling companies that had used unlicensed persons to weigh and sample milk farms. This is a serious offence as the farmers milk check depends on the accuracy of those picking up the milk at their farms.

Summary of Key agency Department Activity

Administration:

- VAAFM's Agriculture Development Division hired Beth Fenstermacher to perform the Agency's review of "primary agricultural soils" and make recommendations to Act 250 District Commissions concerning mitigation. We look forward to her arrival on March 3.

Agricultural Development:

Working Lands Enterprise Initiative

The Working Lands Enterprise Board (WLEB) met on Tuesday, February 18, 2014 and made award decisions on the Enterprise Investment applications. Award recipients will be notified by Tuesday, February 25. An official press release and press event to publically announce award recipients is scheduled for Tuesday, March 18, 2014 in Room 11 of the Statehouse (time to be determined). A breakdown of investment decisions (sector, county, dollars) will be provided in the next weekly update.

Working Lands Partnership & Coalition

The Working Lands Partnership & Coalition provided testimony to both the House and Senate Agriculture Committees. Testimonies were provided by several Working Lands Enterprise Initiative grant recipients sharing their stories of how the state's investment in their enterprise has made positive and lasting impacts to their business, sector, and Vermont's working landscape. Grant recipients that provided testimony included: Shirley Richardson, Vermont Chevon, LLC, Joel Currier, Currier Forest Products, Dave Boynton, Guild of VT Furniture Makers, Chris Brooks, Owner, VT Pellet Co., and Karen Freudenberger, New American Custom Exempt Goat Slaughter Facility. The Partnership also hosted a reception at the end of the day for legislators, grant recipients, and the WLEB.

Food Safety and Animal health and Consumer Protection:

Meat Inspection:

- Meat inspection will be providing technical assistance for producers at the New England Meat Conference in March concerning Hazard Analysis Critical Control Point (HACCP) plans and validation of their food safety procedures.
- Spoke with poultry producer in Northfield concerning his establishment being built for state inspection. He reported that the construction is 90% complete and the HACCP plan is 50% complete and they plan on starting sometime before summer.
- Spoke with beef producer in Milton constructing a red meat slaughter and processing facility. Completion date is unknown but we have scheduled a progress meeting for early April. This facility will be under state inspection.
- Spoke with poultry producer from Shelburne that raises ducks looking for a location to build a slaughter facility.

Animal Health:

- State Veterinarian, Dr. Kristin Haas, participated in a round table workshop for town clerks as a part of Municipal Day on February 19th. She partnered with Garrett Baxter, senior staff attorney for the League of Cities and Towns, to provide information to municipal officials regarding the pet dealer permit requirements.
- State Veterinarians, Drs. Haas and Mehlenbacher, participated in a meeting with Department of Fish and Wildlife and USDA Wildlife Services colleagues this week to develop a plan for utilizing \$60,000 of federal funds annually appropriated for the next five years in order to prevent introduction of/eradicate any existing population of feral swine in VT. Wildlife Services will utilize the rabies hotline to receive complaints and reports of feral swine sightings, with support from VAAFM and F&W. VAAFM farm inspection staff will also be receiving training from Wildlife Services on recognition of telltale signs that feral swine are present on farm property. A media outreach effort will accompany this initiative.
- State Veterinarian, Dr. Kristin Haas, participated in a USDA Veterinary Services Training and Exercise working group conference call this week. She is a member of this working group as a representative of the New England States Animal Agriculture Security Alliance.
- The Animal Health section submitted workplans and pre-award request letters for two cooperative agreements this week. If approved, the next work cycle will begin on April 1, 2014. The acquisition of these federal funds is critical to being able to run multiple animal health programs within VAAFM.
- State veterinarians, Drs. Mehlenbacher and Haas attended the annual meeting of the VT Euthanasia Board for Animals. Dr. Mehlenbacher organized the required annual meeting. A new Chair was elected and plans were developed to improve the efficiency and accountability of shelters and technicians who perform euthanasia on companion animals.

Dairy:

- Dr. Kristin Haas, State Veterinarian, worked with Marcey Hodgdon this week to complete the necessary steps to register in multiple federal government forums in preparation for a grant request submission related to the Secure Milk Supply project. It is anticipated that this grant could also fund a temporary data entry/management position within FSCP, and familiarity with the registration process may help in future FSMA related requests.
- The kick-off conference call for the new Dairy database acquisition from USA Food Safety was held this week. A site visit by CAI to gather information is planned for the 3rd week in March.
- This week FDA did their evaluation of the Grade "A" dairy program for the last three years. This is a major event in that we need FDA to certify that we are in substantial compliance to maintain Vermont's ability to export its milk and Grade A milk products across state lines. The evaluator commented that our enforcement and sanitation scores on ratings are excellent and we have the strongest dairy program in the Northeast. This is a tribute to the dairy section staff that do their jobs well. A few areas were found that could be improved but I anticipate these will be dealt with as minor suggestions with no major deficiencies. We will be receiving a written report in a few weeks. To maintain this level of excellent will take continued diligence and hard work.
- We added a milk hauling company and a processor that will be making Gelato this week. We are now at 102 processors we need to inspect.
- There are also 6 processors that have milk handler licenses pending with numerous requests for assistance from farmers and other entrepreneurs that are looking into processing milk into a variety of dairy products.
- Three NOV's were sent out to milk hauling companies that had used unlicensed persons to weigh and sample milk farms. This is a serious offence as the farmers milk check depends on the accuracy of those picking up the milk at their farms.

Agricultural Resource Management:

- Held two pre-hearing conferences this week with two farms regarding violations of their LFO permits. Both conversations were fruitful and we are confident that resolutions can be reached without proceeding to full hearings.
- Work continues on the agricultural portion or 'reasonable assurances' for the TMDL. Agency staff and ANR staff met this week and also participated in a conference call with EPA. These negotiations are becoming critical as they could set the agenda for agricultural water quality for the next 10 to 20 years.
- Met with David and Kathy Montagne last week regarding CREP contract and contested contract provisions due to the sale of the property. I will be providing the Secretary with recommendations for the disposition of this case.

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

- Staff attended two pre-hearing conferences related to enforcement actions that resulted from permit violations on two LFOs in Addison County.
- Staff are working with partner organizations to develop a 3-5 year/long-term strategy for NMP and agronomic practices on farms. The discussions are with partners to evaluate how the NMP and FAP programs can be coordinated with NRCS programs to assist farms in implementing NMPs and cropland practices.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on becoming LFOs. This will be a major focus of the team for the coming months. Farm visits have been set up as part of this permitting effort.
- Staff are processing LFO annual reports for compliance with individual LFO permits. Annual reports are due by February 15 each year. There are currently 19 LFOs in Vermont.

Conservation Reserve Enhancement Program (CREP):

- Attended North Lake partners meeting
- Spring CREP contract preparation: writing waivers for increased cost share maximums on two contracts with multiple stream crossings.
- Facilitating communications between contractors, farmer, and NRCS to help farmer determine what will realistically be “do-able” in well-ranked EQIP contract.
- Attended No-till/cover crop symposium hosted by UVM extension at UVM’s main campus. Earlier this year, the Agency used FAP funds to help to send four progressive/early adopter farmers to the annual No-till Conference in Springfield, Illinois and that money was well spent. There have been great conversations between the farmers we provided assistance to and the audience of interested farmers and guest speakers at the conference.

Secretary’s Comments:

Legislature - Presented the agency’s budget to the House Appropriations Committee with Deputy Secretaries Diane Bothfeld, Jolinda LaClair and Financial Director Marcey Hodgdon. Budget was generally well received with questions on cuts to general fund program, increase of Working Lands program, and possibility of new Food Safety Specialists (meat inspectors). Questions were asked about the Governor's 75K increase in funding for Working Lands. It was explained that this demonstrates the Governor's commitment and believe in the program and understanding that the grants from the fund is an effective way to increase economic activity in the farm, food and forest economies as demonstrated by the increases in gross revenue of each grant recipient and the increased purchasing of VT products by the recipients for use in their businesses.

Meetings

- Attended Higher Education Food Systems Consortium meeting facilitated by the Vermont Council on Rural Development.
- Vermont Food and Beverage, State House: attended and spoke at the reception.
- Flood Resilience and Land Conservation board meeting, National Life: attended meeting for discussion.

Ongoing Discussions with Governor’s Office

- Working collaboratively with the Agency of Natural Resources to represent Vermont and Vermont issues on the White House Task Force for Climate Preparedness.
- TMDL, Commissioner Mears: Continue to converse and strategize on how best to respond to TMDL and present the choices to the Governor such a response will engender.

Upcoming Issues and Events

- Vermont Dairy Producer’s Conference: Will be speaking (with Governor Shumlin and Congressman Welch) at the.
- Presenting the Agency’s budget to Senate Appropriations
- WCAX The :30 interview

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

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

www.anr.state.vt.us



Deborah L. Markowitz
Agency Secretary

Justin G. Johnson
Deputy Secretary

**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: February 21, 2014
Subject: ANR Weekly Report

Governor Level Issues:

Annual Governor's Awards for Environmental Excellence: This week was the application deadline for 2014 annual Governor's Awards for Environmental Excellence. Typically we receive 20-25 applications. This year we received 36 applications; 13 businesses, 7 non-profits, 7 public entities, and 9 schools. The next step in the process is to conduct an internal compliance/eligibility review. Following that review, applications will be evaluated and recommendations presented to the Secretary. Final decisions on award winners are made by the end of March.

Kocher Drive Dump, Bennington: Waste Management staff held a meeting with town officials and their consultant to discuss the plan for remediation of this site. This is the property that was proposed for a large scale removal action by EPA that was excessive in scope and cost. EPA backed off from plan as long as the town worked with us to move forward with site issues. The proposed plan moving forward seemed acceptable to the town, yet they expressed a real concern for the cost of the work as EPA is pursuing a cost recovery action against them for past EPA costs spent at the site. The town asked us about involving VTrans as a contributor to some of these costs, as VTrans disturbed the old dump when constructing Route 7. We informed the town that we notified VTrans that the town may contact them but that we were not going to get involved with any liability discussions.

Lake Champlain TMDL Plan: Vermont will provide a Lake Champlain TMDL implementation plan to EPA at the end of March, and a letter of support from the Governor by the end of April. Staff are busy developing that plan. An outline for the TMDL Phase 1 plan has been drafted and writing tasks assigned. A set of TMDL FAQs has been posted on our website, and public comments received on the Vermont Proposal for a Clean Lake Champlain are being

summarized. Staff are meeting internally and externally each week with interested stakeholders and with EPA. This week meetings were held with the South Lake Advisory Committee (general presentation), Forest Parks and Recreation (EPA's assumed 5% loading reduction from Forestry Accepted Management Practices), Facilities Engineering Division (cost-effective ways to achieve EPA's proposed wastewater loading allocations. EPA informed us that they may be willing to exempt small wastewater facilities (<100,000 gpd design flow) from phosphorus removal requirements, and that they plan to initiate technical peer reviews of the lake, watershed, and Best Management Practices modeling analyses, as well as some internal quality assurance reviews of the calculations.

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

EVERYTHING ELSE:

Legislative Issues/Testimony:

Solid Waste, S.208: Members of the Senate Natural Resources and Energy Committee, Senate Finance Committee, and DEC staff visited the Chittenden County Solid Waste Material Recovery Facility and the new Myers Recycling Center. The visit was timed to provide information for the committees before taking up S.208 and other Senate-proposed legislation related to solid waste management and Universal Recycling (Act 148) implementation.

Battery Recycling, H.695, and Gable-top Cartons, H.641: The House Committee on Natural Resources continues to mark-up two bills related to solid waste management last week; H.695 (product stewardship program for battery recycling) and H.641 (adding gable-top cartons, aseptic packaging to list of mandated recyclables). While H.695 faces some challenge from manufacturers of products containing primary batteries, Chair Klein will continue to push this bill forward. H.641 appears stalled as bill proponents and representatives of material recovery facilities work out logistical issues for the processing of these materials.

Climate Caucus: Elaine O'Grady, Director of DEC's Air Quality and Climate Division made a presentation to the Vermont State Legislature's Climate Caucus on National Ambient Air Quality Standards, Vermont's attainment status, the consequences of going into nonattainment, and connections between climate and air quality.

DEC – VAAFM Lab: ANR Deputy Secretary Johnson and VAAFM Deputy Secretary LaClair continued the series of presentations to House and Senate committees in support of a \$500K capital appropriation for Phase II of a feasibility study for reconstruction of a consolidated, collaborative DEC – VAAFM Laboratory. While both the House and Senate Institutions Committees continue to show cautious support, other jurisdictional committees have shown universal enthusiasm for the proposal. Phase II would include the siting and design of the lab, and ANR and VAAFM are already working with BGS to evaluate potential sites on land owned by the State of Vermont. Outside the statehouse, FEMA has conditioned financial support for the project (roughly \$1.8M) on the state's ability to identify two potential sites by May 2014. BGS is working with ANR and VAAFM to request additional time before finalizing a decision on the two top sites.

Water Quality, H.586: The House Fish, Wildlife and Water Resources Committee continued to mark up the omnibus water quality bill, H.586. The House Agriculture continues to take separate testimony on the bill, with particular focus on the definition of, and proposal to regulate, small farms, but including discussion of livestock exclusion, manure management, and other regulatory changes to support clean water.

River Corridor & Floodplain Protections, H.676: Watershed Management Division – Rivers Program Manager Mike Kline and State Floodplain Manager Rob Evans provided additional testimony on H.676 last week. The bill proposes to clarify existing state statute to allow regulation of development within river corridors that has traditionally been exempt from municipal regulation or is state-owned and -operated. This bill also allows municipalities to regulate other land uses currently subject to limited municipal regulation to ensure compliance with the National Flood Insurance Program. The bill passed out of House Fish, Wildlife and Water Resources Committee unanimously on Friday morning.

Ecosystem Restoration & Water Quality Improvement Special Fund, H.650: Watershed Management Division – Stormwater Program Manager Padraic Monks testified before the House Fish, Wildlife and Water Resources Committee in support of H. 650 (An act relating to establishing the Ecosystem Restoration and Water Quality Improvement Special Fund), which would allow municipalities to pay into the fund and have DEC perform stream flow monitoring required under their municipal stormwater permit (MS4). The Program has heard repeatedly from the municipalities that they are in favor of the bill and have urged us to support it. The bill is expected to pass out of House Fish and Wildlife this week, on its way to the House Committee on Ways and Means.

Dam Safety Bill, H.590: Facilities Engineering Division – Dam Safety Program staff provided testimony in the House Fish, Wildlife and Water Resources Committee on the Dam Safety Bill, H.590. The purpose of the testimony was to participate in the bill markup, following prior testimony on the bill. The bill is expected to pass out of House Fish and Wildlife this week on its way to the House Committee on Ways and Means.

Press Issues/Releases:

Shorelands: Commissioner Mears appeared on Vermont Edition to discuss the shorelands legislation recently passed by the Senate. Callers were generally supportive of the goals of the bill and repeated many of the same comments heard over the summer.

Lake Champlain Cleanup Plan (TMDL): All major newspapers, VPR, and WCAX covered the joint hearing before the various House committees on the state's report on the status of the TMDL development process. In addition, Commissioner Mears appeared on the Mark Johnson show. Our key messages are being picked up. The participation of Secretaries Ross and Searles in the hearing, along with Tom Berry of Senator Leahy's office, and EPA's Stephen Perkins helped elevate the tone and visibility of the presentation. The media also picked upon the messaging from the environmental advocacy groups at their separate press conference the same day as the legislative hearing calling on the Governor and state government to show leadership in the state's proposal to EPA.

Three of Vermont's Largest Fish of 2013 Are New State Records: Anglers have been entering impressive catches in Vermont's record fish program every year since records were first kept by the Fish & Wildlife Department in 1969, and 2013 was no exception. Three of the largest fish entered last year also qualified as new all-time state records.

Ice Shanties Must Be Removed Before Ice Weakens: Vermont state law requires that ice fishing shanties must be removed from the ice before the ice becomes unsafe or ice loses its ability to support the shanty out of the water, or before the last Sunday in March (the 30th this year), whichever comes first.

Public Information Meetings Scheduled on Voluntary Timber Harvesting Guidelines: The Department of Forests, Parks & Recreation has scheduled the first set in a series of meetings to share information and collect feedback about the establishment of voluntary timber harvest guidelines in Vermont. The meetings will be held in locations throughout the state in late February and early March. More information can be found at:
www.vtfpr.org/HarvestGuidelines.cfm

Significant Events/Meetings/Rulemaking:

Act 165 Program Meeting: DEC, Public Service Department, and State Historic Preservation Office staff attended the Vermont Dam Task Force meeting to discuss criteria that will be used to facilitate the Act 165 program. The objective of Act 165 is to create a process to expedite the development of hydroelectric projects. As part of the process the interagency team will develop draft criteria to screen hydroelectric projects that would have high public value and be 'low-impact'. There was good discussion and comments on the draft criteria and the definition of a 'low-impact' hydroelectric project. The interagency group will meet in the coming weeks to discuss the comments we received and other stakeholder groups we should contact.

Universal Recycling Outreach: DEC Staff presented to Vermont State Parks staff on the new Universal Recycling law (Act 148). The law will provide increased recycling and food scrap choices to Vermonters, leading to consistent, convenient statewide solid waste services, and elongating the life of our landfills. Given the large numbers of visitors Vermont State Parks receive, the Parks offer a good opportunity to showcase this new law in action. Staff discussed the possibility providing outreach and informational materials for visitors on the recycling and food scrap management options.

HWA in Windsor County: Hemlock woolly adelgid was detected in Windsor County for the first time by a Forest Pest First Detector. The location was in Springfield, just over the county line from a previous find in Rockingham. The identification has been confirmed by the University of Vermont. FPR staff are working with AAFM to revise the HWA quarantine to clarify how it applies to moving nursery trees within Vermont, and to update the list of regulated items.

Underground Injection Control (UIC) Rule revision: A Major UIC rule revision was proposed to the Interagency Committee on Administrative Rules (ICAR). The rule had not been updated since 1982. Revisions to the Rule include incorporating federally-mandated prohibitions of certain Class V wells (the type found in Vermont), incorporation of detailed application requirements and technical standards, and addressing in the Rule the 2008 Legislature's declaration of groundwater as a public trust resource. ICAR posed questions on what outreach activities had been conducted with other state agencies, especially the Agency of Agriculture, Food and Markets and the Department of Health, suggested modifying the Administrative Procedures Act Rulemaking forms to add additional details on the economic impact of the rule, suggested highlighting the farming exemption, and corrected typographical errors. ICAR voted unanimously to approve the proposed rule revision.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Elevated Winter Fine Particle Concentrations: Winter concentrations of fine particles (PM_{2.5}) in Vermont are often highest in mountain valley areas like Rutland, where local stagnation and temperature inversions can limit dispersion and trap pollutants like wood smoke and motor vehicle exhaust close to the ground. These conditions are typically worst overnight. Daily fine particulate concentrations in Rutland have been moderate to high every day this month. This week Vermont experienced unsafe air quality in Rutland, for the third time this year, posing serious health concerns, especially for sensitive populations.

Sunset Farms Mobile Home Park, Bennington: A foreclosure auction was held on this property, which was purchased by a group of investors. The park suffers from significant water and wastewater issues. We are operating under an Emergency Order at the park currently, and

have been pursuing park closure, given the unresponsiveness of the owner. Staff reached out to the new owners to ensure they understand and properly address the parks problems in the very near term. A receiver may still be needed until the new owners take title to the property. We have proposed a stipulated Order to the prior owner.

Impaired Waters List Finalized: Watershed staff finalized the 2014 Impaired Waters list, which will be put into a user-friendly and accessible format and shared internally and externally in the coming days.

Morrisville Water and Light: Watershed staff are working on the technical review of Morrisville Water and Light application for a water quality certification for the Morrisville Hydroelectric Project. There are portions of the application that are technically incomplete and we will be requesting additional information from the applicant.

Fish and Wildlife

Bats Taken into Consideration in Logging Projects: Staff participated in a meeting with the USFWS, New York DEC, White Mountain National Forest, and the Green Mountain National Forest to discuss the potential ramifications of the federal listing of the northern long-eared bat on forest management activities on the Forests. Where logging will occur during the winter season (i.e. hibernation season), the USFWS is likely to find no adverse impact on the species. Where logging will occur outside of the winter season, the Forests will need to look at existing occurrence data of the species as well as measures to be taken to adequately reduce the take of the bat. The implications for state lands management may be similar. Currently, the State of Pennsylvania is working on a Habitat Conservation Plan (as provided for under the Endangered Species Act) that will allow for the logging of state lands outside of the winter season. Some measures would need to be applied. The State of New York is heading in that direction as well. Staff will try and set up a meeting with the USFWS to discuss the matter further as it relates to Wildlife Management Areas.

Recommendations for Solar Array: Staff reviewed and provided comments on a proposed solar array in Townshend. Approximately 2310 photovoltaic modules (solar panels) will be installed on 5 acres of property, along the West River. Staff recommended that a 100 foot riparian buffer along the West River be incorporated into project plans. Staff reviewed and submitted comments on an Act 250 application (Semone #2S1313) to reopen a gravel pit.

Forest, Parks and Recreation

In Re Plum Creek (Confidential, Attorney Client Privileged): The State filed a Notice of Appeal of the Superior Court Decision to the Supreme Court on Feb 18.

Maple Sugaring: A. Johnson Co. (AJCO) recently closed on the sale of land and timber rights they owned in the Chittenden/Killington area. The new owner is working to set up a large scale

maple sugaring operation on these lands. These holdings include the timber rights on two state-owned tracts that encompass the Long Trail in Killington. The Department believes that the timber rights on these parcels do not include the right to sugar. The new owner and AJCO disagree. We will be meeting with AJCO and the new owner soon to discuss. The Department is carefully reviewing a request from the owner of lands encumbered by a Forest Legacy easement in the Northeast Kingdom to develop another large-scale sugaring operation including the construction of a large sugaring house and associated infrastructure on the conserved parcel. The Forest Legacy easement for this parcel recognizes maple sugaring as an allowed forest use and allows for associated temporary structures and improvements but prohibits most other permanent buildings or structures.

Access to State lands: Staff from both FPR and Fish and Wildlife will meet to develop Agency policy regarding the use of ATV's and other power driven mobility devices (OPDMDs) by persons with mobility impairments on ANR lands. This is in response to 2011 Department of Justice regulations on this issue.

State Parks Campground Reservations: With spring just around the corner, state park camping reservation activity is still almost 9% ahead of last year.

Parks Marketing: Plans are being developed for the annual State Parks marketing program to build upon prior success increasing day visitation while targeting additional camping visits by working with VDTM to promote in some out of state markets and converting some day visitors to campers. The emphasis will continue otherwise to be on social media and targeted radio buys.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: February 21, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY: Final brief from other parties are due today. VPIRG opposed adoption of the MOU as expected, but interestingly, CLF ended up supporting it, and even VPIRG recommended the Board issue a CPG of its own making rather than deny a CPG altogether. Haven't heard from the other parties as of this writing.

N. Springfield Biomass: Having now reviewed the decision and understanding the record, I believe the board made the only decision it could in this case. It is unfortunate, but the applicant chose not to reopen the evidentiary record regarding its proposal for traffic, and we did not then reopen to discuss capacity issues as we would have if the applicant had moved to reopen the record. I do still believe the board's understanding of the carbon impacts and how to consider them is simplistic, and we will need to help them gain understanding about how to approach that in the future. I met with ANR to discuss my concerns about the decision, particularly in the carbon arena, and we'll be working together to ensure we are on the same page regarding the evaluation of carbon impacts of projects of this sort. I am speaking with Adam Winstanley and actually hope he will refine this project as he has implied (a data center

using all the power and waste heat for cooling), and we'll help him do so wherever we can.

Vermont Gas: We continue to receive complaints about VGS's use of eminent domain, or threatened use of it, and are working with them to ensure they are first attempting to negotiate in good faith with recalcitrant landowners. We suspect most of the problems are due to their contractor's approach. Monkton landowners held a "protest" this week on the subject.

RUS/VTel: We followed up the meeting Wednesday with a call (at RUS's request) between David Weinstein, me, Liz and David Howard of RUS. Short story is they understand they blew the messaging of the call with you and the Senator, and will look for ways to be helpful. Howard will re-relay our concerns to the Administrator. We will be sending an e-mail explaining what we understand the grant to be for and what VTel is supposed to do, and ask them to confirm or correct our understanding.

248a Sunset July, 2014: Removal of the sunset entirely is encountering resistance at the statehouse and is unlikely to pass. Still, in light of the VTel issue above, I do not want VTel to have an excuse that the streamlined process expiring in July, 2014 causes them to miss (again) deadlines. I strongly suggest we consider supporting an extension of the sunset through September 30, 2015, to align with the RUS grant due date (end of the federal fiscal year) to avoid any such whining.

Regional Infrastructure: We continue ongoing discussions and are making progress. We've agreed RFPs for electric and gas would go contemporaneously, that we'd wait for MA to have legislative authority to procure generation, and that the electric would therefore include both transmission and generation. We have not agreed on cost allocation but are making progress on that as well. I am meeting with the states as part of the NGA meeting this weekend, and I am also planning on covering the ISO meeting on Monday morning with the NE Governors. A much more detailed discussion of these issues is at the end of this report.

Legislature:

Siting Bill – Senate Natural Resources voted out S. 201, combined with elements of S. 292, by a 4-to-1 vote. They attempted to improve the bill over several mark-ups, but the overall effect remains to make it more difficult to build renewable energy projects. There is some incongruity in the bill between additional regional planning and how the CEP would factor in. We continue to oppose the bill, and it is a priority to keep it separate from the net metering bill.

Net Metering – Senate Finance took more testimony on 2/19. Darren testified again on the bill and it appears to be headed to committee mark-up next week. Possible amendments include a Hartwell amendment on aesthetics, a Lyons amendment on ISO and renewable coordination, a Mullin amendment lowering net metering payments to wholesale rates, and several others. Darren has been asked back to testify on 2/25, and is working on some final technical changes with Washington Electric and Vermont Electric to clean up some issues related to rate

calculations from the House bill. The Department will oppose amendments that undermine the fundamental compromise made between utilities and renewable advocates and the Department.

Efficiency – The Department, GMP, and Efficiency Vermont have come to agreement on language for Senate Finance to consider that would set-up a two-step PSB process to examine whether efficiency utilities should be permitted to promote heat pumps and electric vehicles. These technologies may increase electric use but lower overall fossil fuel consumption. The PSB process would examine benefits to the ratepayer and the state from these efforts. If the PSB found it beneficial to move forward, the second step would be to coordinate how utilities and efficiency utilities could work together to mitigate any increase in peak demand as a result of more electric vehicles or heat pumps. Darren is testifying on this proposal in Senate Finance on 2/25.

AIV retail choice – Chris has been asked to testify on S. 220, the economic development bill that includes language seeking a reduction in manufacturing rates. We have received a proposed amendment from Senator Mullin that includes AIV's retail choice idea. We are evaluating internally but are skeptical, and GMP likewise has major concerns with the idea. Issues include cost-shifts, health of the utility, effect on long-term power purchase contracts, and consistency with state renewable goals.

Legislative Testimony:

February 18: Asa testified in House Commerce on H.736 Econ Development bill – section 8: creation of manufacturing rate classes; Anne covered hearings on siting bills S.201 and S.292 in Senate Natural Resources.

February 19: Darren testified in Senate Finance on H.702 Net Metering, and EVT Policy committee bill; Asa testified in Senate Transportation on Green Highways and Electric Vehicles; Anne covered siting bill(s) hearing in Senate Natural Resources.

February 20: Andy covered Misc Tax bill solar discussion in Ways and Means; Kelly covers hearing in House Natural Resources on H.657 (Sharpe) relating to energy disclosure for multi-family residential buildings.

Significant Meetings/Events this week:

February 18: Chris attends North Springfield Biomass policy debriefing at ANR; TES - Dunskey presentation of preliminary results on scenario evaluation and proposed 3 scenarios for detailed modeling

February 19: Chris and Darren attend GMP Board of Directors meeting; Chris and Porter attend VTel meeting with the Governor, Senator Sanders, Jeb Spaulding, Liz Miller, Michel Guite.

February 20: Chris attends meeting with thermal advocates at Governor's office; Darren attends Climate Cabinet meeting; Chris attends meeting to discuss State Energy Revolving Loan Fund with Jeb Spaulding, Beth Pearce and BGS; Asa Hopkins, GMP, BED, VEIC, ANR attend DEV MOU meeting with utilities and their regulators in Boston.

February 21: Chris participates on RUS call; Telecom Plan public hearing held via VIT.

February 22-23: Chris attends NGA/CONEG meeting in DC

Significant Meetings/Events next week:

February 24: Chris attends NGA/CONEG meeting in DC

February 25: Total Energy Study meetings at PSD;

February 27: Chris and Darren meet with Carolyn O'Connor of HQUS; Chris meets with Tony Klein, Mike Hebert and ROV;

February 28: PSD/VELCO transmission meeting;

Media: FreePress article by Dan D'Ambrosio on VGS pipeline and eminent domain in Monkton; Chris discussed transmission projects with Katie Flagg for upcoming article in SevenDays;

Everything Else:

PERD

Legislative Activities - Staff testified in SNRE on the subject of energy efficiency self-administered programs and the DPS's recent evaluation results of the Energy Savings Account program; Staff attended joint caucus meeting on siting bills where the main concerns expressed related to the property value provisions of S. 292; Staff worked with GMP and EVT to shape and scope a potential legislatively-required PSB process around the appropriateness of using the electric EEC to promote heat pumps and electric vehicles.

PSB Docket 7676 - Staff met with VGS to continue reviewing the Process and Administration document as it relates revising the document to include VGS as an EEU. The review process is going smooth and has provided numerous opportunities to educate and answer VGS questions on the EEU structure. VEIC and BED will join the process for additional review and discussion after draft red-line edits have been made to the document.

Renewable Energy Items - Hosted a meeting /discussion on the proposed change to the solar property tax. Solar advocates, Tax Dept., League of cities and towns and the association of assessors and listers all attended. Agreement seemed to be reached that there was not going to be agreement on a set municipal tax rate or \$ figure that would work for all towns. There was agreement that it would be good for both solar developers and the towns to stabilize the value of the PV systems over the life of the system (25 years). There was not agreement on what the exemption should be raised to. Solar advocates wanted a number closer to 150kW – like 50 or 75kW and the towns and League wanted no more than 25kW.

Total Energy Study - Staff received a presentation from Dunskey with their analysis of 20 combinations of technology pathways and policy sets. Dunskey recommended focusing the quantitative analysis to come on evaluating the difference between 3 different policy sets;

subsequent discussion also identified the potential value of quantitative analysis to evaluate technology pathways on one or both of two axes: electrification vs. bio and distributed/small-scale/in-state vs. centralized/potentially out of state. We do not have the budget to evaluate the $3 \times 2 \times 2 = 12$ scenarios it would take to fully elucidate these differences, so will use next week's climate cabinet staff meeting to discuss and prioritize which questions to ask (and hopefully answer).

Thermal Efficiency Data Refresh - Spoke with Neil Curtis about his concerns that EVT's contributions to WAPs from electrical budget were not included. He also felt that the EVT spending per unit projection should be higher. There is likely a good deal of double counting between OEO and EVT, and Scott Campbell has said that project overlap between VFEP and WAP is about 75%.

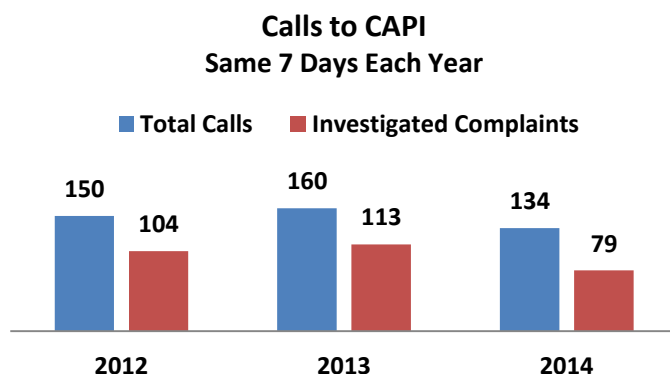
Engineering

Vermont Yankee Fire Protection System Water Leak Update - Since the last report on this topic, VY is working on the engineering changes related to the repair of the valves, and is also working on designing the shoring for the excavation. During this work, the fire protection system has been functional (the leaking valves were isolated and the rest of the system is under pressure).

Nuclear Regulatory Commission (NRC) Activities - Entergy filed with the NRC a report concerning invalid test results from two blind Quality Assurance drug testing samples purchased from Professional Toxicology (Pro Tox) and sent to Quest Diagnostics Laboratory for analysis. Entergy plants VY and Arkansas Nuclear One, non-Entergy licensees Nine Mile Point and Dominion all received invalid results from samples purchased from Pro Tox, who was unable to explain why the samples were invalid. As a corrective action, Entergy will utilize another provider of blind QA specimens until the issues at Pro Tox have been identified and corrected.

CAPI

Call data from Sunday to Saturday, February 9 – 15, 2014.



Post CPG Wind Complaints: Lowell Wind (3), 1 for health and 2 for noise

Lifeline: CAPI met with DCF and QLink to discuss the company's Lifeline application and approval process to ensure it meets state requirements. CAPI then met with DCF separately and we agreed to allow QLink to use the application form that they created, which they also use in a modified form in other states. QLink agreed to amend their form per our request. CAPI and DCF are in ongoing discussions to sort out the state of the Lifeline program in Vermont and the roles of each department in its administration.

Public Advocacy

Entergy CPG – Docket 7862 – Parties that did not join the PSD/Entergy MOU are due to file reply briefs on 2/21. Entergy has filed a proposed trust agreement for the site restoration fund; PSD and AGO are reviewing the document.

Barton Solar – Docket 8148 – Intervenors (Menards) issued discovery questions upon the petitioner. Subsequently, the Menards filed a motion to suspend the schedule until the PSB completes its investigation into potential sound level standards in Docket No. 8167.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The Department is reviewing the supplemental information provided by the petitioner. The hearing officer has scheduled the public hearing and site visit for February 24th.

GMP Stafford Hill Solar in Rutland – Docket 8098 – GMP provided a certificate of service indicating it has notified all the statutory parties of its petition amendments as required by the hearing officer. The PSD is reviewing these amendments. Rolling Discovery is available until March 5th.

Red Pines Development Water System Rate Increase – Tariff 8478 – The petitioner sought a rate increase of 821%. After negotiation petitioner and the PSD reached an agreement which resulted in a stipulation being filed with the PSB. The Department recommended the PSB approve the agreed upon 16% increase as just and reasonable without further proceedings or investigation.

Red Pines Development Water System CPG Amendment – Docket 8207 – In a letter, the PSD informed the PSB that the amendment request does not provide sufficient information as filed and recommended the petitioner be allowed until March 1st to supplement its request.

NextSun Solar – Park Street – Docket 8194 – The petitioner filed supplemental testimony. The petitioner filed a schedule that was agreed upon by ANR and the PSD. The public hearing and site visit are proposed for the week of April 14th.

NextSun Solar – Main Street – Docket 8195 – The petitioner filed supplemental testimony. The petitioner filed a schedule that was agreed upon by ANR and the PSD. The public hearing and site visit are proposed for the week of April 14th.

Stowe Rate Case – Docket No. 8074 – Parties are currently drafting a proposal for decision (PFD) that approves the MOU between Stowe and the Department, which provides for a 3.5 percent rate reduction, refunds to customers, and for Stowe to undergo a business process review. The PFD (as well as an RFP for a consultant to perform the business process review) is due to the Board on Feb 21.

GMP Rate Case and Alternative Regulation Filing – Docket Nos. 8190 & 8191 – The Department and GMP are moving through multiple rounds of discovery. A protective agreement has been agreed upon and filed with the Board. Staff from GMP and the Department have met to discuss respective goals for the case. IBM and AARP are intervenors in the case. A workshop on these proceedings is scheduled for February 21. Non-petitioner testimony in the rate case is due March 21. Finally, Department staff is beginning to develop a list of entities to contact to discuss the interests of low-income, residential, and small business customers in order to give those interests “heightened consideration” consistent with the requirements stemming from passage of S. 25.

GMP Tariff Integration – Tariff No. 8485 – GMP filed a proposal to integrate portions of its north and south tariffs related to Charges, Budget Billing, and Service Guarantees. The revisions to Special Charges will have the effect of reducing or eliminating certain charges, and will therefore result in a revenue reduction that “will be borne by the Company,” while the Budget Billing and Service Guarantee revisions are expected to be revenue neutral. GMP further states that the timing of its proposal to standardize the Special Charges is driven by its plan to transition all customers to one billing platform on or around March 1, 2014. On February 13, the Department filed a letter in support of the revisions.

Swanton Rate Case – Docket No. 8024 – This rate case was resolved last year by Swanton agreeing to a 1 percent rate increase (as opposed to its 10.69 percent proposal). One of the conditions of the final order was for Swanton to review its depreciation rates. Swanton conducted that review and found that reducing the useful lives of certain hydro assets (to comparable useful lives used by other Vermont utilities) would result in a significantly higher depreciation expense. However, the review revealed deficiencies in Swanton’s depreciation accounting. Therefore, the Department recommended that the Board find that Swanton’s review was sufficient to meet the condition of the Board’s order, but that Swanton should undertake a more formal depreciation review and change certain accounting practices before it files for a rate increase in the future.

Net Metering – Proposals re the 4 percent cap – No Docket – On February 14, the Department responded to proposals by Hardwick and Morrisville related to the 4 percent cap on net metering installations set forth in the current net metering law. Hardwick sought guidance from the Board on how to deal with its unilateral decision to raise the cap from 4-6 percent, and then its subsequent reconsideration of the decision to have done so without Board approval. In the interim, 6 applications came in. The Department suggested that Hardwick process those 6 applications as the statute appears to allow (though does not require) utilities

to exceed the 4 percent cap. Morrisville sought guidance on how to “free up” net metering capacity where the capacity of a net metering facility set forth in a CPG is above the capacity the facility is operating at. The Department suggested that an amendment to the CPG is needed. As a practical matter, the pending net metering legislation already approved by the House moots these issues, by substantially raising the cap on net metering facilities.

Refund Capabilities of Munis and Coops – No Docket – At the Department’s suggestion, the Board solicited comments from municipal utilities and cooperatives in Vermont as to whether they possessed the technological capability to process customers refunds (in the event a proposed rate increase is reduced, thereby resulting in over-collections during the pendency of the rate proceeding). While most of these utilities possessed the capability to provide for such refunds on an automatic or semi-automatic (involving a minor software patch) basis, five utilities did not possess such capability. In the Department’s February 14 letter, the Department recommended that the five utilities with only manual refund capabilities be required to investigate the cost-effectiveness of acquiring automatic or semi-automatic refund capabilities, and report back to the Board by April 1.

GMP Community Energy & Efficiency Development (CEED) Fund – Docket 7988 – This fund was created as a result of the MOU between the PSD and GMP in the merger docket (Docket 7770) and requires GMP to expend \$20.9 Million on energy efficiency projects within the legacy CVPS service territory, subject to Board supervision. The Board recently approved the 2014 plan for the CEED fund and this week the Department filed a proposed plan and budget to evaluate fund activities.

Demand Resource Plan Proceeding - EEU 2013-01 – The Department held internal meetings to review preliminary proposals from VEIC for their 2015-2017 budgets. VEIC requested additional time to respond to the Department’s comments raising questions about the inclusion of behavioral measures in the 2015-2017 budget and that response is due on 2/21. If VEIC is willing (or required by the Board) to rerun the budget models to exclude behavioral savings, the schedule for the proceeding may be extended an additional month.

Impacts of Act 89 on Energy Efficiency - EEU 2013-03 – The Board held a workshop on 2/14 to discuss the PSD’s two proposals for monitoring of the State’s progress in meeting the State’s building efficiency goals (codified at 10 V.S.A. § 581(1)). The Department agreed to propose a target date regarding the development reporting protocols with the EEUs, and OEO (Weatherization) and any other interested stakeholders

VEIC OPower Invoice – (No Docket number) - PSD met with representatives from VEIC to discuss appropriate financial characterization of invoice for Set up and Configuration of Vermont utility data handling project that will serve as a basis for VEIC’s Behavioral Pilot Project. While no formal resolution was reached, it appears that VEIC is likely to request an accounting order from the Board, which would allow amortization of the \$400K paid at the outset of the contract and currently categorized as an expense. This was the mechanism suggested by the PSD and would be an acceptable resolution.

Addison Expansion—Docket 7970—Vermont Gas continues to attempt to provide notice to the landowners affected by the Old Stage Road re-route in Monkton. The Board has not advised what additional process will be afforded these landowners nor have any contacted the PSD or the Board. The Department continues to monitor Vermont Gas's progress with landowners who have not negotiated easements and consequently are moving toward condemnation proceedings. This process continues to generate very negative publicity and complaint calls to the Department.

Addison Expansion Phase 2—Docket 8180 - Vermont Gas is scheduled to file its FERC application for a service area determination on February 19, consistent with its commitment to the Board and parties. In its February 11 response to Motions to Dismiss filed by CLF, VPIRG and Cornwall, the PSD urged the Board to continue the proceedings in this docket while the FERC determinations are underway. PSD argued that not only can the Board proceed, but that it should proceed due to the potential loss to Vermont ratepayers if VGS cannot meet its commitments to IP on the agreed-upon timetable. PSD did acknowledge that there will be a period of time during which there is some uncertainty, the burden of which will have some impact on potential intervenors.

VGS Looping Phase VI—Docket 7929—The PSD continues to receive complaints/requests from the public in the aftermath of the arrest of two former pipeline workers. The PSD has made requests of VGS for information it expects to see in the VGS final report.

GMP/VELCO 248 Petition for Georgia Interconnection Project—Docket 8205 - Prehearing conference will be held on February 20. PSD is reviewing the petition and has agreed to a proposed schedule. A draft Protective Agreement has been presented for consideration.

GMP AARP Low Income Program—Docket 7535—In October 2013, GMP filed a proposal with respect to the refund of over-collections in the Fund at the end of its first year of operations and following certain post-merger accounting/tariff transactions that affected the former CVPS territory. This filing was mandated in the final Board Order in the Phase II Implementation portion of the docket. In January 2014, the Board requested comments on this proposal and the PSD filed comments in support of GMP's proposed refund mechanism on February 19. The Board has scheduled a workshop for February 26, at which AARP has suggested that mechanisms to enhance enrollment, including additional funding, be discussed.

Sheffield Wind – Docket 7156 – First Wind filed a letter in response to a Board memorandum seeking explanation of the apparent transfer of ownership of Project assets indicated by a change to the Project decommissioning fund letter of credit by the issuing bank. First Wind explained that the change to the letter of credit was due to refinancing of the Project, and that no change in ownership and/or operational control has occurred. The Department is reviewing the First Wind response for possible comment.

Kingdom Community Wind – Docket 7628 – GMP has responded to the Department’s second round of discovery requests concerning the feasibility of continuous sound monitoring at the Project site. The Department’s recommendation regarding continuous monitoring is due to the Board by February 25, 2014. The Department intends to seek an extension of time to file its recommendations at least until February 28 while it assesses the feasibility of each of the monitoring options under review.

SBA/VTel 248a Application (Richmond) – Docket 8162 – SBA/VTel has objected to the Department’s aesthetic analysis as untimely, and has contested the bill-back notice that it received for the costs associated with the aesthetic review for the same reason. The Department’s aesthetic analysis concluded that the § 248a application’s aesthetic analysis was too deficient to allow for any findings to be made on the issue. The Department has requested that SBA/VTel cure those deficiencies so that a proper finding can be made.

Cold River Solar – Docket 8188 – The Board held a prehearing conference in the proceeding. A group of nearby landowners, represented by counsel, has moved for intervention, as well as the Town of Rutland. The Department raised concerns about the economic benefit of the facility under § 248(b)(4). The Project’s PPA with GMP is for approximately \$.18 /kWh, whereas the latest accepted SPEED project bids are for approximately \$.14/kwh. The Department also raised concerns about the decommissioning fund levels listed in the petition as being too low. ANR requested that a site visit and public hearing be put off until mid-April when most of the snow cover has melted. The parties continue to work towards a workable schedule and must file proposed schedule(s) by February 20, 2014.

Penn Energy Solar – Docket 7647 – The Department, ANR and AAFM have executed a revised MOU to accommodate the petitioner’s need to use ballast blocks to anchor the Project’s panels, as opposed to the screw anchors initially approved by the Board. The petitioner is also seeking to install a fencing alternative to the 7’ fence approved by the Board. The Department has opted not to address this issue in the revised MOU, as it is in the process of consulting with the Department of Public Safety to work toward crafting durable fencing language for similar projects going forward. The Department will work out the fencing issue with petitioner separately once it finalizes fencing language. Fencing of solar projects is also a general topic of discussion with ANR staff.

Seneca Mountain Wind MET Tower – Docket 7867 – The Department is crafting a response on behalf of the Governor’s Office to a letter from a concerned member of the public regarding an informal vote by the United Towns and Gores to not support SMW’s efforts to develop a wind facility in the Seneca Mountain Range. The Town of Newark’s appeal of the Board’s order approving SMW’s MET tower petition has been set for oral argument before the Supreme Court in mid-March.

AT&T § 248a Petitions – Cabot and Hinesburg and Putney – No Docket – The Board has issued memoranda rejecting three of AT&T applications for violating certain requirements of the “de

minimis” subsection of the statute. The Department is reviewing the memoranda and determining what, if any, response is appropriate.

Finance and Economics

Reduced Rates for Low Income Consumers of Green Mountain Power (Docket 7535) - GMP proposed a Plan to credit ratepayers for surplus Electric Assistance Plan (EAP) collections of \$2,383,995, while retaining a \$1 million reserve balance. The surpluses are attributable to 1) lower than expected program administrative costs, 2) slower than expected rate of program applicants, and 3) lower than expected arrearage forgiveness by enrolled applicants. AARP filed comments suggesting that arrearage forgiveness be extended for another year and additional sums be spent to help make people aware of the program. The Department supports the GMP proposal to return the excess funds of \$2,383,995 to its customers without delay and would be willing to work with AARP to modify the existing program with the AARP suggestions.

Docket 7803/7843 VGS— In a collaborative effort VGS and the Department are developing a revised gas purchase hedging program as per the MOU in this Docket. Staff is reviewing a draft proposed by VGS where hedging would continue at a 75% level as opposed to the 100% level that is in practice now. Concurrently, Department consultant, Blue Ridge Consulting, is developing parameters for a Vermont Gas performance-based benchmarking program. Staff also reviewed VGS’s quarterly informational filing covering changes to contracts for the supply, storage, transportation, and hedging of gas supply or exchange rates.

Telecommunications

H.693 – Removal of Sunset for 248a – Testimony from the Town of Shelburne and others last Friday in House Commerce against removing the sunset provision from 248a (currently sunsets July 1, 2014) appeared to resonate with some members. The Department is concerned that if 248a is allowed to sunset that VTel will use this as an excuse in not fulfilling its commitment for the WOW build-out. The Department recommends that we support, at a minimum, extending the sunset date to July 1, 2015, the current date by which VTel must complete the project according to the RUS.

Broadband Data for Website – Stone environmental produced an analysis of the broadband availability data as of 6/30/13. ConnectVT authorized Stone to update the census block information available on the broadbandvt.org data based on this data. This includes two separate broadband availability maps: one including service from mobile wireless providers, and the other not including this coverage.

Wireless Availability Analysis – Stone environmental produced an analysis of the Pericle wireless coverage maps created in 2010 and 2013. The analysis showed 85.3% of Vermont E911 locations had mobile wireless service available in 2010, whereas 91.2% did in 2013, for an increase of 5.9%. ConnectVT has requested that Stone create a map that show the coverage for

2010 overlaid on the coverage for 2013 to show the increase in 2013, as well as a table showing the number of served and unserved locations by town, for each year.

FCC rural broadband experiments – PSD staff analyzed the information released by the FCC about funds available for grants to extend broadband in rural areas. The FCC provided information on a census block basis listing the number of locations to be served and the amount of money the FCC would provide for that area. The PSD staff determined that the majority of the census blocks have less than 10 locations per road mile, and have associated support of less than \$40 per line per month. PSD staff considers that the cost to build plant to reach these locations likely exceeds the support offered.

248a – This week, the Board rejected three de minimis applications in Hinesburg, Cabot and Putney. AT&T was the applicant for the Hinesburg and Cabot petitions. VTel was the applicant for the Putney facility.

Hinesburg and Cabot - The Board rejected two de minimis applications for projects in Hinesburg and Cabot. In a memo, the Board stated that it could not process the applications because the petitioner did not include dimensions for existing equipment and “included the surface area of non-existent equipment.” The petitions stated that AT&T would replace 3 existing antennas and 6 antennas that were permitted but never installed with 12 new antennas. After conducting a second review of the petitions, staff believes that the petitioner has included the dimensions of the equipment to be replaced and that the dimensions are located on C-1 of the petitioner’s construction drawings. Staff believes that the “non-existent” equipment refers to the antennas that were never installed but may refer to radio head units that are not illustrated in the drawings. Division staff was also able to locate two additional errors, but these errors should not affect the outcome of the application. Staff alerted the PA division to these issues and PA staff is currently reviewing the applications for a possible response.

Putney -The third rejected application involves a question about the Board’s interpretation of the 248a statute. The Board rejected the application as an impermissible expansion of the facility, which is not allowed under the de minimis definition. This VTel project, located in Putney, will increase the footprint of the facility by 48 square feet so that it can install an equipment shelter. The expanded area is on land already leased by the facility’s owner. VTel will lay a concrete pad in the area. Under the de minimis definition, the petitioner is allowed to make “ancillary improvements” so long as the “height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased.” The 248a law also allows a petitioner to add up to 300 feet in impervious surface, including roads. The definition of “ancillary improvements” includes fencing. Given that the proposed modifications add fencing and 48 square feet of impervious surface in land already leased by the facility’s owner, staff believes this should not constitute an expansion of the facility, but rather a permissible increase in impervious surface and ancillary improvements. PA staff is also reviewing the petition and Board order.

Barnet Limited Size and Scope – Telecom Staff reviewed a VTel project of limited size and scope

in Barnet. Staff found two possible issues: (1) deficiencies in the Aesthetic review, specifically the balloon test and (2) question as to whether the town's select board or planning commission approved the project. As to number 1, Staff did not locate a picture illustrating the balloon's size. Usually applicants include a picture of the test balloon next to an individual for comparison. Second, the pictures appeared to be low resolution and may not adequately portray the visual impact of the facility. PA has the petition for review and will make a determination by the March 4 comment deadline.

Bennington Limited Size and Scope (Docket 8090) – In July 2013, Verizon applied for a CPG to build a 90 foot cell tower in Bennington. The Mount Anthony Preservation Society intervened and raised an issue as to the facilities impact on aesthetics. Verizon withdrew its application and drafted a revised application. It filed the revised application this month. Verizon proposed making changes to mitigate the aesthetic impact of the facility, including lowering the tower from 90' feet to 85,' and reducing the number of antennas from 12 to 6. Verizon also redesigned the tower to look like the existing 70' foot guyed tower "with which the community is already visually familiar." After review of the revised application, Division staff questions whether the proposed modifications adequately address the intervener's concerns. The town hired Jean Vissering to do an independent review of the original petition and she concluded that the facility failed all three prongs of the Quechee analysis. In her opinion mitigation efforts would not be possible. It is not clear how Verizon's revised project meets the concerns raised in the Vissering report. Comments are due February 25. PA staff has the application for review.

Regional Policy

Regional Infrastructure Initiative - States held a meeting on February 19 to discuss the additional transmission and gas pipeline infrastructure. Connecticut has legislative authority to require its utilities to enter into long-term contracts for up to 170 MW of large hydro, although there must be a competitive solicitation and Class I renewable resources (such as wind and solar) must be able to compete in the solicitation). Massachusetts filed proposed legislation that would provide it with authority to require its utilities to enter into 20-25 year contracts with renewable resources, including large-scale hydro. The legislative session in MA ends in July. Rhode Island will be proposing similar legislation shortly. New Hampshire and Maine have indicated that it will not seek to procure any large-scale hydro. The preference of the states is to issue a joint RFP for transmission and generation once the states that want to procure hydro have the necessary authorization. There was significant discussion regarding cost allocation and particularly the question of whether it is possible to establish a methodology that will allow the development of a cost allocation prior to the issuance of an RFP? The methodology proposed by Maine and Connecticut is that, provided all states receive a net benefit, than the costs are allocated on a load share basis. For example, Vermont's load share is 4%, but because of our utility-owned generation and long-term contracts, roughly 2% of our load will benefit from energy price suppression that results from hydro procurement. For a \$1 billion transmission project, Vermont would pay \$40 million of the costs, provided that the projected price suppression benefits exceeded that amount. Although Vermont would not receive as much benefit as ratepayers in states with significantly more market exposure,

Vermont ratepayers would still see a net benefit. The two reasons to utilize this methodology are: (1) the greater the certainty in the RFP, the lower the bid price; and (2) the costs to determine a more accurate cost allocation methodology are likely to be hundreds of thousands of dollars at a minimum. All of the states except Vermont have indicated agreement with the cost allocation methodology, although New Hampshire staff has a few questions on the issue. Once that issue is decided, NESCOE will be working to develop an RFP that spells out the characteristics that procured generation must have in order to be eligible for cost allocation.

With respect to the gas pipeline, states expressed an interest in raising the amount of gas capacity to be procured from 600 MMcf/day to at least 1000 MMcf/day. NESCOE had previously asked participants in the regional Gas-Electric Focus Group for opinions on this issue, and the majority of the 12 comments suggested that the states should procure at least 2000MMcf/day, although GDF Suez suggested that states further explore the possibility of storage. States will have further discussions on the issue going forward. Regarding the capacity manager for the pipeline, NESCOE suggested that a group energy buyer could provide this function. States will have further discussion on whether a consultant or the Local Distribution Companies should be a capacity manager. In addition, there is general agreement that gas should be released to generators, and states are working to develop a mechanism that would be allowed under FERC precedent. States intend on having a group meeting with all of the Transmission Owners to discuss the transmission proposal and the question of whether TOs should be required to backstop the credit of the capacity manager.

States are meeting with FERC commissioners on February 24 to have a preliminary discussion regarding the infrastructure proposals. In addition, NESCOE will give a presentation to NEPOOL in March to provide an update. States further agreed to hold weekly calls or in-person meetings to continue to move this forward.



State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street
Montpelier, VT 05609-0201
www.adm.state.vt.us

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

Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: February 21, 2014

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Issue Updates:

House Corrections & Institutions began mark up this week on the Capital Budget Adjustment – BGS has spent considerable time in the room. So far, no major surprises.

Project Management Software: Developing a list of functions that this package will track such as budget, contracts and change orders, schedules and other documents. Need to confirm interface with accounting and also with DII for compatibility. This proposed system will be able to track hours/project from engineering and construction per our new directive from JFC and from Jeb Spaulding/Jim Reardon.

Developing a plan with Bill Laferriere to systematically fill state owned properties/general protocol for move requests. Report generated in narrative form, asked for it in spread sheet form to use for presentation to Obie and other leaders. Met in December to discuss report for Michael Clasen – Five Year Plan for Montpelier Complex. Presented – no further action needed. 120 State Street discussions have occurred, carpeting and asbestos how to put chases in on upper floors in order to make all floors usable. Meeting 2-13-14 scheduled for additional plans to be worked on.

BGS is working with EVT on Auditor's audit. Planning meetings and strategy. Developing a plan for baseline usage to try to quantify 5% savings.

Legislative Issues/Contacts:

- Weekly meeting with the Speaker. Discussed transition units at correctional facilities.
- Met with Lt. Governor, along with David Schutz and Wanda Minoli to discuss space in the State House.

Testimony this week

- Senate Institutions re: VT State Hospital – testifying with Wanda Minoli and Mike Kuhn on soft costs (electronic files and furniture) on Friday.

Press/Media Notes:

- Chris Garofolo from the Eagle Times re: Windsor Prison and the potential land management plan.

Evolving Issues:

- St. Alban Mylan/SOV Purchase and Sale Agreement discussion with Secretary Spaulding, Lawrence Miller, Wanda Minoli and Emily Montgomery.

FINANCE AND MANAGEMENT

Issues Update:

Taxable Fringe – Vehicles – Fin Ops spent the past couple of weeks researching IRS requirements pertaining to the taxable fringe benefit reporting requirements for commuting with, and personal use of, State owned vehicles. Next week we will start drafting a Policy that outlines requirements and a business process to address these issues.

Mileage Reimbursement Rates – Effective July 1, 2014 if an employee uses their own personal vehicle when a state owned vehicle is available for use, the reimbursement rate will be \$0.235 rather than the standard \$0.56. Financial Operations will be able to easily accommodate the multi-tiered rate schedule in the Expense Module by adding a second Expense Type for mileage reimbursement when a state owned vehicle is available. The challenge with this new provision will be in defining the business process employees, supervisors, Expense Coordinators and the Fleet Program will need to follow to assure proper reimbursement occurs.

Expense Coordinator Meeting - On March 6, 2014 we will be conducting a meeting with the Expense Coordinators to be held in the Pavilion Auditorium. The focus of the meeting will be to review the use of the Expense Module since go-live, to provide additional information to help manage expense transactions and to answer questions the Coordinators may have.

HEALTH CARE REFORM

Issue Updates:

SIM Grant: Vermont Health Care Innovation Project (SIM grant) website launched:
<http://healthcareinnovation.vermont.gov/>

Press/Media Notes:

Sarah Kliff, scheduled 2/21

Significant Events/Meetings:

February 12:
Meeting with BerryDunn
Mintz Levin
VHCIP Steering Committee

February 13:
Oski/Necrason
GMCB Meeting – Consent Policy

February 14:
Craig Jones
Meeting with Governor on health care financing
Vermont Partners for Health Care (Michael)
HSE Program Director Final Interviews
Health Care prep meeting for 2/19

February 18:
Paul Bengston
Single Payer Operations Meeting

Evolving Issues:

CGI contract negotiation
Single payer & Financing planning

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy testified on S. 218, a bill regarding temporary employees. The bill has expanded to include a staffing study for the Corrections Department, background checks for new employees, and limited searches to prevent the entry of contraband into the facility. Commissioner Duffy stated that a staffing study is of interest and should be conducted before any decisions are made on temporary staffing. Further testimony will be taken, but the Committee appears interested in pursuing some aspects of the bill.

Commissioner Duffy testified on S. 240, a bill creating additional requirements prior to privatization of any state job or vacancy. The Committee appears unlikely to pursue this bill further.

Commissioner Duffy testified on S. 165, collective bargaining for States' Attorneys. Commissioner Duffy explained the State does not have a position, given that Deputy States' Attorneys are not state employees. She also discussed the status of the attorney pay plan, which could address compensation issues that are of concern to Deputy States' Attorneys.

Deputy Secretary Clasen and Commissioner Duffy met with Representatives Heath and Johnson to discuss a proposed pilot program that would permit certain departments to manage to their budget rather than being limited to a set number of classified employees. The representatives appear interested, and further discussion will occur with members of the Senate to assess whether they would be receptive to such a proposal.

Evolving Issues:

DHR is preparing responses to questions posed by the VSEA about the Employer Group Waiver Program (EGWP).

VSEA has filed two comprehensive public records requests with DHR requesting all Classification Requests for Review and Overtime data. The responses will be provided as soon as possible.

DHR will host two job events next week to recruit sufficient staff for the opening of the new psychiatric hospital in Berlin.

INFORMATION AND INNOVATION

Legislative Issues/Contacts:

House Commerce & Economic Development – Commissioner Boes was present for testimony of SOS and BGS on H.736, but was not called. Items that still need clarification or revision in H.736 include clarity on having a one stop shop for businesses into state government and better language on Sec 24 with regard to intellectual property for software developed for the state.

Press/Media Notes:

Commissioner Boes met with Morgan from VTDigger late last week (after last week's weekly). Morgan had told him he was interested in oversight of IT projects, but what he really wanted was to understand what had "gone wrong" with VHC and how we were going to prevent it in the future healthcare projects. Many of his questions were around why we had not succeeded in holding CGI more accountable and if it was due to mistakes at the state. DII explained their level of oversight, the process and how they think the contract they negotiated with CGI is actually quite powerful in withholding payment until CGI delivers. He also asked questions about timeframe and wanted to know if we didn't have a good chance of success from the start. DII explained that the timeframe was aggressive, but felt it was doable given appropriate resources from the vendor and the addition of limited service staff at the state. That we carried the project in a "red" status from the start, in order to keep the management attention on making sure we were addressing risks as quickly as possible. The conversation went much longer than planned,

but they think he came in to the interview with little appreciation for all DVHA, DII and others were doing to succeed and left with more appreciation.

Evolving Issues:

Security/Privacy - Privacy Incidents:

- | | |
|---------|---|
| 1/31/14 | Payment processing contractor Bennaissance inadvertently assigning the payment and a scan of a check to a VHC account with the same member name. |
| 2/10/14 | Payment processing contractor Bennaissance inadvertently attached the payment and the scan of a check to a different VHC account/customer. The customer viewed another citizen's Check information. The customer then contacted this citizen; This event was escalated to Robin Lunge and to Mark Larsen. |
| 2/1/14 | A customer was given a Carrier ID number for another person with the same name |

Network/Telecom:

Good progress continues to be made on a number of key initiatives:

- States Attorneys and Sheriffs (SAS) Migration (including LAN Consolidation and Crimes update – some problems encountered when Crimes went into production – application / database issues not encountered during testing that were corrected by the vendor)
- Final networking preparation for the new City Place Barre building
- Land Line Census – generating some calls to the Telecom service desk

LIBRARIES

Significant Meetings/Events:

Meeting of Conservators, Museum Curators, Preservationists and others representing collecting Institutions (including our Department and UVM library) from around the state to discuss common concerns.

Meeting with DII to plan move and consolidation of servers. Our IT Librarian is working with SirsiDynix (our integrated library system software vendor) on issues related to the servers.

Cultural Emergency Preparedness and Response Organizations meeting, which included Ben Rose from VT Emergency Management/Homeland Security and representatives from museums, Preservation Trust, libraries and other cultural heritage institutions.

Phone conversations with librarians from public library sites using CCV Internet Interns from the VT Digital Economy Project (VCRD). Interns are popular with citizens for one-on-one assistance in using computers and related technology. They see many “repeat customers” and many are senior citizens. Training needs include: setting up email account; job searches; using tablets and new apps; and use of basic office software. Newport library told us that a citizen recently landed a job in Chicago after using the library's videoconferencing for a long-distance job interview.

Project Updates/Partnerships:

Edge Initiative: Is a national project (Gates Foundation, LYRASIS, ICMA, Urban Libraries Council, etc.) of benchmarks that public libraries can use to assess their current status of library technology and public services – and to create a plan for change and improvement. The Edge has been piloted in several states and has been very successful with small and rural libraries. We are working with 6 (randomly selected) Vermont libraries to complete the self-assessment to contribute to a national peer comparison tool. In the fall we will work with 15 additional libraries to move through the whole program as a “test” case for us. We plan to roll out the program statewide in 2015. More info at: <http://www.libraryedge.org/>

Vermont FiberConnect Broadband project (VTA/Sovernet) Update:

39 (of 43) libraries are now online with Fiber

3 libraries not yet online, turned-up by Sovernet

1 library (Manchester) under construction

Other:

State Book Contracts: We work with BGS on the state contract for discounted book purchasing for school and public libraries from a wide variety of vendors and we will put these contracts out to bid for a one year period. In 2015 we plan to join a multi-state book and library supply purchasing contract developed by the State of Maine. Not only will we be able to increase the offerings to libraries, but we should be able to negotiate improved discounts. The Maine program is the SCOOP Cooperative Purchasing Program: <http://www.maine.gov/msl/mrls/services/scoop.htm>

State Tax Forms: There has been a flurry of discussion on the statewide library listserv of dissatisfaction in libraries and with citizens about the lack of paper tax forms in libraries this year. Libraries are struggling with the demand to help citizens who need to download forms but don't have the skills to use computers. Libraries lack sufficient staff and computers to help citizens, and private space for Vermonters to file taxes online using library computers. Libraries see this as yet another e-government service that sends citizens to libraries for assistance, and yet there is no state funding for the libraries that are providing that help.

FY2013 State Minimum Standards for Public Libraries:

Number of public libraries in VT: 183

Number of applications: 158

Libraries Meeting *Vermont Minimum Standards for Public Libraries*: 143

Libraries meeting 1986 version of Minimum Standards: 108

Libraries meeting 1998 version of Minimum Standards: 35

Libraries applying for, but not meeting, either set of standards: 17

Libraries not submitting a standards application: 1

Libraries submitting neither an annual report nor standards application: 22

Wells Village Library in Wells met State Standards for the first time this year.

TAXES

Legislative Update:

Miscellaneous Tax Bill: The Chair of Ways & Means acknowledged that the Committee has a long way to go on the Miscellaneous Tax Bill, particularly on the health claims assessment. Moreover, she acknowledged that they will not set the base property tax rates until after Town Meeting.

Solar Generation Tax: After another long meeting with DPS, solar advocates and VLCT, last week's deal moved closer. Again, the exemption for the generation tax for state purposes would move to 150kW, and the Department would set a lifetime valuation on facilities for municipal purposes. It looks like the municipal exemption for net metered systems would top out at 50kW.

Valuation of Restricted Covenants Homes: VLCT still has an alternative idea, and the Committee struggled with how to account for the fact that most owners receive adjustments so that their assessment is irrelevant to their tax.

Cloud Regs: The Commissioner, Director of Policy and General Counsel met with Commissioner Gosselin and Lars Torres on the alternative draft cloud regulations. It is clear that we still have a long way to go to understand how cloud software is currently bundled with other services in a transaction, much less to articulate a rationale for how to treat various examples under either a bright line or a "nature of the transaction" approach. They agreed to pull together a working group of small and large companies, both sellers and consumers of cloud products, to gather input to finalize draft regulations. We all agreed that the cloud tax is most onerous for small companies who purchase software that they use to develop IT products.

Education Finance: Ways & Means found itself with a great deal of time on its hands, and turned its attention to about every possible tinker to the formula that has been suggested in the past (some at cross purposes), including extending the slope for income sensitivity (on the rationale that middle income payers face highest effective rate), using a different methodology to raise the base income rate, eliminating the "lookback" for income sensitivity (the adjustment is based on last year's income and tax bill), lowering the adjustment cap, rolling reappraisal to eliminate the CLA. Not clear they are serious about any of these.

Economic Development Bill: The Commissioner testified to House Commerce, specifically on cloud, and the concept of an entrepreneurial tax credit. Generally, the Committee seemed resigned that most of the ideas in the House bill were too costly (for ex., the cloud exemption and a pass on paying fees by new businesses) and welcomed ideas from the Administration.

Operations:

Tax Filing Season: Refund fraud continues to be a growing issue – both because we have better tools with our data warehouse to spot it, and because it is a growing activity. It is a particular concern in these early weeks when crooks try to beat filings by real taxpayers. We have had to devote more resources to refund review, and lengthen the number of days that we hold a questionable refund in suspense. We continue to get complaints from some vocal clerks about not doing bulk shipments of forms – they feel elderly filers would prefer to go to them rather than call us directly, toll free to receive a booklet in the mail (or use the AARP tax volunteers who will file their return online for free).

VTax Project: We held the kick-off, and now have over a dozen vendor employees onsite. We continue to analyze the feasibility of paying the first FAST invoice for approximately \$4.2M (the licensing fee) with cash from the RSI Data Warehouse in order to receive an approximately \$395,000 discount. The question is what other obligations that we anticipate for the computer modernization fund, such as the payments for the Chainbridge microsimulation model, workstations for the FAST staff, and DII costs for hardware and oversight project management.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: February 21, 2014
Re: Weekly Report

Status of Governor's Priorities: Waiting on Senate Appropriations for Department testimony.

Legislative Issues/Contacts/Updates:

- S299: would allow for licensees to serve flights of various products for comparison purposes. Current law does not allow that. The bill was passed out of Senate and is in House General. Will testify next Tuesday.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business. Senate passed the bill this week and in House General. Will testify next Tuesday.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 03/19/2014 - Enforcement Hearings.

Evolving Issues:

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

Summary of Key Department Activity:

- February sales are looking great!

Commissioner's Commentary: Have a great weekend.