

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

Sent: Sunday, April 13, 2014 4:29 PM

To: GPS

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

Subject: Weekly Reports - Executive Privilege 04 11 14.pdf

Attachments: Weekly Reports - Executive Privilege 04 11 14.pdf; ATT00001.txt

A few highlights in case you wish to review. Mary has a helpful summary of where things stand on various tax bills in Jeb's report. Liz

WEEKLY REPORTS

Checklist
4/11/2014

Elizabeth Miller/Aly Richards

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

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
- ☒ Department of Liquor Control – Mike Hogan

To: Governor Peter Shumlin
From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development
Date: April 11, 2014
Re: Weekly Report

LEGISLATIVE ACTIVITY

- **Vermont Center for Geographic Information:** Lucy met with a team of people from DII, VCGI, and Finance and Management, to get a handle on some of the details involved in folding VCGI into State Government on Wednesday. On Thursday, she testified in House Government Operations in favor of moving VCGI into state government and expressed willingness to take them into ACCD if desired by the legislature.
- **S.220/H.736 Economic Development Bills:** Work continues in House Commerce. Lucy continues to monitor.
- **H.809:** Senate Economic Development voted out the bill 5-0-0. Senate Natural Resources has started taking up testimony this week. All those in support continue to be in support.
- **H.823:** Senate Natural Resources continued testimony with some new folks including Steve Raynes who heard about the bill from the Vermont Bar Association. His testimony was inaccurate on key points. Leg Council tried to correct. Will see how VT Digger coverage looks. There is some suggestions about combining H.809 and H.823 into one bill.
- **Misc. Tax:** The Senate Committee removed the Wood Manufacturers Tax credit from the bill. Testimony on the shared equity provision in the Miscellaneous Tax Bill did not go well. Proponents of Shared Equity appeared before the Senate Finance Committee but were thrown off course by tough questioning by Senator Mullin and the committee was left without a clear understanding of the program or need for the language. Jen continues to work in support. The committee plans to take additional testimony. Noelle joined Chris Cochran in presenting information on the Downtown Tax Credit program and the need for the increase.
- **Landlord Education:** H.239 was approved by the Senate Economic Development, Housing and General Affairs Committee at the end of last week by a vote of 4-1. Chairman Mullin opposed and feels the bill – with only a onetime appropriation of \$32,000 – would accomplish little. The bill has been referred to the Senate Appropriations Committee.
- **Disaster Condemnation:** Jen is scheduled to testify on the condemnation language in S.168 in House Government Operations on Friday.
- **H.563 - An Act Relating to Captive Insurance Awaiting Governor's Signature:** This Department of Financial Regulation bill concerning captive insurance has passed both legislative bodies this week and is awaiting the Governor's signature. Dan recently provided testimony before Senate Finance. The bill was voted out in the same day. Several large Bermuda based companies have indicated they plan to move to Vermont once this important legislative action has been signed into law. This bill while largely technical addresses a variety of fixes, updates Vermont with new National Association of Insurance Commissioners (NAIC) guidelines and provides a way for Vermont captives to go 'dormant' when not being used.

LUCY LERICHE, DEPUTY SECRETARY

- **Governor's New Economic Development Proposal:** The team continues to work toward the unveiling for Monday. Legislation is drafted and being vetted and reviewed, as are supporting documents, including talking points and background.

DEPARTMENT OF ECONOMIC DEVELOPMENT

- Lisa Gosselin held a conference call with Connecticut investors Thomas Phillips (one of that state's top 10 Merrill Lynch private wealth advisors) and Michael Petralia. Phillips owns a second home in Woodstock and has been investing in rail and forest products in Vermont and is interested in seeing these sectors grow and willing to potentially invest in a large-scale project. Following up with Mike Snyder and Costa Pappis.

BUSINESS SUPPORT ♦ Ken Horseman, Senior Economic Development Specialist

- **Beau Ties, Ltd. – Middlebury:** The two new partners took over this business about 18 months ago and are delighted with how they have been treated by the Vermont support community. Annual sales were \$2.7M last year and they are growing. They have plans to expand and add new jobs, with full time employment currently at 26. Product lines are expanding, and more catalogs are being distributed primarily in the U.S. -- but they feel Canada may be a natural market for them.
- **Durasol – Middlebury:** This global company is owned by an Italian firm and does commercial awning design, manufacturing and installation throughout the U.S. from its Middlebury operations. Employment is at 25 and they are considering expansion bringing retractable awning manufacturing to Middlebury. The former Geiger building has been transformed into a state of the art facility, and business is very strong particularly with retail companies including Uno, Applebee's, Coach, Green Mountain Coffee Roasters and many more. The company is very concerned, however, about Vermont's Usage Tax policy which they feel is unfairly subjective and directly affects corporate decision on investment in Vermont.
- **Tech Group - South Burlington:** The company has rebounded from the economic downturn in 2008 and has purchased a data storage company. Full time employment is back to pre-recession levels and growing steadily. They are keenly interested in training assistance for new hires and certifications. They did voice concerns over the high cost of doing business, especially taxes. They are beginning to do business in Canada and welcomed any assistance with that effort. We will send ExporTech training information and make referrals as appropriate.
- **MBF Bioscience – Williston:** The company experienced one of the strongest quarters in their history last quarter and business is very strong. Employment is at 35 full time. They expressed keen interest in VTP and PTAC assistance. They are also evaluating ExporTech as a possible area of interest. They make extensive use of internships using www.vermontinternships.com and that has been very successful. One interesting new order came from South Africa to do brain research on large animal brains including elephants and hippos.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Regular CDBG

- **City of Rutland: \$1.25M Rutland Neighborhood & Housing Revitalization Grant application** -Josh fielded a call from Cristina Kumka a Freelance Reporter doing a multipart story on this project. She would like a copy of the grant application and specifically the budget to better understand the city's proposed use & allocation of grant funds and city matching funds. The City has yet to officially submit the application to us so we have nothing to officially respond to. Josh suggested that she first ask the city for a copy of their

application once it is submitted. If they decline to share the application she could then ask us. Her first video story on the project (which she also interviewed Josh) highlighted all of the efforts and funding being gathered to improve the neighborhood. She is now interested in exactly what and where the city is proposing to use the \$1.25M in grant funding.

DEPARTMENT OF TOURISM & MARKETING

RESEARCH & STATISTICS ♦ Greg Gerdel, Research & Operations Chief

Research

- **Growth in Visitation to USA from Overseas Anticipated:** Following a spike of more than seven percent growth in overseas visitation to the U.S. during 2013, future projections by the U.S. Department of Commerce are in the five percent range annually. The traditional markets in Europe (for Vermont these are led by the U.K and Germany) are expected to show modest growth during the next five years, with the major growth coming from Asia and South America:

“This means that by 2018, U.S. will have 83.8 million visitors, a 20 percent increase, and more than 14 million additional visitors compared to 2013.

As for the growth markets, countries with the largest total growth percentages over that period are China (139%), Colombia (56%), India (54%), Taiwan (52%), Brazil (50%), and Argentina (48%). Four countries are expected to account for 59 percent of the projected growth from 2013 through 2018. These volume growth leaders are Canada (23% of expected total growth), China (18%), Mexico (11%), and Brazil (7%).”

*-- **The Future of American Tourism Is Written In Chinese, Rafat Ali, Skift, 9 April 2014.***

At the same time it is important to remember that while growing more slowly, the mature markets in the U.K. and Japan will continue to generate the largest number of overseas visitors to the United States.

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CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Lawrence Miller
Date: April 11, 2014
RE: Health Care Assignment

Overall VHC Project Risk Remains HIGH.

While there is a detailed plan for release 2, which gets us automated change of circumstance, this involves a lot of complex rules and the testing schedule is judged to be “aggressive.” We do not have a detailed development plan for Release 3, which includes SHOP. Notably, the project has several areas now deemed moderate risk instead of high risk.

**Overall Project Risk for IE and MMIS remain HIGH****Press**

Very positive responses from Left and Right to announcement. MSNBC “Up With Steve Kornacki” is apparently doing a discussion about VT and single payer on Sunday and asked if I could be available. The main participant is healthcare reporter Sarah Kliff, who did the piece in VOX. At this writing my participation is unconfirmed.

Carrier Issues:

We are seeing some incorrect plan information on the portal that BCBS brought to our attention. A team is going through all of the instances and working to correct.

MVP is not prepared to begin testing on final Change of Circumstance until mid-June. I am meeting with them on Wednesday to try and determine if they can make testing resources available or if they will execute a manual process on their end. Their volume makes a manual solution quite reasonable.



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Interim Change Process:

We sent 4 staff back from VHC to HAEU to support working through a backlog there. Larson made 25 staff from the Confirmation of Benefits unit at DVHA available to HAEU also for backlog work. These staff are ACCESS trained and will be effective.

VHC can now process so-called “Stage 3” cases, those that have already been effectuated at the carrier. The process has been optimized, but remains slow due to needing to withdraw and then add a case to trigger a redetermination of eligibility. This is a 45 to 90 minute exercise. We are easily keeping up with all urgent requests but the total backlog is continuing to build. A Hot Fix code change is in testing which will reduce the time to less than 5 minutes, and then we can crank through resolution. It is expected to drop Saturday or Monday night.

update?

Release 2:

The timeline for testing the next release is aggressive. CGI is asking to change the date based on carrier requirements for the testing plan. I do think the expanded testing is a good idea. If agreed to, the change will be done through the formal change control board process.

Critical Path:

- Siebel Development (CoC/Recurring Payments)
- Receiving/Installing 3.3.2.8 HF2
- Completing CoC Design (Walkthroughs)
- Completing Notice Design and Development (Highest Risk)
- Performing Testing
- Performing Training
- Implementing

Risk

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I will be out of town on Thursday, taking my daughter on a college visit.

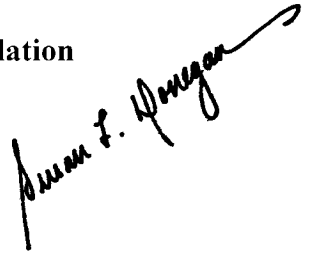


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To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: April 11, 2014
Re: Weekly Report



Insurance Division:

On Tuesday, President Obama requested a meeting with the insurance commissioners from all 50 states, the District of Columbia and the territories. The meeting, which is being coordinated by the National Association of Insurance Commissioners (NAIC), will be held at the White House on April 17. The invitation indicated that the conversation will focus on next steps in the implementation of the Affordable Care Act. It continued: "With the 2014 open enrollment period completed and over 7.1 million Americans now enrolled in private health insurance plans through the Marketplaces, we would like to discuss our ongoing collaboration as we prepare for the 2015 open enrollment period and beyond." Other topics will include the role of state-based insurance regulation vis-a-vis federal developments (i.e., Federal Insurance Office, international regulation). Commissioner Donegan will attend.

Securities Division:

The Commissioner and Deputy Commissioner of Securities Michael Pieciak attended the North American Securities Administrators Association (NASAA) meeting in Washington, DC, earlier this week. NASAA is the securities regulatory organization for the U.S., Canada and Mexico. (Vermont is a voting member.) In addition to meeting with federal counterparts from the U.S. Securities and Exchange Commission, NASAA members discussed current issues facing state regulation. Some of the issues highlighted were registration and exemptions for capital formation for small businesses and pre-emption by federal law and market conditions ("getting Main Street back to Wall Street").



Banking Division:

The Commissioner and Deputy Commissioner of Banking Tom Candon attended the District 1 meeting of the Conference of State Bank Supervisors (CSBS) this week. This bi-annual meeting allows state banking regulators from the northeastern states to gather and discuss issues of regional significance. Federal counterparts from the Federal Reserve and the FDIC also participated. Topics included the impact of federal legislation, the status of state licensing applications for virtual currency-related businesses, and the impact of recent flood insurance remapping on mortgages.

The question facing the financial services sector is whether to regulate the new virtual currency (Bitcoin) marketplace and if so, how. Currently in Vermont, DFR considers these entities to be money transmitters and therefore licenses them through the Banking Division under the licensed lender law. One company based in Georgia, an exchange for virtual currency not issuing currency, was recently granted a Vermont license. There are several more companies in the application pipeline. The Commissioner is considering issuing a bulletin that will provide guidance to companies wishing to obtain a license for this activity. She is also considering releasing a consumer alert that will give Vermont businesses and consumers a general understanding of the risks associated with engaging in the virtual currency marketplace.

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To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Apr 11, 2014
Re: Weekly Report

Status of Governor's Priorities:

n/a

Legislative Issues/Contacts:

Sat in on House Approps when Director of VT Problem Gambling spoke to them. They had questions about what VCPG did, how many VT's they helped, etc. VCPG asked for more money but the request was not answered.

Press Issues/Releases/Contacts:

n/a.

Significant Events/Meetings:

n/a

Evolving Issues:

n/a

Summary of Key Agency Department Activity:

No new items since last week.

Executive Director's Commentary:

I am leaving early Friday for a Tri-State meeting in NH. No new comments to add at this point.

Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, April 11, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Salt Shortage Update

Although it seems we have managed to get through the winter without running out of salt, our prime supplier, American Rock Salt, has cut us off. Our orders to replenish stores in six of our districts from ARS will not be honored because we have ordered too much this winter. In a letter to BGS the company admonishes VTrans as "current orders are unreasonably disproportionate to the estimates". ARS says since they have delivered 116% of our needs they will deliver no more under our current contract. We are talking with BGS about contingencies so that we can restore our supply for next winter. It won't be easy without our largest supplier.

Legislature

We may have made history this week when the House decided to concur with the Senate Proposal of Amendment to the T-Bill, with the sole exception of the cancellation of the Derby Rest Area. The House concurred with the Senate Bill and sent one proposal of amendment back which the Senate is expected to concur with in a deal reached by the two chairmen. There will be no conference committee for the T-Bill this session. Kudos to Director Cole (and all of team VTrans) for their work to ensure passage and acceptance of this bill. It includes all the elements that were important to our Agency and sets us on a positive path for addressing our challenges for road and bridge repairs as well our opportunities for expanding rail and transit to reduce our carbon footprint. We will work with your staff to evaluate press opportunity for the bill signing. This could coordinate well with our plan to do a big push on patching/road surface treatments. We think we need to get out ahead of the difficult road conditions this spring with extra funding and innovative treatments. How do you like "Pave It Black" (better than "Operation Smooth Ride")?

H.740, the Proportional Share Bill or the Transportation Improvement District (TID) Bill is in Senate Transportation and testimony was taken this morning on the bill. Testimony

from developers and environmental organizations alike is very positive on this bill. We are cautiously optimistic that the Senate will pass the bill.

NOTES FOR STAFF

Ledge Scaling on I89

On Monday, April 21st, 2014, ledge scaling will start in Montpelier along I89 northbound. Crews will be hand scaling the ledge on the northbound side of I89 between the Route 12 overpass and the Exit 8 off ramp.

Exit 8 will remain open at all times with no planned traffic interruptions. There is a planned shoulder closure along the work zone leaving both northbound lanes of the interstate open for traffic. Travel may be reduced to one lane through the construction zone for a day while crews set up the barrier for the shoulder closure.

Crews are expecting this work to be completed within a month, weather permitting.

Transportation Board Issue – Court Dismissal

East Montpelier BRF0-28-3(36) (Replacement of US 2 Br 74 over Winooski River) – Winterset, Inc. Claim

Transportation Assistant AG Toni Clithero reports that in companion decisions dated April 7, 2014, Superior Judge Helen M. Toor dismissed both pending cases involving VTrans' attempts to overturn a ruling by the Transportation Board. Here is Judge Toor's concise summary of the background situation:

The Board's ruling relates to a contract dispute involving the Agency and a bridge contractor, Winterset, Inc. The Agency denied a claim by Winterset for additional compensation, ruling that it was filed late. Because of that ruling, the Agency did not reach the merits of the claim. On appeal, the Board reversed that ruling, finding the claim timely. However, instead of remanding the case so that the Agency could consider the merits of the claim, the Board decided to hold a de novo evidentiary hearing on issues the Agency had not addressed. It is that decision that is at the heart of the Agency's appeal here. The actual merits hearing has not yet taken place: apparently the Board has stayed the hearing while the cases are pending in this court.... In this case, the Agency argues ... that because the Board has only appellate powers here, the merits of the contract dispute between the parties must first be considered by the Agency. Thus, the Agency argues, the Board should have remanded the matter for that purpose rather than scheduling the merits hearing itself.

Specifically, Judge Toor ruled as follows in the two pending cases:

- ***In re Claim of Winterset, Inc. (Docket No. 776-12-13 Wncv):*** VTrans brought this appeal under Rule 74 of the Vermont Rules of Civil Procedure. (Rule 74 applies when a statute expressly provides for appeal). After discussing a 1993

Vermont Supreme Court case recognizing that one of the exceptions to the general policy against interlocutory review is for situations where the administrative decision maker has “clearly exceeded its jurisdiction,” Judge Toor decided that while in *Winterset* there is a legitimate dispute over the extent of the T-Board’s jurisdiction, “the answer is less than crystal clear.” Judge Toor went on to observe that “[w]hile the Agency is understandably distressed that the Board is, in the Agency’s view, usurping the Agency’s powers to address the merits of the contract dispute before the Board does, nothing will be permanently lost by delaying court review until after the merits have been heard by the Board. As interesting as the issues in this case are, it not appropriate for this court to jump into the case until after the final ruling by the Board.”

- ***In re Claim of Winterset, Inc. (Docket No. 776-11-13 Wncv)***: VTrans brought this companion appeal under Rule 75 of the Vermont Rules of Civil Procedure. (Rule 75 provides for court review of administrative rulings for which there is no express statutory provision for review.) VTrans argued that if the court should find the T-Board ruling to be unreviewable in the Rule 74 case as an interlocutory order, then it effectively is not reviewable or appealable under Rule 74 and should be reviewable under Rule 75. Judge Toor rejected this argument: “While the [VTrans’] argument is creative, if the Agency were correct it would mean that *every* interlocutory administrative order would be reviewable under Rule 75. This would entirely eliminate the distinction between final and interlocutory orders. That cannot possibly be the intent of Rule 75. The court concludes that because the issues in this case will be reviewable under Rule 74 once the administrative proceeding is final, they cannot be reviewed under Rule 75.”

VTrans and the Attorney General’s Office have 30 days in which to decide whether to appeal one or both of the Superior Court’s dismissal decisions to the Vermont Supreme Court. Transportation Assistant AGs are awaiting the return of Bill Griffin next week before deciding on an appeal of this decision.

Brandon

The new Selectboard in Brandon would like to make changes to the design of the roadway project Pittsford/Brandon on Route 7. The previous Selectboard made changes to the project design which caused significant delays and expense. The Legislature and the Agency are both frustrated with the time it has taken to bring this project forward to construction. The changes to the current design proposed by the Brandon Selectboard will reopen Act 250 and there are historical impacts that will need to be studied and potentially mitigated, if they can occur at all. The Legislators interested in this project are not supportive of any further design changes by the municipality at this stage of the project; it is completing ROW acquisitions and has an advertising bid date in 2016. A letter went out to the town yesterday that notifies them that if they wish to make any further changes to the project, they will be financially responsible for those costs associated with the design change. There may be a response to the letter by the Town.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: April 11, 2014

Vermont Department of Health (VDH)

Hydrocodone Rule:

The VDH is working with staff from Massachusetts and Arkansas in the development of rules governing the prescription of extended release hydrocodone's manufactured without abuse-deterrent formulations.

Contact with Erica Solway, Senator Sanders' HELP Committee Staff:

Deputy Commissioner Barbara Cimaglio was asked by the National Association of State Alcohol and Drug Abuse Directors to speak with Erica Solway, one of Senator Sanders' Committee staff. Ms. Solway was interested in what Vermont is doing to bring federally qualified health centers (FQHCs) into our work with substance abuse. Ms. Solway was informed that many of our FQHCs are working with this population, and that we are training them to do screening and brief assessments and referrals to treatment. We have several FQHCs which are "approved" substance abuse providers.

Board of Medical Practice Adopts New Policy for the Use of Opioid Analgesics in the Treatment of Chronic Pain:

The Board of Medical Practice adopted a revised policy on use of opioids for chronic pain at the April 2, 2014 meeting. The new policy is largely based upon a 2013 revision of the Federation of State Medical Boards Model Policy, but includes several Vermont-specific provisions. The policy is not an enforceable regulation, and if a physician fails to follow the policy it will not on its own be the basis for an allegation of unprofessional conduct. However, the policy reflects the Board's present understanding of the standard of care. It also references several state or federal requirements that are enforceable standards. Therefore, a provider who fails to practice in accordance with the guidelines may be the subject of an action by the Board or other entity such as the DEA (Drug Enforcement Administration).

Department of Mental Health (DMH)

Green Mountain Psychiatric Care Center (GMPCC):

GMPCC's name has changed to Vermont Psychiatric Care Hospital (VPCH). This is part of the process in moving all policies and certification to their new location in Berlin. DMH understands from the Centers for Medicare and Medicaid Services (CMS) that their CMS acceptance of participation will follow from the Morrisville location to the Berlin location.

S. 287 - expedited judicial process for involuntary treatment:

House Human Services and House Judiciary held a joint meeting on Thursday to gather testimony from various constituents. DMH Medical Director Dr. J. Batra testified for the bill. Incoming VPCH Medical Director Dr. Isabelle Desjardin also testified as to the need for this bill. Overall it was a good beginning.

Representative Ann Pugh:

Representative Pugh questioned why Commissioner Dupre did not inform the Legislature of Pathway's request to become a Specialized Service Agency (SSA), since this was a change in policy. Commissioner Dupre explained the process of becoming an SSA and the existing legislative rules. It was noted that he is simply following the process, set by the rule, for when an application is made. So far, no further questions have been asked.

Shooting incident in Addison County this past weekend:

The alleged shooter is an open client of the Counseling Services of Addison County. Nothing has surfaced to this effect, but it was called in by Emergency Services as a possible media issue this past weekend. Individual last seen by the agency on 4/3 with no indications of immediate concern during contact. DMH is in the process of following up with the agency for any additional information that may be available.

Department of Disabilities, Aging and Independent Living (DAIL)

"Peace of Mind" Bill, H.728, still in Senate Committee on Health and Welfare:

No movement this week on a bill designed to create more legislative oversight of the Developmental Services Budget. The push for the bill by the Developmental Disabilities Council appears to come largely from families who want "more say" despite the program's solid performance key indicators. The plan had been to mark-up the bill this week. The committee remains uncertain about whether to create a summer study committee.

VPR (Vermont Public Radio) reports on (Vocational Rehabilitation) VR employee's claim of retaliation:

An employee, John Howe, passed over for a promotion almost one year ago, continues to make unsubstantiated claims that an investigation into his misconduct results from his participation in union activities (he is a steward). Recently placed on temporary relief from duty due to intimidating behavior toward two new female co-workers, Mr. Howe will be returning to work on Monday. His supervisor and division manager are working closely with Human Resources to insure workplace protection so that Mr. Howe, other employees and management can all do their jobs.

Department of Corrections (DOC)

Jeffrey Plourde:

Jeffrey Plourde was released on furlough on 4/7/14. Mr. Plourde is under supervision for Burglary (x2), Concealment of Stolen Property, and Inciting to Commit a Felony. He was originally charged with sexual assault but it was amended to Inciting to Commit a Felony. The department is treating him as a sex offender even though he is not required to register as a sex offender. He has completed his incarcerated programming in the facility and was centrally

ham
approved for release. He will be continuing his sex offender treatment in the community. The home is near the Lyndon Town School and he will be residing with his mother. The department determined that there is no history of offending against children and felt the residence was appropriate. Prior to his release, staff from the St. Johnsbury Probation and Parole notified the local police agencies and meet with the principal of the school to discuss the release. It was decided that the department would not be notifying the neighbors in the community. There was an article in the Caledonia Record on Wednesday about the release. The article indicates that the chief was told that DOC would be doing community notifications. This is incorrect as we never told the chief that we were going to notify the neighbors.

Population:

The department's incarcerated population averaged 2,147 for the previous week. The male population averaged 1,986 with 368 being presentenced inmates. The female population averaged 161 with 42 being presentenced inmates.

Department for Children and Families (DCF)

Update on 15-Month-Old's Death in Winooski:

On the evening of April 2nd, a pediatric resident at Fletcher Allen Health Care (FAHC) called in a report concerning 15-month-old Peighton Geraw. The resident reported that he had seen Peighton that evening for acute gastroenteritis, a stomach bug, and in the course of the physical examination noted two small brown bruises on the child's neck.

A Burlington supervisor visited the home early Friday afternoon, April 4th. In the course of the visit, he asked the mother to take the child to the doctor's again. Shortly thereafter, the child was taken to the hospital and declared dead. A different staff member was assigned to the ensuing report. This worker was involved with the Chittenden Unit for Special Investigations (CUSI) all weekend.

The autopsy was performed on Saturday, April 5th, by assistant ME Elizabeth Bundock. Dr. Bundock found bleeding on the brain, but could not conclude that this was or was not due to a traumatic injury. Child Protection Director Karen Shea spoke with Dr. Bundock on Monday and learned that she was conducting further tests on brain tissue and on one of the child's tibias, which will take 2-3 weeks to yield results. In the meantime, Nytosha LaForce, the mother, and her boyfriend, Tyler Chicoine, have been interviewed by law enforcement. Mr. Chicoine tested positive for opiates, and was lodged.

The case has been transferred to a DCF special investigation social worker supervised out of the central office. As usual, our social worker is collaborating with CUSI. As our Burlington supervisor is a potential witness should this be declared a homicide, CUSI is being careful in communications with us. Peighton spent about two months in DCF custody in the summer of 2013 after his mother was unexpectedly jailed in NH. This was for a parole violation of leaving the state without permission (original charge is aggravated assault from 2005). There is no history of abuse or neglect of Peighton.

may be medical in
other kids in
home?

Department of Vermont Health Access (DVHA)

Vermont Health Connect Update:

Major Accomplishments for the Week:

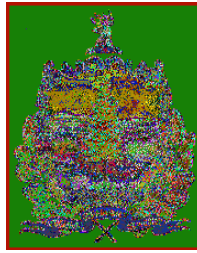
1. *Terminations:* The first termination process was completed this week. 95 households were terminated from Blue Cross Blue Shield of Vermont (BCBS) and MVP due to non-payment of health care premiums.
2. Delta Dental advised that they would not be terminating anyone; however, their vendor sent terminations to customers. We are having discussions with Delta and reaching out to customers.
3. Navigator Request for Proposals for FY 2015 released (4/1)
4. *Outreach:* Letter/Email to all waiting in the Change of Circumstance queue sent (4/9); email to 2,715; snail mail to 3,600

CMS interpretation of the “Leahy Bump”:

DVHA has engaged CMS and Senator Leahy’s office about federal interpretation of the increase in federal Medicaid participation in the Affordable Care Act (ACA).

- The Affordable Care Act afforded Vermont the opportunity to draw in enhanced federal receipts through myriad mechanisms. Two of those mechanisms are (1) enhanced participation for newly eligible adults and (2) a 2.2% additional increase on all Medicaid costs for calendar years ’14 and ’15 [this is also referred to as the “Leahy Bump”].
- Vermont interpreted these as two discreet initiatives. CMS has interpreted these two areas as being intertwined. CMS’s interpretation results in a \$1.9 million general fund impact for SFY ’15.
- DVHA has spoken to Senator Leahy’s office regarding the actual legislative intent and confirmed Vermont’s application of the federal support comports with that intent. Leahy’s office is engaging in conversations with CMS to determine the ultimate outcome.

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STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: April 11, 2014

Secretary's Top Issues

Deputy Secretary Bothfeld and Ag Policy Administration Leonard took part in the **Results Based Accountability** workshop in S. Burlington this week. The conference made the process of results based accountability more streamline and workable. This will be important as we move toward this process for state government based on S.293.

Meat Inspection is anxiously awaiting determination by VT legislature for new positions to serve the industry in the mandatory inspection of the meat and poultry operations. Without the positions, the new operations expected in the next few months will not be able to start and they have significant investments into the infrastructure for meeting inspection requirements.

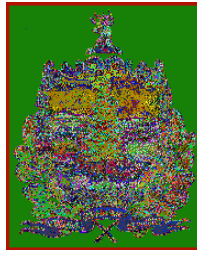
The Weights and Measures Lab conducted **specialized testing for an engineering company** located in Williston. The firm is constructing a force balance and the W&M lab provided traceable weights on components of their balance. Their device is to be used in wind tunnel studies and used for companies building wind towers, bridges, and buildings. This was a new specialized task for the lab which included the need to create new test procedures. Due to the lab's availability the company did not have to travel outside of VT for this service.

Agricultural Policy Administrator Chelsea Bardot Lewis attended **the SIAL Canada Trade Show in Montreal**, Canada from April 1-4.

- The show welcomed 14,000 food buyers and professionals from 61 countries, and featured 750 exhibitors from 45 countries, **including 3 Vermont companies**.
- Lewis coordinated add-on services for 12 show exhibitors, including a retail tour, one-on-one meetings with pre-qualified buyers, interpreters, and post-show assistance.
- Vermont companies reported a total of **\$68,000 in sales on-site, with a projected \$160,000 in sales over the next 12-24 months.**

State veterinarians met with USDA District 1 Director to discuss minor modifications to **the Animal Disease Traceability workplan** that the Section submitted in February. Once approved, this agreement will provide approximately \$80,000 in federal funds. The Section also submitted approval paperwork for another cooperative agreement that was awarded from USDA for \$26,000 for poultry and small ruminant disease testing and education and outreach activities.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

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TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: April 11, 2014

Status of Governor's Priorities:

Legislative Activities and Issues

April 8, 2014

S. 237 Civil Forfeiture- House Judiciary- Dr. Kristin Haas

Dr. Kristin Haas provided testimony to the Committee on S. 237, a bill which proposes to streamline the civil forfeiture proceedings in animal welfare cases by adding flexibility to the civil legal process that would shorten the time interval between filing and resolution of the cases. The following points were made:

1. Clarified the VAAFM role in animal welfare cases, as there is often much misinformation surrounding this - answered one related question on this topic from a committee member.
2. Stated that while VAAFM does not have a position on S.237, as a veterinarian and member of the VT Veterinary Medical Association, I am supportive of the principles in the bill.
3. In my role as State Veterinarian, I have become aware of the detriments of prolonged proceedings in animal welfare cases, and they fall into two categories:
 - a. Significant cost burden to the municipality or humane society due to having to retain possession of seized animals during drawn-out proceedings.
 - b. Significant welfare implications for the animals that might not be able to receive necessary medical care due to the pending nature of the legal proceedings.

Mitigating these negative consequences is in everyone's best interest, and S.237 serves to help do that.

April 9, 2014

H. 329 Current Use Senate Agriculture Stephanie Smith (monitoring)

Senate Ag passed H. 329 out of committee 5-0

The Methane Digester definition as suggested by Alex DePillis, Senior Agriculture Development Coordinator is within the bill.

The bill now moves to Senate Natural Resources and then Appropriations.

Sen. Zuckerman suggested one last amendment at the tail end of the conversation this morning – which would increase the penalty on those property owners that remove land from current use before the toll of 10 years. Land use change tax would be based on the removed land's development potential based on local zoning and for those towns without local zoning the development potential would be considered 1 acre house lots.

H. 586 Water Quality Bill House Ways and Means - Jim Leland

More testimony this morning regarding H.586. Attached is the strike all version of the bill. The chair stated that this version is simply for the benefit of the committee so that they could see what the bill might look like with F&W amendments that removed all funding mechanisms. Committee members questioned a law that would essentially be a number of unfunded mandates, impacts on Agency capital funds if many small farms had structural needs identified via the certification process, resources the Agency would need to inspect all small farms, implementation dates and their effects on the Agency when no money was attached and the general concern that using language of 'when funds are

available' is too subjective. Rep. Deen stated twice that if no money ever became available his committee would strike the implementation dates in future sessions.

Jim Leland addressed a number of these issues for the committee; primarily the impact on capital funds, impact on existing programs, prioritization schemes for small farm inspections and some livestock exclusion questions.

S. 70 Raw Milk House Agriculture- Dr. Kristin Haas

I testified and presented the attached testimony. In addition, I answered questions from the committee regarding the Agency's current practices with raw milk inspection. The committee discussed alternatives to the proposed licensing fee by the Agency, none of which were decided upon. I also stated that the TB and Brucellosis testing should remain as a requirement on an annual basis. I asked the committee three times, on behalf of Secretary Ross, what their expectation is with regard to the Agency performing inspections at farmers markets. The committee chair stated that it was not possible to provide an answer to that question at this time, but also stated that if there was a provision included in the bill that required inspection at farmers markets, there would be committee support for including a licensing fee to offset some costs.

H.869 Miscellaneous Agricultural Subjects- Senate Agriculture Dr. Kristin Haas

The committee heard from leg counsel O'Grady who did a walk-through of the bill. They also heard from House Ag committee members who presented the bill on the House floor. Dr. Kristin Haas testified on the bill and provided the agency's philosophy on, and answered questions regarding, removal of the CP exemptions. The committee then heard from Jim Harrison with Retail Grocers Assn who stated that it is still important to do everything possible to keep the local general stores around, but admitted that the licensing fees for small scales and motor fuel dispensers is not exorbitant. The committee alluded to the fact that they might contemplate adding language to the bill pertaining to CWD testing of cervids. They asked for the copy of a proposed budget. Dr. Haas agreed to forward the budget, again.

April 10, 2014

H. 586 Water Quality Bill House Ways and Means - Jim Leland

586 was voted out of Ways and Means today, 11-0. The bill includes an amendment offered by Rep. Johnson that states that the provisions of the bill will go into effect one year after funding has been secured. The bill heads to Appropriations.

H.869 Miscellaneous Agricultural Subjects- Senate Agriculture-Stephanie Smith (monitoring)

The committee had questions concerning Sec. 10 of the bill specifically related to Bulk milk tank calibration. They asked for a representative from Ag to come and speak next Tuesday on this topic and answer the following questions

What is the process for calibrating bulk milk tanks?

Why doesn't the Agency calibrate bulk milk tanks?

H.112 GMO Labeling – Senate Appropriations Committee, Sam Werbel (monitoring)

Committee discussed briefly, voted, and accepted an amendment that would direct moneys from settlements of legal suits into the special fund, and that excess money (over \$1.5 million) would return to the general fund (a "waterfall" clause).

Concern that without a special fund there are few other places to take money from (Working Lands?).

Emergency Authority

This appears to be on the floor of the house

Jobs in Agriculture

Press

Henry Marckres, Chief, Consumer Protection, was interviewed by Elodie Reed of the St. Albans Messenger on the status of the maple industry in Vermont.

Weights and Measures Specialist Marc Paquette spoke with a reporter for the Mountain Times in regard to the change in the maple grading system. The process, intent, and , market forces behind the changes were discussed as well as the some of the grading specifics including the use of marketing descriptors. The reporter brought up concerns regarding the impact on very small producers and this was also addressed.

Significant Events/Meetings:

- Agricultural Policy Administrator Chelsea Bardot Lewis attended the SIAL Canada Trade Show in Montreal, Canada from April 1-4.
 - The show welcomed 14,000 food buyers and professionals from 61 countries, and featured 750 exhibitors from 45 countries, **including 3 Vermont companies.**
 - Lewis coordinated add-on services for 12 show exhibitors, including a retail tour, one-on-one meetings with pre-qualified buyers, interpreters, and post-show assistance.
 - Vermont companies reported a total of \$68,000 in sales on-site, with a projected \$160,000 in sales over the next 12-24 months.
- Secretary Ross and Agricultural Policy Administrator Chelsea Bardot Lewis accompanied the Governor on a tour of Black River Meats and Vermont Packinghouse on Monday, April 7. The Agency has played a critical role to support the construction of a state-of-the-art slaughter facility, which can process 40 head per day immediately and up to 80 head per day over the next 5 years. It is due to open in June.
- Led by Water Quality Partner Liaison, Michael Middleman, the Agency released a request for proposals (RFP) to develop a geospatial database to track and plan statewide agricultural best management practice implementation among nine partner organizations that are actively engaging landowners to improve water quality by reducing agricultural non-point source pollution. The database will allow the Agency to better report on and analyze statewide BMP implementation efforts, in addition to increasing communication, collaboration and efficiency among its water quality partners. The RFP was released on 4/9/2014 and responses will be received by 5/16/2014.
- Animal Health Section met with IT and Water Quality to discuss a process for data entry into the USA Herds database for the SFO farms.
- State veterinarians met with an architect from BGS to discuss animal pathology laboratory needs. Architect was shown current area of necropsy which takes place in the Food Safety and Consumer Protection storage area in the basement of the Agency building where there is a sink.
- Animal Health mass mailed Animal Disease Traceability outreach letters containing updated information from USDA regarding their enforcement phase. The letters were provided to veterinarians, producers who receive official ear tags, and livestock dealers/transporters.
- State veterinarians met with USDA District 1 Director to discuss minor modifications to the Animal Disease Traceability workplan that the Section submitted in February. Once approved, this agreement will provide approximately \$80,000 in federal funds. The Section also submitted approval paperwork for another cooperative agreement that was awarded from USDA for \$26,000 for poultry and small ruminant disease testing and education and outreach activities.
- State veterinarians met with a clinic in Lyme NH who is interested in using the VT electronic Certificate of Veterinary Inspection.
- Assistant State Veterinarian participated in a NASDA call centered around the larger discussion of implementation logistics of the 7 FSMA Rules. NASDA is forming a technical working group to discuss the nuts and bolts of implementation, including the need for a new, equal partnership relationship with FDA.

Evolving Issues:

- Animal Health met with an unregistered animal rescue group operating out of a doggie day care facility in South Burlington. The group does not have 501 status at this time so will need to license as a pet shop.
- Animal Health received three tissue residue cases from FDA for investigation, bringing the total investigations since September, when the new contract began, to 13.
- Animal Health sent out a pre-hearing and hearing notice to a non-compliant cervid producer.

Summary of Key agency Department Activity

Administration:

Deputy Secretary Bothfeld and Ag Policy Administration Leonard took part in the **Results Based Accountability** workshop in S. Burlington this week. The conference made the process of results based accountability more streamline and workable. This will be important as we move toward this process for state government based on S.293.

Agricultural Development:

Agency took part in a conference call with national ag leaders on conservation easements and the USDA Farm and Ranchland Protection Program. Agency linked in VHCB to provide feedback on states being able to become certified to expend funds from USDA within their existing conservation easement programs. Information from across the country will be used to make recommendations to USDA.

Food Safety and Animal health and Consumer Protection:

Consumer Protection:

- Consumer Protection staff performed inspections on small capacity scales, 7 scanner audits, tested liquid measuring devices, followed up on several consumer complaints and performed maple certifications during the past week. Staff found 5 violations during the week.
- Sumner Kuehne of the Consumer Protection Section has been accepted as a trainee in the USDA Good Agricultural Practices (GAP) Program. He will be attending training in the near future.
- Henry Marckres, Chief, Consumer Protection, investigated an off flavor concern on maple syrup on Thursday.
- The Weights and Measures Lab conducted specialized testing for an engineering company located in Williston. The firm is constructing a force balance and the W&M lab provided traceable weights on components of their balance. Their device is to be used in wind tunnel studies and used for companies building wind towers, bridges, and buildings. This was a new specialized task for the lab which included the need to create new test procedures. Due to the lab's availability the company did not have to travel outside of VT for this service.

Meat Inspection:

- Meat Inspection is anxiously awaiting determination by VT legislature for new positions to serve the industry in the mandatory inspection of the meat and poultry operations. Without the positions, the new operations will not be able to start and they have significant investments into the infrastructure for meeting inspection requirements.
- Program Section Chief visited a slaughter construction project in Milton. Plant is progressing steadily and hopes to be in operation by the end of June under state inspection.
- A Lyndonville slaughter and process establishment, Northeast Kingdom Processing LLC is starting operations on Monday under Federal inspection. USDA has asked the State to provide relief inspection under the cross utilization program. Apparently, they don't have enough relief inspectors and have to announce the opening for hiring an inspector. Relief will be provided on a week to week basis if VT inspectors are available; it will be increasingly difficult as poultry operations restart and new state plants come on.
- Participated in a call with FDA officials for determinations concerning providing state inspection for Alpacas in a federally inspected facility in Benson VT. USDA does inspect alpacas presently.

Animal Health:

Animal Health Field Personnel:

- Inspected the Addison County Commission Sale for Animal Disease Traceability compliance
- Collected obex samples for Chronic Wasting disease at a captive deer farm in Pownal VT
- Met with a veterinarian from Valleywide Veterinary clinic and the owners of a certified farm in Addison County to inspect cattle currently housed at the facility. The farm will be transition to a non-certified in the next few months.
- Initiated a tissue residue investigation for a farm in the Ferrisburg area.
- Provided traceability supplies to dealers in Franklin and Caledonia Counties
- Met with a captive deer producer to plan an upcoming inspection and herd inventory reconciliation slated for the week of May 12th.
- Provided Pullorum testing for poultry producers in Orange County

Agricultural Resource Management:

On April 2nd, Matt Wood, The Pesticide Certification & Training Supervisor, gave a lecture to the Greenhouse Operations & Management Course in the Department of Plant & Soil Science at UVM. This lecture covered all aspects of pesticide regulation and getting certified to apply pesticides in Vermont. On April 7th Matt returned to the class to give the Pesticide Applicator certification exam to the 26 students in the class. Most of them passed the exams to become certified private applicators.

On April 9th Matt Wood, the Pesticide Certification & Training Supervisor, in cooperation with Sarah Kingsley-Richards of UVM Extension, held a day long review session of the Pesticide Applicator CORE manual at the Little Red Schoolhouse at VTC in Randolph. It was attended by 65 people, probably the largest group to attend this yearly training to date. At the end of the review, these people were able to take the CORE certification exam for private, commercial, government, or non-commercial certification or the pesticide dealer exam. As of this submission exams are still being corrected!

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

- Staff visited four MFOs are transitioning to the LFO program to discuss the transition, answer questions, gather information and complete paper work. Two farms were in Addison County and two farms were in Franklin County.
- Staff met with a watershed planner to discuss water test results from surface waters near a LFO in Orleans County. The goal is to work with the farm to improve water quality in the surface waters near the farm.
- 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. Information is being compiled and permits are being drafted for these farms and this will be a major focus of the team through the month of April.
- Staff are working on compiling information related to several LFOs that require permit amendments. Several LFOs would have applied for permit amendments to increase animal housing and herd size.

Conservation Reserve Enhancement Program (CREP):

- Staff worked with Agency Attorney, Diane Zamos, to draft a CREP amendment for a farm in Franklin County. The farm changed their management of land that was enrolled in CREP by the previous landowner and this amendment will satisfy the debt owed to Agency from partial termination of the original CREP agreement.
- Continued mapping/planning work for several ongoing potential CREP projects.
- Working with partners and discussing cover cropping sign-up and workload with NRCS.
- Reviewed VACD staff small farm bmp plan to be funded with ERP (through VTAAFM) funds.
- Met with NRCS engineer to get assistance in sizing pipeline for watering systems on three CREP projects.
- Discussed potential CREP projects with several farms and planned upcoming pre-planting visits with contractors.
- Relayed complaint/concern about manure stack on small farm, with maps and info to Enforcement and Small Farm Inspector.

Secretary's Comments:

PRESS:

- **Channel 17, VT Democrats w/ Rep Mike Yantchacka;** Broad discussion of VT agriculture and job growth within food and ag systems
- **WCAX, Black River Meets:** interviewed after tour of plant on how plant would affect meat industry.

MEETINGS:

- **Ag Lab with Administration, Pavilion:** reviewed options with BGS, VAAFM, ANR and Sec of Administration staff. Refined plan on moving forward over next few months
- **VT Sustainable Jobs Fund, Montpelier:** met to outline statistical and data collection work for ag and food system profiles to be used for press, speeches and background info.
- **Regional Conservation Partnership Program Discussions:** Possible funding source for Lake Champlain water issues, discussed with Leahy Staff, NRCS and Governor's staff; developed outline of approach to USDA for request.
- **Dan Smith regarding USDA Milk Marketing Orders:** met with Dep Sec Bothfeld and Smith to discuss request by State of Maine to help fund work of Mr. Smith to get legislation passed to have USDA hold hearings. Explained while supportive of initiative VAAFM has no money to support the work that Maine has been funding to date. Smith explained Senator Starr may try to find money in the Appropriations bill for this work
- **Amy Schulenburg regarding GMO legislation:** Ms. Schulenburg is a lobbyist for pro labeling groups wanted to check in on Administration position, explained Governor is supporter of labeling, believes Vermont would be better

served with a trigger, many aspects of the Bill fall to the Attorney General's office, will be actively monitoring going forward, Schulenburg explained the support for the Bill and offered further information as needed by Administration

EVENTS:

- **Black River Meets with Governor, Springfield:** Toured partially completed new facility with owners, Governor, VAAFM staff, VT Sustainable Jobs Fund Staff and Press.

LEGISLATURE:

- Worked with staff on tracking multiple pieces of legislation including Water Quality H586, Current use H329, GMO H112, Prime Ag Soils H448 and raw milk.

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Deborah L. Markowitz
Agency Secretary

Justin G. Johnson
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**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin

From: Deborah Markowitz, Secretary, Agency of Natural Resources

Date: April 11, 2014

Subject: ANR Weekly Report

Governor Level Issues:

Vermont Gas-Phase II: We continue to work with VG on their Phase II alignment and outstanding ANR issues. We continue to let them know that they need to move the alignment further away from the Shoreham Swamp in order for us to issue a wetland permit for the project. We first raised this issue with them back in November 2013 and advised them to re-route the section of pipeline at that time. We will be meeting with them again in late April-early May to discuss this again.

Note that VG has not yet filed for its DEC permits (stormwater, wetland, 401, stream alteration, Lake encroachment). We have been encouraging them to do so ASAP. They indicate that they intend to do so by the end of April. Be aware that a problem they may face is that under the wetland rules, the application will not be technically complete until all impacted wetland features have been field delineated. Because they do not have permission to access about 25% of the Phase II alignment, this will make it hard for them to complete their application. We have made this clear to them in previous meetings, and have encouraged them to negotiate access to the proposed sites so we can move ahead on their permits. I will be working with staff to see what, if any, alternatives are available.

Lake Champlain Cleanup Plan (TMDL): The draft EPA Lake Champlain Phosphorus TMDL Vermont Phase 1 Plan was sent to EPA on Mon, March 31 and sent to key legislators and organizations. We will now work with EPA and stakeholder groups to get comments on the plan before developing a final proposal for consideration by the Governor. We continue to work collaboratively with Region 1 and they will be asking for an extension of time because of the delay in completing their modeling.

First Wind (Sheffield) Biomonitoring (water quality) Final Report: The report of findings from over five years of biomonitoring has been completed and is now available for public review. It shows no impact on water quality from the project. Specifically, the results indicate that construction and two years of operation of the facility have had no effects on the macroinvertebrate and fish communities from six streams that drain the project. Most streams, in fact, support Class A1 level biota. Watershed Management will continue to monitor some of the streams in conjunction with the state-wide rotational biomonitoring program (every five years).

Meeting with Leahy/staff: I was in DC to participate in a panel on the Federal/State relationship at the Georgetown Climate Center and took the opportunity to meet with Leahy and his staff. I thanked them for their efforts on our behalf. The EPA administrator was coming into the finance subcommittee later in the week. We discussed the Senator's proposed comments in support of our objective of getting a package of federal funds from multiple agencies to help us meet the requirements of the TMDL. I thanked them for their help on this!

Waterfront Projects in Burlington: F&W staff and Patrick met with Miro Weinberger and his staff to discuss the progress of the three different waterfront projects. The Fish and Wildlife Department has already passed a USF&WS Boating Infrastructure Grant (BIG) grant in the amount of \$100,000 to the Burlington Parks and Recreation Department for upgrades to their transient boating infrastructure. Last fall a second BIG grant proposal was submitted to the Service from the Parks and Recreation Department, through the Fish and Wildlife Department, for \$1,500,000 to assist in funding approximately 95 transient boat slips as part of an expansion of Perkins Pier Marina in the Burlington harbor. While there has not been any official confirmation of the award, feedback from the Service has been positive. Finally, the Department and City continue to discuss opportunities to create a public access area for day-use boaters. While there are plans to expand marina space on the Burlington waterfront, there is insufficient public access for trailered boats on Lake Champlain's largest waterfront. Staff from both groups will continue to meet this spring to explore different options for siting an access on the waterfront.

EVERYTHING ELSE:

Legislative Issues/Contacts:

Universal Recycling (S.208): This bill, which includes a number of miscellaneous provisions for implementation of Act 148 of 2012, has passed out of the Senate and is now before the House Natural Resources and Energy Committee. Commissioner Mears testified before the committee in general support of the bill last Friday however, DEC does hope to see some revisions. The committee is organizing a Legislative Roundtable on Materials Management and Governance of Solid Waste – slated for April 16 in Room 11 of the State House. This is being billed as an opportunity for solid waste entities to discuss with legislators the issues around how to meet the requirements of Act 148 and the Materials Management Plan, the challenges and the structure for working together.

Dam Safety (H.590 / H.885): This bill has now moved to the Senate where it will be taken up by the Senate Natural Resources and Environment Committee. The bill creates a dam registration and fee program; it establishes process by which a dam could be determined abandoned; and it would require disclosure of a dam and its condition when the property is sold. Joanna Pallito has prepared draft language regarding the new dam safety inspector position for H.885 (the Budget bill), which we are prepared to share with Senate Appropriations when we have a better sense of the bill's forward path.

Battery Recycling (H.695): This bill, known as the primary battery recycling bill, is now pending before the Senate Natural Resources and Energy Committee. This bill would require primary battery manufacturers who sell batteries in Vermont to develop and implement plan(s) for the collection and recycling of primary batteries. Manufacturers are encouraged to work together through a stewardship organization to develop and implement a plan for statewide collection of primary batteries.

Toxics in Products (S.239): This bill, which creates a new program in the Department of Health to identify and regulate toxic chemicals in consumer products offered for sale in Vermont, has now been taken up by the House Fish, Wildlife and Water Resources Committee. Deputy Secretary Justin Johnson testified for ANR saying that a improvements to the Federal chemicals law would be the best way to improve chemical safety, but absent this, that Vermont should not create a regulatory program in isolation – rather we should look to cooperate with other state(s). His testimony was well received by Tony Klein.

Floodplains (H.676): This bill, which clarifies municipal law to allow regulation of certain exempt activities (agriculture, energy siting, silviculture, etc.) for the purpose of National Flood Insurance Program compliance, has passed both bodies and is on its way to the Governor. The bill also clarifies that development of state owned properties and facilities will be regulated under the pending Floodplain Rule.

Shorelands (H.526 / H.885): The H.526 Committee of Conference continues to meet. We may need the governor to give a call to Bob Krebs who has come up with a whole different approach that does not make sense.

need update. LP

JRS 47: The Committee voted unanimously to approve the proposed Joint resolution as offered by the agency. The resolution will authorize the Commissioner of the Department to complete two right-of-way exchanges: one in Stowe at Mount Mansfield State Forest, and one in Victory at Victory State Forest.

S.100: The house concurred with the Senate on the forest fragmentation bill. It is heading to the governor for signature.

Press Issues/Releases/Contacts:

Lake Champlain Cleanup Plan (TMDL): Many media outlets ran a piece on DEC's recent issuance of a draft implementation plan for consideration by EPA. Overall, coverage was

positive though environmental advocacy groups expressed concern that the plan does not go far enough. The Vermont League of Cities and Towns newsletter includes an article written by Karen Horn summarizing the plan and commending DEC for putting forward a balanced plan.

Marten Population Continues to Expand in Vermont: F&W believes there is an expanding population of American marten in Vermont. Marten are small carnivores in the weasel family. They are smaller than a housecat and are closely related to the more common and slightly larger fisher.

Vermont's Wildlife Responds to Delayed Spring: Vermont's human residents are not the only ones coping with the continued wintery conditions this year. The state's wildlife are also searching for ways to deal with the deep snow and ice that may remain late into spring.

Delayed Spring Weather Changes Options for VT Anglers: The late return of spring weather and persistent ice may alter the plans of some anglers this year. While the winter weather extends opportunities for ice fishing on some water bodies, it can also delay anglers' access to open water for the start of trout season.

Deer Hearings Set for May 7 and 8: F&W will host the final annual public deer hearings on May 7 in Castleton and May 8 in Montpelier. Three earlier hearings were held in Springfield, Orleans and Middlebury. The hearings will include results of Vermont's 2013 deer seasons and an overview of the department's recommendations to the Fish & Wildlife Board for antlerless deer hunting opportunities in the youth, archery and muzzleloader seasons next fall.

Significant Events/Meetings:

Newport Airport: Watershed Management Division participated in an interagency meeting with VTrans to discuss the Newport State Airport improvements, which include the Runway 18-36 and Taxiway "A" expansion, nine proposed buildings, apron construction, drainage improvements, utility relocations, landscaping, and other incidental work necessary to complete the project. This meeting was held in response to the applicant's request for a May 1, 2014 issuance deadline for all permits. The project will require stormwater and wetlands permits as well as a Water Quality Certification (Clean Water Act Section 401). Several of the permit applications submitted by the applicant's consultant are not technically complete so we will not be able to meet the applicant's requested deadline for permit issuance. We have developed an aggressive timeline for processing these permits once technically complete and will continue to coordinate with VTrans on this high priority project.

Costco Individual Wetlands Permit Reconsideration: A request for reconsideration of an individual wetland permit for a gas station in Colchester was filed late last week. The issues have been reviewed and a letter was sent to the permittee requesting additional information regarding proposed stormwater infrastructure inside of wetland jurisdiction not addressed in the permit application. The permittee will provide additional material for review.

Seymour Lake: Watershed Management staff participated in a meeting to discuss the issue of water level management at Seymour Lake and the operation of the gate at the dam to manage water levels since the old dam was replaced in 2004. The meeting was attended by representatives from the Seymour Lake Association, Great Bay Hydro, Vermont Natural Resource Council, Trout Unlimited and the Agency's Fish and Wildlife Department. The new dam is part of a water quality certification for the Clyde River Hydroelectric Project operated by Great Bay Hydro. The Seymour Lake Association has made several proposals to lower the lake, and the Department has denied those requests. The other stakeholders at the meeting, apart from the lake association, weighed in on whether operations were necessary and whether there would be compliance with water quality standards. Stakeholders were largely in agreement that management of the lake levels was not warranted though the lake association disagrees.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Landslides and the Vermont Mitigation Approach: With the Washington State landslide in the news, the Geology Division is receiving questions about landslide hazards in Vermont. Our plan is to work with regional planning commissions to use a landslide mapping protocol we developed for the state hazard mitigation plan. The intent is to identify areas of potential slope instability and use the maps for land use planning.

N Street South Royalton Property, LLC: Compliance & Enforcement Division issued a civil complaint against the defendant for commencing construction and renovation of a pre-existing wood shop into a rental unit without a Wastewater System and Potable Water Supply Permit. Based upon the evidence presented, the Court upheld the complaint and imposed a \$1,500.00 penalty. This was the first appeal of one of our new citations ("environmental tickets") to be heard by the Court.

Meeting with Department of Health: Drinking Water & Groundwater Protection staff met to discuss proposed changes to our guidance document that outlines when a waiver from the requirements for a building or structure to have a lavatory or toilet will be allowed. The current alternative toilet guidance document is being revised and the discussion will include health concerns when alternative hand washing is allowed over the conventional washing with soap and water.

Clean Water State Revolving Fund Intended Use Plan Public Meeting: Facilities Engineering Division staff have completed the draft Intended Use Plan for the federal FY14 EPA clean water state revolving fund capitalization grant and the draft pollution control projects priority list for state FY15. The draft priority list consists of 23 projects, with an aggregate loan need of approximately \$38M. The presentation included a discussion on a fundamental change under consideration for pollution control grant and loan funding designed to take into account

project affordability, similar to what is done in the drinking water state revolving fund. If the change gains support, legislation would likely be needed to enable implementation.

Fish and Wildlife

New Opportunities for Outdoor Women: Staff began working on a revised BOW programming for the Department, rather than offer a program similar to VOGA's doe camp, with which the Department assists, it was decided to offer focused, day-long seminars on hunting and fishing-related disciplines.

Fishing: There continues to be a few ice fishermen on some of the inland ponds but ice conditions are deteriorating quickly. The ice on Lake Champlain is unsafe. Wardens report all shanties have been removed from the ice and, with some gentle reminders, removed from our access areas. In areas of Lake Champlain that have open water the fish shooters are beginning to get active along with the "Bull Pout" fishermen.

Do Not Feed the Bears! The bears have definitely emerged from their dens. Wardens are reporting a few bear damage complaints. Most of the complaints involve damage to bird feeders due to resident's reluctance to remove them due to the remaining deep snow and low food availability for the birds.

Search Warrant for Illegally Taken Deer: Several wardens conducted a search warrant in response to complaints of illegally taken deer in the Milton area. The resident at the initial home admitted to illegally killing 5 deer in addition to the one he was arrested for last fall. More interviews of other individuals led to the admission of 7 more illegally taken deer for a total of 12. Large amounts of venison and rifles were also seized as evidence. The investigation continues as there are likely more illegally taken deer involved.

Remedial Ethics Course: Wardens conducted two remedial hunter ethics course last week. One course was offered in Barre and the other in Weston. A total of 45 people successfully completed the course. The course is required before a person is eligible to purchase a sporting license after having had their hunting and fishing license suspended for two or more years.

Forest, Parks and Recreation

Forsey v. State (Confidential, Attorney Client Privileged, Attorney Work Product): The state filed a Third Party Claim for Declaratory Judgment and Implied Indemnity seeking a declaratory judgment that Green Mountain Power must indemnify and defend the State in this wrongful death action. Daniel Forsey drowned in the Little River during a hydro facility release into the Little River in August 2011. The State alleges that GMP operates the Waterbury Dam hydro facility and has control over the facility operations and regulatory requirements under the FERC license and thus is obligated by operation of law to indemnify and defend the State.

Ski Area Updates: Staff from FPR and the US Forest Service met last Friday with officials at Bromley Ski Area. Bromley is unique in that it leases both State Forest land and National Forest land for part of its ski area. Bromley officials reported strong ticket sales this year – generally comparable to last year’s record season. At the same time, energy costs have skyrocketed this past year and, if left unchecked, may not be sustainable over the long term. Jay Peak’s annual ski lease payment of \$243,868 was received this week by the Department. This year’s payment represents more than a 50% increase over last year’s payment of \$157,000.

PILOT (Payment in Lieu of Taxes): Lands Administration Division staff are working with ANR land acquisition staff to gather information on all new State parcels acquired from April 1, 2013 – March 31, 2014. This information will be forwarded soon to the Tax Department’s Division of Property Valuation and Review to be incorporated into new FY’ 15 PILOT payment estimates. The Administration’s proposed FY’15 budget includes \$2.7 million for ANR PILOT. This represents a \$600,000 increase over last year’s PILOT payment. Most of this increase was the result of a recent reappraisal of ANR land by Property Valuation and Review. The legislature is currently considering reducing the FY’15 ANR PILOT budget by approximately \$500,000.

VT Parks Forever: The quarterly meeting of the Board of Directors of Vermont Parks Forever was held April 7. Work is progressing on selecting an Executive Director and on refining plans for natural history interpretation projects for which a fundraising campaign will soon be launched.

Wildland Fire Equipment: The annual grant program providing wildland fire equipment to rural fire departments is in full swing. This year a total of 44 Vermont towns purchased \$50,000 worth of wildland fire equipment. The grant is a 50/50 match: the towns pay 50% and the grant from the US Forest Service pays 50%. The Division of Forests administers the grant program. Personal protection equipment and fire gear have arrived at the Essex District Office, and items are being sorted and organized for distribution to local fire departments.

Business Office

ANR Storage Annex: We have been working through BGS Property Management and it appears that the consolidation of several of our storage locations into the old NL Annex is financially feasible for us and the landlord. There are still some fit-up issues to be resolved and some final negotiations but we are hopeful that all can be resolved so a move in before the end of the fiscal year can be accomplished.

Our **FY15 Federal Indirect Rate Proposal** will go out to the Federal Government today requesting a 33.42% rate up from FY14’s approved rate of 30.72.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: April 11, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest: *MH suggestions in italics :-)*

1366: We continue to work with ACCD and IBM and VEDA to respond to 1366's request that we help with capital associated with a 5MW solar project. They are looking for \$3M to cover costs of the panels (\$0.60/Watt) and help with land and permitting. After discussion, it appears the best way to accomplish the objective is to have a third party (solar developer or IBM) build the project and pass part of the benefits on to 1366 through electricity credit. There are other options we're pursuing, but are working hard to make something happen. The Department has up to \$1.3M available to put toward either a project, interest rate buy down, or other incentive if need be (\$ is from ARRA loan repayments which we intended to put out as grants anyway – but there are some conditions that would need to be met, such as compliance with Davis-Bacon).

GMP Solar PPAs: We are moving forward with agreements on the GroSolar and Green Lantern projects to get out of the problem the premature signing of the PPAs caused. I have commitments from developers we won't repeat this process, and we will do our part by fixing the PSD's treatment of the notice period. We do not support the two NexSun proposals at 19

cents/kW as previously reported, due to the 1.5% escalator.

EVT testimony: I testified in House Natural Resources and Energy Committee yesterday supporting the EEU – I think Tony and EVT we both very happy.

VGS Phase II: Good news from the RPC supporting the project. We are still officially “evaluating” our position, and waiting to hear back from VGS about their response to our meeting last week proposing how to augment the benefit calculations for the project. I spoke to WPTZ (Stuart Ledbetter) about the RPC vote on camera yesterday.

VY: VSNAP edits: Have agreement from Entergy and CAN on draft. Spoke to Jane Kitchel and she is expecting language. Mark MacDonald on board, and I’ve given a heads up to Rebecca. Will talk to Campbell and Shap early next week. **PSB order re NEC:** NEC filed a motion to amend the CPG for the board to acknowledge they could add conditions without violating the agreement, without specifying what conditions they want to modify. We requested very fast deadlines to address the motion – the Board agreed, and set Monday as the deadline. Yesterday, NEC sought to amend their motion, and we filed today that that is not timely and we object. **Entergy Revenue Sharing:** Mike Twomey relayed to me on Wednesday that as part of their sale RSA, and the high cost of power this winter, they will be announcing \$17.5M due as part of that agreement within the month - with a check going to GMP for their share, which is at least 50% of that amount. I filled Mary Powell in yesterday, but this is being kept very confidential until a roll-out strategy is developed by Entergy, as they are concerned their workers will respond by saying “see, we should keep the plant open.” Entergy acknowledges this is a one-time anomaly and would not be expected in the future even if they were operating.

who

GMP Nelson Settlement: We were briefed on Wednesday that GMP has reached agreement with the Nelsons to purchase their property. Very good news, and the deal sounds fine. \$1.25M for property, \$50K to resolve outstanding property dispute, and retention of 35 acres for a hunting camp. Interestingly, the Nelsons want to stay in the house (the one that is ruining their health) for 2 years! This also needs to be strictly confidential as well until agreement is fully executed – which is still about 2 weeks or so out.

Legislature:

- *S.220/H. 736:* Darren testified in House Commerce on the electric rates section of the economic development bill. The Department’s main concern is that the House version has policy language that seems to preference electric rate design for manufacturers at the potential expense of other ratepayers. We are working with Chairman Botzow to improve the language.

Significant Meetings/Events this week:

April 7: Chris meeting with Mary Powell, GMP

April 8: Chris, David T., and Cathy Deyo testify in Senate Appropriations on PSD budget; Darren participates in EAN Capital Mobilization Workgroup

April 9: Chris, Darren and Geoff met with GMP's Don Rendall, Kristen Carlson, and GMP Counsel; Chris updated CEDF Board on ENVY

April 10: Darren, Andrew Perchlik, Anne Margolis meet with Dan Jones on Net Zero Montpelier initiative; Chris testimony on EVT finances in House NRE; Darren and Asa meet with Sandy Levine, CLF, and Ben Walsh, VPIRG on the efficiency DRP proceeding

April 11: NEPOOL and NESCOE conference calls

Significant Meetings/Events next week:

April 14: Chris attends Governor's Cabinet meeting

April 15: Chris is guest on "The :30" show on WCAX

April 16: Sound Investigation "kick-off" meeting

April 17: Chris, Darren and Asa meet with Warren Leon re RPS Study parameters

Media: *Chris spoke with Bob Audette;*

Everything Else:

PERD

Legislative Update

- Covered Senate Ag. hearing on current use, specifically to see what was being said about renewable energy systems on farms that are in current use.
- Attended weekly interagency state land use meeting. H. 397, the Current Use bill, is now in Senate Agriculture. Agency of Ag was planning to testify on broadening the definition of methane digester (the language now is limiting around both inputs (strictly manure) and outputs (strictly electricity)). The Committee apparently also discussed potential limitations on renewable energy systems that would be allowed under Current Use; the Agency of Ag will be keeping an ear out on our behalf for additional discussion along these lines.

Energy Efficiency Utility Activities

- Demand Resources Plan Proceeding
 - Staff continued to develop the 2013-14 DRP recommendation for EVT and BED which includes the following components due to be filed with the Board on April 16: (1) electric resource acquisition budgets and savings; (2) TEPF resource acquisition budgets and savings; (3) non-resource acquisition budgets (split between electric and TEPF) and descriptions; (4) EEU compensation (QPI award and operations fees) rates and budgets; (5) DPS evaluation plan and budget; (6)

EEU Fiscal Agent and EEU Fund audit budgets; and (7) impact of budget recommendations on electric consumers' rates and bills.

- Department will recommend that electric resource acquisition budgets for EVT and BED be set at a pace consistent with Scenario 2 as defined in the Board's order of September 9, 2013. Scenario 2 is budget constrained and was modeled by VEIC and BED to *"acquire all economically achievable potential through the extension of the current 2012-2031 DRP through 2034, with the 2032-2034 annual budgets increased at the same rate as the average year in 2018-2031."*

At the recommended pace of electric resource acquisition, the Department estimates during the 2015-2017 performance period EVT and BED budgets have the potential to achieve 2.7% and 2.2% of electric sales annually in their respective territories. This pace attempts to balance a number of statutory and policy objectives with a responsible pace of EEU expansion and the impact of gradually increasing budgets on customers rates and bills. The Department recommends the following electric resource acquisition budgets for the 2015-2017 performance period. The pace of budget increase represents approximately an average increase of 7%-8% annually relative to the previous year.

- EVT
 - 2015 – \$39.3M ~ 100,800 mWh
 - 2016 – \$42.4M ~ 105,000 mWh
 - 2017 – \$45.5M ~ 109,000 mWh
- BED
 - 2015 – \$2.4M ~ 6,769 mWh
 - 2016 – \$2.5M ~ 6,777 mWh
 - 2017 – \$2.7M ~ 6,784 mWh
- DPS Evaluation Plan – For the 2015-2017 performance period, the Department proposes the following which are generally in line with past EEU evaluation budgets. The Department proposes a small portion of these funds continue to fund two FTE DPS staff dedicated to evaluation and oversight of the EEU.
 - EEC-funded evaluation budget of \$3,975,300
 - TEPF-funded evaluation budget of \$322,300 and
 - FCM-funded evaluation budget of \$1,882,000
- TEPF – Thermal budgets are a function of FCM and RGGI revenues and are relatively static forecasted values. EVT plans for a number of programs with more than half of the funding dedicated to residential retrofits and estimating 4,400 completions.
 - EVT
 - 2015 – \$6.1M ~ 64,000 MMBtu
 - 2016 – \$6.7M ~ 77,000 MMBtu
 - 2017 – \$7.2M ~ 81,000 MMBtu
 - BED
 - 2015 – \$2.4M ~ NA

- 2016 – \$2.5M ~ NA
 - 2017 – \$2.7M ~ NA
- Staff continued work on rate and bill impact analysis of EEU modeled scenarios. Synapse is correcting errors and modifying methodology to more appropriately capture the upward and downward pressures on rates and bills in the analysis. A revised report is expected early next week.
- NRA – Staff reviewed EVT’s proposed NRA budget which was higher than in the inaugural DRP due to expanding activities including storage, analytics and security of AMI data. When asked EVT was able to identify \$1M in costs that could either be moved to resource acquisition or simply eliminated. Staff estimate an EVT NRA budget of approximately \$14M over the 2015-2017 period and cost shared between EEC and TEPF funds at a ratio of approximately 88%/12%. BED’s NRA budget is expected to be proportionately similar to EVT’s.
- Compensation for VEIC– VEIC proposed a compensation level of 6%. However, given that compensation is a fixed percent of total budgets and budgets are likely to increase, staff recommend that holding the current rate of compensation for VEIC at its current level of 4.1% budgets is appropriate.
- Energy Savings Accounts Option (for certain business customers to “self-implement” energy efficiency)
 - Met with Bill Driscoll of AIV to bring him up to speed on the changes to program design that the Department had proposed. AIV felt the proposed changes were good as they provided participants with more participation, although still prefers a more clear “opt-out” mechanism (which is not on the table here).
 - Participated in PSB Workshop on the Department’s proposed changes to the program design. The PSB staff and EEUs were generally supportive; however there are a number of clarifications to make in comments on the proposed redesign.
- Staff met with CLF and VPIRG to discuss potential budget proposals (in general terms) and the treatment and potential for behavioral programs to capture benefits of the state’s smart grid investments.

Evaluation

- Forward Capacity Market Evaluation:
 - Metering for FCM 2012 is ongoing.
 - 46 projects selected in total, 39 have completed metering.
 - 22 completed reports delivered to EVT for review to date.
 - 14 reports accepted by EVT
- Savings Verification –
 - Project sampling has been completed and provided to EVT. EVT to supply project files for review.
- Administrative Efficiency
 - Staff continued to review VEIC payroll data in the context of calculating EVT’s management span of control. Discussion with VEIC about why supervisory hours

from divisions outside EVT (i.e. shared services) not included in supervisor FTE calculations. Staff will meet with VEIC next week to further discuss/resolve.

Technical Advisory Group (TAG) and Technical Reference Manual (TRM) review

- TAG:
 - Provided comment on 2013 efficiency kit quality assurance review completed by EVT. The DPS feels that the process used by EVT introduced a large bias into the process and that the realization rate for this project should be between 49% and 56%, not the 67% proposed by EVT.
 - Reviewing reply comments by EVT on PIP 100 Clothes Dryers.

Renewable Energy Items

- Attended meeting with GMP where they shared their ideas regarding state buildings procuring clean energy. They would prefer to procure and own larger PV systems (5 MW) whose output and associated environmental attributes would be directed toward the State, as opposed to seeing the State net meter with a number of smaller, likely third-party-owned systems. According to their plan, the State's electricity rate would not change. A number of questions were raised, including whether the State owned enough large, suitable parcels to site 5 MW systems. We have communicated with Dan Edson of BGS and received a list of BGS-owned properties, and will be discussing prospects with ANR as well, as they are likely to have access to a much larger suite of potentially suitable properties.

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Net-metering

- Changes to Net Metering law took effect April 1, producing a flood of applications from VEC, WEC and Hardwick service territories. Nineteen of the 27 registrations processed since April 1 were from those three utilities.

Net Metering Activity 3/28/14 – 4/4/14

	Registrations	Applications	CPGs Granted
Count	27	4	10
kWAC	144.359	183.198	58.848
Ave Size kW	5.347	45.799	5.885

Cumulative Capacity of Registrations and Applications Submitted

Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of 15% CAP
1873.82	1862.59	40515.45	~ 27%

Total Energy Study

- Staff reviewed DEC's report outline and engaged in internal discussions regarding the forward-going process. Staff leans towards the Dunskey modeling being a component or Appendix to the PSD Total Energy Study Final Report next summer, allowing for a robust presentation and comment period following the TES Report release to help kick off the CEP. Another option is to independently release the results of the Dunskey modeling, and solicit stakeholder feedback/engagement on the results to inform the final TES report (and have a second round of stakeholder engagement).
- Mini update to the TES website to remove invitation for Legislative Report public comments.
- Began lit review of past uses of REMI to model carbon tax. Studies have been done for MA and CA. A sample of FACETS model outputs from DEC should be available next week.

ISO-NE

- Attended Distributed Generation Forecast Working Group meeting. ISO presented its final PV forecast with minor changes based on new data. The forecast will be included in the final CELT forecast, and be used for Transmission Planning purposes. ISO will apply all future forecasted PV as a reduction to the forecast. ISO will not incorporate the PV forecast in resource adequacy studies (i.e. for determining installed capacity requirement), noting that they "ran out of time" and that there are too many other moving pieces such as changes in FCM design. They had previously stated their intent to bring the PV forecast to the market committees for various approvals to changes in tariffs etc. to incorporate.

Integrated Resource Plans

- Met with VPPSA to discuss their IRP model, provide feedback on how they consider resource choices and what we are looking for with regards to narrative around their decision making process. The resource model appears to provide a robust framework to consider variables that affect decision making.

Heating Fuel

- Participated in Northeast Winter Fuels Group Conference Call. Participants included representatives from all the New England states and New York.
 - All jurisdictions experienced supply and distribution constraints and disruptions.
 - Maine, New Hampshire and Vermont seemed to fare a bit better than other states more reliant on natural gas for heating. The finite limit on pipeline capacity and the completion for available supply between the thermal and electric energy sectors exacerbated price spikes.
 - Efforts are underway to coordinate supply/demand data between the fuel offices and ISO-NE.

- Propane supply across the region was a problem. There has been a decline in delivery by ship to coastal depots causing a shift to rail delivery. More tank car capacity and regional storage is desired.
- Measure to reduce the impact of crop drying on propane supply include proposal to move practice to more efficient dryers.
- Among suggestions for states to more closely monitor fuel supplies is to make available to the states individual dealers data from EIA 782C reports. This would be dependent on states ensuring absolute confidentiality of the data by specifically exempting by law the information from FOIA request.
- Plans are being made for various forums to discuss the changing regional energy map and develop strategies for avoiding a reoccurrence of this season's problems.

Engineering

Vermont Yankee Update

With the exception of a planned control rod pattern exchange, VY has been at 100% power since the last report, with no notable operational issues. VY has conducted routine maintenance and surveillance activities during this period. Early this week, VY began a planned control rod pattern exchange, and was at 61% power Tuesday morning and at 72% power Wednesday morning. The plant has operated continuously for 369 days. Over the weekend, plant operators received an alarm from one of the Reactor Building Refuel Floor radiation monitors that was replaced less than a year ago due to similar spurious spiking. The alarm resulted in activation of both Standby Gas Treatment Systems, as designed. VY immediately responded to the alarm in accordance with plant procedures, and confirmed normal radiation levels on the refuel floor. VY replaced the detector with the same make and model, and the isolation system was returned to normal. My contact at VY was not aware of any alternative detectors from a different vendor, but he will look into it. There was no risk to plant workers or the public as a result of the inadvertent alarm.

Nuclear Engineer Position

A top candidate has been selected, and an offer will be made within the next week if references provide a good review.

Gas pipeline safety compliance activity

The Engineering and Public Advocacy divisions continued compliance action planning and development, related to recent natural gas and propane gas pipeline safety inspection activity, during this report period. Federal compliance action processes and formats are being compared to the Public Service Department authority for the purpose of ensuring future enforcement methods are consistent with federal intents, state statutes, and Public Service Board rules. This review is expected to prompt refinement of existing compliance action formats, such as warning letters and notices of probable violations (NOPV), and improve the department administration of gas pipeline safety regulation enforcement.

Solar Debates in Rutland

Two areas of debate have surfaced in the Rutland area as proposed plans for large solar farms come forward as part of GMP's Solar City efforts. The Rutland Town Select Board is debating their town plan with the intent of regulating the location and/or design of solar farms within the town. Some have proposed plans to totally screen them from view, and others are addressing the issues of set-backs from property boundaries and whether they should be allowed on actively farmed land. The Rutland City Board of Alderman voted this week to seek intervenor status in one of the proposed solar farms within the City limits which is being proposed for an area currently zoned Residential A which carries the restriction of allowing only single family homes to be within that designated zone.

Meeting with Energtek

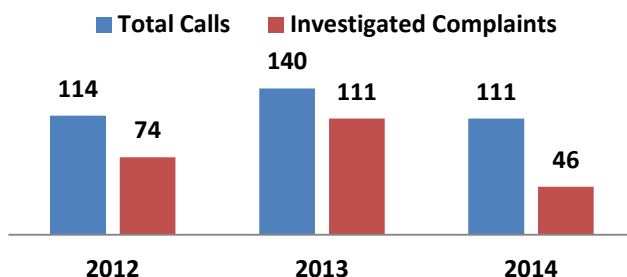
Engineering and PA met with representative from Energtek, which is proposing to serve natural gas by truck to residential customers outside of the VGS territory. Engineering and PA are working on issues of what constitutes "storage" (which would make them subject to Section 248) and the scope of regulatory involvement for Section 203/231 approval. Energtek was earlier also proposing to construct natural gas distribution system islands throughout Vermont, but has dropped this portion of the project.

interesting...

CAPI

Please note that this report covers activity from Sunday to Saturday, March 30-April 5, 2014.

Calls to CAPI **Same 7 days each year**



OTHER

Billing during suspended service/Comcast Docket 8224: CAPI and Telecom met regarding billing practices of Comcast (that we have discovered are also shared by FairPoint and GMP). When a customer fails to pay their overdue balance, Comcast does not move straight to disconnection, but instead puts the customer on a severely limited service for a maximum of 10 days before then disconnecting. The customer is charged (a lesser rate) for this limited service. If they pay their overdue balance prior to the disconnection, their service is fully restored. If they do not pay their balance, they are disconnected and the charges for the limited service are removed from the account. If the customer wants to restore service at that point, they must pay a

reconnection fee (that is substantially higher than the charges for the limited service). Previously, the Department had indicated concern about this practice to the Board. However, we have since learned of the 10-day maximum period of being placed on, and charged for, limited service and we understand that it is of financial benefit to any consumer wishing to continue service to pay for a period of limited service rather than paying the reconnection fee. The Board has opened an investigation into this billing practice and a pre-hearing conference is scheduled for 4/16/14.

Charter CPG renewal: Reviewed bids for completion of a statutorily required statistically valid survey of households in the Charter service territory. The Center for Rural Studies at UVM provided the lowest bid and appear prepared to follow through on the requirements in the RFP. Staff will pursue a contract with CRS.

GMP SQR review: CAPI, PA, and Engineering began the one-year review of GMP's Service Quality and Reliability Plan, as per Board order. This was due to the Board by 4/1, but was overlooked by all so GMP filed a partial review that addressed the metrics on staff injuries and requested an extension through April for completion of the rest.

GMP system merger: GMP cut over to a single phone system, billing system, website, and Interactive Voice Response system for customers. With this unification of systems, CAPI will now track all complaints simply under "GMP", rather than continuing to code their acquired territory as "CVPS".

Comcast directory assistance listing: An article in Rutland Herald about limited directory assistance for Comcast customers initiated complaint calls to CAPI and to Senator Sanders' office. The article erroneously stated that Comcast does not provide its listings to directory assistance. The reality is more nuanced, however. Per FCC rules, Comcast does provide their listings, but at a cost to the directory assistance company. At least one such company has chosen not to pay for them. In addition, Comcast made an actual mistake for at least one customer, where their number was not listed within the company's own directory assistance. Senator Sanders' office conferred with CAPI for assistance in developing their response to complainants.

NARUC: Participated in the monthly call for the staff sub-committee on consumer affairs.

Public Advocacy

Entergy VY CPG – Docket 7862 – On April 8 the New England Coalition (NEC) filed a Motion to Amend the PSB's order and CPG. NEC is now proceeding *pro se*, and the filing is rather vague as to exactly what relief is sought. Entergy is reluctant to keep performing its MOU obligations while the CPG is being challenged. In effort to keep the matter moving PSD has gotten consent from all parties (except NEC) to a response deadline of April 11.

GMP Rate Case and Alternative Regulation Filing – Docket Nos. 8190 & 8191 – On March 28, GMP submitted discovery on the Department’s initial testimony in the rate case. Responses are due April 11. On April 4, the Department and GMP provided responses to questions asked by the Board about whether the Board should utilize actual O&M costs in the upcoming rate design proceeding, rather than Base O&M costs, which were established pursuant to the merger order (and which are being used to determine the revenue requirement in this rate case). The Department indicated that there would be value in using actual O&M costs for the rate design since they provides a better reflection of GMP’s post-merger cost structure and therefore would likely lead to more fairly designed rates. However, the Department also acknowledged that performing an actual O&M cost review would take time and effort, which must be balanced against the above-stated benefits. GMP took the position that the rate design should be based on Base O&M costs, arguing that the review effort would not be worth any benefit to the rate design. It is unclear when the Board will address this issue. Separately, in the alternative regulation case, AARP submitted extensive discovery requests. GMP will provide responses on April 10. The Department is waiting to review this additional information before submitting discovery so as not to be overly burdensome to GMP given the scope of AARP’s discovery. Initial testimony is not due until May.

Barton Solar – Docket 8148 – The Board issued a second set of information requests upon the petitioner. Additionally, the Menards responded to the petitioner’s discovery requests. The petitioner’s responses to the Board’s information requests are due by April 11th.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The petitioner requested and the PSB granted a two week extension of the deadline for filing an MOU or status report. The new deadline for filing an MOU or status report is April 18th.

Red Pines Water System CPG Amendment – Docket 8207 – The petitioner has provided additional documentation which does not support the information contained in the petition. The PSD will continue to work with the petitioner to obtain the documentation and clarity required before the PSD can recommend the amendment. The PSD is due to file an additional recommendation to the PSB by April 29th.

NextSun Solar – Park Street – Docket 8194 – The hearing officer has scheduled a public hearing for April 17th. Additionally, the Division for Historic Preservation has requested intervention and proposed actions to prevent undue adverse effect on archaeological resources.

NextSun Solar – Main Street – Docket 8195 – The hearing officer has scheduled a public hearing for April 17th.

SunCommon Enforcement Matter – No Docket – A year ago, the Department entered into an MOU with SunCommon to resolve violations of the SSREIP rules, which provides incentives for certain renewable projects. To resolve the violations, SunCommon agreed to install an approx. 6kW solar PV facility at a public school in Vermont. SunCommon has installed such a facility at

the Shoreham Elementary School and submitted paperwork to verify the installation. Staff is reviewing the paperwork. Preliminary review suggests everything is in order.

FairPoint – CANNE Wire Center Reclassification - Docket 7958 – Oral Argument will take place on the Hearing Officer’s Proposal for Decision on this matter at 1:30 on 4/16. The PSD supports the proposed decision.

Sudbury Solar 2.0 MW Solar (Std Offer) - Docket 8225 – The PSB will hold a prehearing conference on 4/14.

AT&T 248a Cell Tower – Docket 7728 – Petitioner filed a Motion for Partial Transfer of CPG and Request for Non Substantial Change Determination. PSD filed comments supporting the non-substantial change determination but requesting clarification on the partial transfer of the CPG. It was unclear from the filing whether AT&T and the proposed additional party would be jointly and severally liable for all CPG conditions or whether there was an intention to divide the CPG responsibilities between them.

Demand Resource Plan Proceeding - EEU 2013-01 – PSB granted an extension on schedule to allow budget and savings recommendations to be filed on 4/16/14. PSD staff has almost completed discussions with VEIC and is proceeding with drafting our recommendations. On 4/9/14 we informed VEIC of the general range of our anticipated budget and compensation recommendations and it appears at this point that we are too far apart to contemplate a joint filing on these matters.

Burlington Telecom – Docket 7044 – The Board issued a procedural order, scheduling a prehearing conference for April 30, 2014. The order also “wishes to advise the City and the other parties to address in this proceeding whether the City’s current proposals are preferable to alternatives that might better maximize the future recovery for the City’s taxpayers and minimize the losses they will otherwise bear as a result of the City’s past conduct.” The order appears to suggest an alternative of avoiding the third-party bridge financing contemplated in the settlement agreement in favor of a direct payment from Burlington to Citibank to cover the agreed-upon settlement amount.

Cold River Solar – Docket 8188 – The Department submitted first round discovery requests on petitioner, as well as retained an aesthetic expert, Mike Buscher of TJ Boyle Associates, to review the petition and project site. The petition raises significant issues with respect to an underfunded decommissioning fund, aesthetics, and economic benefit due to a high PPA price with GMP. A site visit is scheduled for April 18, 2014.

AT&T 248a Hinesburg Application – No Docket – The Board issued a memo rejecting an expansive reading of the § 248a statute, supported by the Department, allowing for the inclusion of previously approved but not installed equipment when calculating the increased surface area of the additional equipment in § 248a de minimis modifications to existing facilities. The Board ruling will limit the number of projects that qualify as de minimis

6/11/14

modifications. AT&T and VTel in particular had been submitting de minimis project applications that were contingent on the expansive reading of the statute. The Department does not intend to appeal the hearing officer's decision.

VTel § 248a Stratton Application – No Docket – The Department filed a response supporting VTel's motion to modify the required 45-day pre-application notice to landowners adjoining the project site. VTel's Stratton project would require individual notice to approximately 1,500 individuals, mainly seasonal condo and timeshare owners. VTel proposes to give notice to approximately 200 of the closest residents, and homeowner and condo associations further from the site, as well as publication of the 45-day pre-application notice in the local paper.

Addison Expansion—Docket 7970—The Board ruled against Ms. Lyons' (a landowner newly affected by the Old Stage Road re-route) pending motions, and she has filed a Notice of Appeal. Mr. Hurlburt, the "original" affected landowner on Old Stage Road, has filed a Motion to Enforce the December 23 Order, which we are reviewing. It is unclear what exactly he is requesting.

Addison Expansion Phase 2—Docket 8180- The Board held a workshop for intervenors in Cornwall on April 7. It was well attended. VGS has filed a second request with the Board to limit the scope of landowner interventions with more specificity; the PSD is considering a filing in support in light of the fact that we agree and had already requested such a ruling. We are finalizing our first round of discovery requests on VGS and hope to serve this week. ANR filed a Motion to extend the schedule, which was immediately supported by many parties. At this point, it appears that agreeing with the ANR request will at least insure that a more protracted schedule will not be put in place. VGS and ANR continue to have unresolved issues around the Shoreham Swamp; the PSD is attempting to facilitate resolution. The Addison County Regional Planning Commission votes on April 9 as to whether the Project conforms to the Regional Plan.

GMP/VELCO 248 Petition for Georgia Interconnection Project—Docket 8205- GMP has filed responses to the PSD's initial discovery requests and staff is reviewing. A site visit is scheduled for April 15. The PSD remains hopeful that a Stipulation can be entered into.

Nulty natural gas project-no docket-Together with Engineering staff, have met with Mr. Nulty and his team a second time. They are close to a final MOU with VGS to purchase gas. Their business plan seems to be in a state of flux as they try to avoid Board regulation.

CPG # NMP 3644 – Sideline Solar – PSB granted a second continuance at the request of the Petitioner until 4/21/14. Petitioner has now indicated it will ask for a third continuance until June to conduct some field work required by ANR. If granted by the PSB, this will provide an adequate opportunity for DPS to have certain deficiencies in the aesthetics report supplemented.

CPG # NMP 3640- Novus Barre Town Solar – PSD recommendation filed on 4/4/14 proposing one additional condition related to engineering and stating that our review had revealed no

significant issues with the substantive criteria of 30 VSA § 248

CPG # NMP (no number yet) – Waterbury Solar - PSD recommendation filed on 4/7/14 proposed two additional conditions related to engineering and stating that our review had revealed no significant issues with the substantive criteria of 30 VSA § 248

CPG # NMP (no number yet) - Townshend Dugreiner Solar - PSD recommendation filed on 4/7/14 proposing one additional condition related to engineering and stating that our review had revealed no significant issues with the substantive criteria of 30 VSA § 248. ANR has raised some issues with the petitioner and asked for additional time to complete their review.

CPG # NMP (no number yet) – Westminster Dukeshire Solar – PSD recommendation filed on 4/7/14 proposing one additional condition related to engineering and stating that our review had revealed no significant issues with the substantive criteria of 30 VSA § 248

CPG # NMP (no number yet) – Vermont AllSun Solar South East State Correctional Facility Windsor - PSD recommendation filed on 4/7/14 proposing two additional conditions related to engineering and stating that our review had revealed no significant issues with the substantive criteria of 30 VSA § 248.

Finance and Economics

Electric

Merchant Generation – Staff has completed its review of five (5) separate renewable energy (SPEED) projects. A consensus among the staff has concluded these projects, after price concessions through PPAs with GMP, are near or on the cusp of providing marginal benefit to the state. The Department's position on these projects is under review and is continuing to develop. The five projects include:

- Docket 8212: Charter Hill Solar, LLC. Filed 2/12/2014, Petition for a 1 MW photovoltaic electric generation facility.
- Docket 8195: NextSun Energy Rutland, LLC. Filed 12/17/2013, Petition for a 1.5 MW solar electric generation facility.
- Docket 8194: NextSun Energy Rutland, LLC. Filed 12/17/2013. Petition for a 1.83 MW solar electric generation facility.
- Docket 8188: Rutland Renewable Energy, LLC. (Cold River Project) Filed 12/20/2013. Petition for a 2.3 MW solar electric generation facility.
- Docket 8182: Rutland Renewable Energy, LLC. (City Solar Garden Project) Filed 11/26/2013. Petition for a 1 MW solar electric generation facility.
- MW of the five petitions above total = 7.63; when including the 2.3 MW Stafford Hill project Rutland solar MW total 9.93.

Gross Receipts Tax Receipts

- Received this week \$271,482.60

- Received to date \$374,445.04

Regional Policy

New England Infrastructure Initiative

- States are continuing to discuss evaluation of transmission/generation bids.
 - There has been increased emphasis on the idea that the transmission component could be used to support wind projects, in addition to large hydro. Connecticut's existing legislation, as well as the bill that Massachusetts is currently pushing, require that any RFP allow both large hydro and Class One renewables (realistically, wind is the only resource that might be able to compete). Whether wind has a realistic chance of competing depends on the structure of the evaluation process.
 - Connecticut and Massachusetts are pushing to include the value of reduced renewable energy credits prices in the calculation of benefits; Vermont staff are pushing back as REC prices are primarily a concern for those two states and that attribute does not provide any value to Vermont.
 - Vermont staff are also advocating to include some sort of weighting of transmission costs when evaluating projects, as opposed to simply looking at total costs (which includes energy and potentially REC purchases).
- States are exploring how to allow utilities that have distribution and transmission functions (such as National Grid and Northeast Utilities) to be able to participate in the RFP process. The concern is that the transmission entities may bid to build transmission; however, the distribution entities are being required to purchase the output of the RFP. It's likely that some sort of averment or non-disclosure agreement might be developed to ensure that these utilities do not game the system. Depending on whether any of the Vermont utilities are interested in potentially purchasing power as a result of the RFP, those utilities may have to sign agreements that they will not communicate RFP details in advance to VELCO.



State of Vermont
Department of Public Safety
103 South Main Street
Waterbury, Vermont 05671-2101
www.dps.state.vt.us

To: The Honorable Peter Shumlin
From: Keith Flynn, Commissioner of Public Safety
cc:
Date: April 11, 2014
Subject: Weekly Report

Emergency Management/Homeland Security

Issues/Updates:

Jeff
Hazard Mitigation Planning has hit a significant snag due to a recent FEMA interpretation stating Regional Planning Commission indirect costs are not eligible under HMGP planning grants. This problem arose as a result of an audit finding in another state. We are working with RPC Executive Directors to develop a work-around, which may require ending previously-awarded subgrants and restructuring HMGP planning grants with DPS as grantee AND subgrantee, and RPCs as contractors. This is an urgent challenge, because until it is resolved RPCs cannot cover their true costs and are not proceeding with technical assistance to towns on Hazard Mitigation plans.

The VCOMM Board met this week. The board is still operating under the 2012 EO as 2013 is still under review. Paul Duquette was re-elected as Chair with Al Barber and Roger Marcoux elected as Co-Vice Chairs. When the 2013 EO is issued new elections should be undertaken.

DEMHS hosted flood awareness meetings in Lyndonville, Montpelier and Weathersfield this week. With the Mendon and Johnson meetings last week we had approximately 150 in attendance. The purpose of the meetings was to discuss ice jam and open water flood potentials this spring.

Director took interviews with the Brattleboro Reformer and the Rutland Herald regarding emergency planning and the decommissioning process of VY.

Legislative Contacts:

Received additional information request from the Joint Fiscal regarding the Vermont Communications (VCOMM) Board.

Responded to Patricia Coates of Rep. Welch's office regarding a constituent contact from Windsor concerned about a proposed alternate project on Broad Brook Road (the same folks contacted Lieutenant Governor's office last week. Discussed with Town Manager).

Responded to an inquiry from Patricia Coates of Rep. Welch's office regarding status of a buy-out in Highgate (waiting for the town's Hazard Mitigation Plan to be completed).

Fire Safety

Issues / Updates:

The division reviewed \$65,000,000. 00 in new construction valuation collecting \$250,000.00 in permit fee revenue. The fee for the new adventure center came in.

The Fire Academy has been in discussions with regional experts regarding new evidence on the hazards of flashover in structure fires. New furnishings today contain more plastic, foam and artificial material causing fires to grow faster and hotter than older furnishings. In short interior firefighting tactics will be changed in the future saving fire fighters lives. In fact, assumptions today in fire prevention use 25 year old Time Temperature Curve data. Old data shows a fire growing much slower with lower temperatures before escalating to flashover.

Conducted three informal appeal hearings and reached a resolution for each case. These appeals resulted from fines issued to night club owners for blocked exits.

Legislative:

Friday April 11, 2014 at 9:30: Testimony on the electrical installation bill.at House Commerce and Economic Development Committee

Vermont State Police

A Troop

Suicide in Huntington, 56 year old male hung himself, was suffering from depression and going through a divorce

Drug case at CCCC

B Troop

Multiple detectives responded to Brattleboro for officer involved shooting

Meth Team call out to St. Albans

3/Bomb Squad call outs

C Troop

Tpr. pulled over an operator in New Haven and arrested the operator for possession of a regulated substance (morphine).

New Haven barracks responded to an attempted homicide in which a neighbor shot an elderly male sleeping in his bed with a shotgun, troopers surrounded the neighbor's residence and took fire, Sgt. Duplissis and Tpr. Daley were struck with birdshot and were treated and released, suspect surrendered without incident.

New case- Drugs (buprenorphine) correctional Center. Charged Michelle Doaner with transporting drugs into jail, dispensing a narcotic and cruelty to child under ten by person over sixteen. She used her one-year-old daughter to transport the drug into the correctional center while visiting her boyfriend.

Charged Greg Munukka with possession of narcotic.

D Troop

Drug case in Brattleboro, related to officer involved shooting. Charging of female in motel room with decedent.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin
FROM: Secretary Jeb Spaulding
DATE: April 11, 2014
SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Status of Governor's Priorities:

Stable. Governor's priorities captured in H. 864, the capital budget adjustment bill, which will be voted out of SIC next Tuesday. The hope is to avoid a committee of conference.

Legislative Issues/Contacts:

Weekly meeting with Speaker Smith to touch base on Lamoille County courthouse project schedule and special circumstances and H. 878, mini Davis Bacon bill. Next week Shap's political future plans are on the agenda.

Press/Media Notes:

Peter Hirschfeld, VPR, inquired about the procurement of tasers. His request remains outstanding.

Significant Events/Meetings:

- District Heat Plant follow up meeting with Jessie Baker, Bill Fraser, Julie O'Tool, Bob Rea, Joe Aja and Wanda Minoli to discuss the Montpelier response to the actual cost overruns experienced by the project.
- Lamoille County Courthouse meeting with BGS staff to discuss scheduling, vacation of the building and the externalities of the project.

- AG/ANR Lab Options update with Secretary Spaulding, Michael Clasen, Jolinda LaClair, Justin Johnson, David Mears, Wanda Minoli and Sandra Vitzhum. Simpler approach to the site selection process and decision making attained.
- Facilities for DMH/Corrections Forensic Patients discussion w/ Secretary Spaulding, Michael Clasen, Andy Palito, Paul Dupre and Frank Reed.

Evolving Issues:

- Fuller Farmhouse: conference call with Noelle Mackay, Laura Trischmann and BGS Staff to discuss the Hubbardton request to purchase the site and conflict with HP's petition to the National Register.
- St. Albans/Mylan, 20 Houghton Street: Mylan's Vermont counsel not agreeable to AG's environmental liability language. We will continue to search for common ground.

FINANCE AND MANAGEMENT

Issues Update:

Commissioner Reardon sent Senate Appropriations a response letter to the House passed budget on Tuesday, April 8, 2014. The Senate Appropriations Committee has begun its mark-up of the big bill. The budget office is attending the meetings and will communicate changes and developments.

In addition, the budget office sent a memo containing technical corrections for H.885 to the Joint Fiscal Office.

The Pay Act Fee Bill was taken up in Senate Gov Ops on Thursday, April 10, 2014. Commissioner Reardon is scheduled to testify this afternoon. The budget office does not anticipate the same challenges faced on the House side.

HEALTH CARE REFORM

SIM Grant: On April 2nd, the Governor announced the award of \$2.6 million in grants to Vermont's providers working on innovation as part of the State Innovation Models sub-grant program. The awards will foster innovation and health care delivery changes throughout Vermont. The SIM team also convened four of its work groups over the past two weeks. These work groups focus on developing episodes of care, care management coordination, Vermont's data and information technology infrastructure, and population health measurement. Medicaid is continuing its conversations with CMS about the Medicaid Shared Savings ACO Program State Plan Amendment.

HUMAN RESOURCES

Legislative Issues/Contacts:

Express Scripts, Inc. (ESI), the State's pharmacy benefits manager contacted Commissioner Duffy regarding a proposed amendment to S. 252, the Green Mountain Care Financing bill. As drafted, ESI believed it would be required to disclose confidential competitive information and implied it would

withdraw from Vermont rather than make such disclosures. Commissioner Duffy spoke with Robin Lunge, and it appears this amendment will be modified to ensure appropriate confidentiality.

Commissioner Duffy testified before House Government Operations on the S. 218, the temporary employee bill. The Committee appears disinclined to add a sick leave provision to the bill, given the Senate's decision to delete the provision.

Commissioner Duffy will work with the Senate Appropriations Committee to insert language into the Big Bill on a position pilot and changes permitting the implementation of the Employer Group Waiver Program (EGWP).

Press Contacts:

Commissioner Duffy spoke briefly with Peter Hirschfeld regarding claims that a state employee is being retaliated against for union activity.

Evolving Issues:

DHR is working on distributing a training it prepared on whistleblower activity to all employees. Computer issues prevented distribution, but DII is addressing the issue.

Commissioner Duffy will present a supervisory training plan to Secretary Spaulding this week.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Healthcare:

- *VHC*: Nick Waringa met with CMS on the VPR reported incident affecting VHC (FTP password problem). CMS had several technical questions around the incident that were resolved to their satisfaction.
- *IE*: The IE project did move forward with the posting of the RFP but is already in RED status due to the large scope and limited timeframe for some of the functionality. There is some hope that the deadline based on federal funding will be extended, but if it is not, this project is at risk.

Legislative Issues/Contacts:

Commissioner Boes testified to House Healthcare on S.252 Sec 9 and stated that putting hard deadlines on projects before scoping and contracting were completed puts those projects at higher risk as tradeoffs need to be made to fit schedule. There was active discussion from the normal people.

Deputy Secretary Leriche testified to House Gov Ops on H.516 that ACCD was ready and willing to take on VCGI but was not "fighting" to do so. Bruce Westcott, a former VCGI Executive Director, testified DII was a better fit for VCGI from his view.

Significant Events/Meetings

Heartbleed: Security vulnerability has the potential to seriously impact the state, but the full implications are still unknown. So far, it looks like VHC and Vision/VTHR are not susceptible, but we are still in the verification process for those and other state services.

- *History*: Heartbleed is a bug that has existed in an extremely widely used piece of software (OpenSSL) for over 2 years undetected. It was discovered on March 14th and a patch was released April 8th to address the problem.
- *Impact*: The bug provides a method to fully compromise the communications to and from servers. Attacks leveraging this bug are largely undetectable but have serious ramifications up to and including the compromise of all user accounts, and subsequently all data transmitted to or from the server.
- *Response*: DII has sent an email to administrators throughout the state requesting immediate and timely remediation of the problem on suspected servers. DII will also be proactively scanning the state's network looking for servers that may be susceptible to compromise and actively reaching out to administrators to address the problem. Response to the problem may include a full reset of passwords in the applications residing on the server. A theoretical example of this would be a need to reset passwords for all user accounts across the entire VTHR system.

SoS Website: The Sec of State launched their new website this week which is hosted remotely and is not compliant with state standards and policies. We need to have some internal discussions within AoA to understand what our strategy should be for the web and how important consistency and standards are for Vermonters. This is now the 2nd site published in the last month that is inconsistent with other state sites (SOS & VDOL). However, both sites do implement improvements in content and functionality from their previous sites (these improvements are possible within the state standards).

Evolving Issues:

General: Commissioner Boes met with ACCD Deputy Secretary Lucy Leriche and VGCI Executive Director David Brotzman on Wednesday in preparation for Thursday testimony in Gov Ops on H.516. We answered the Deputy Secretary's questions concerning VGCI mission, balance sheet issues, timing, etc.

LIBRARIES

No report.

TAXES

Legislative Update:

Ed Finance:

Senate Finance has done a relatively superficial walk through of the bill.

- *Next Year:* They took stark testimony from Mark Perrault, who sounded the alarm that next year looks no better in terms of the rate increases. In fact, Sen. Ashe has had Perrault and Deb Brighton looking several years out for trends, and they see no improvement in immediate future.
- *One-time monies:* The Committee seems to have particular concerns about using one time monies this year and starting next year in a hole again.
- *Slope:* At least some members want to pushback about extending the slope to increase the pool of income sensitized payers (this is one easy area to free up money)
- *Small Schools Grant:* Some noise questioning why the small schools grants aren't eliminated faster.
- *Municipal Beaches:* They have moved Sen. Kitchel's provision back into the Miscellaneous Tax Bill.

Miscellaneous Tax Bill:

Again, Finance has not dug too deep into the bill yet.

- *Wood Products Manufacturer Credit:* Finance has stripped out.
- *E-cigs:* Finance heard mixed testimony from Commissioner Chen and vaping advocates, and do not appear poised to adopt the e-cig tax.
- *Malt beverages:* Finance has been working to amend the tax to ease the financial and administrative burden on craft brewers. They looked to adjust the tax rates by ABV or by gallons, but they are having a hard time hitting upon a design that is revenue neutral.
- *Estate tax:* The Commissioner will deliver Sen. Ashe and Galbraith an update on the estate tax. 18 states have an estate tax; 32 have eliminated it – and the trend in the past four years has been for states to eliminate or restructure and reduce the tax (including in Democratic states such as NY and MD). Generally, reform is not revenue neutral, and in any event, is difficult to forecast – it should be a goal for Vermont when revenues rebound more. *next yr?*
- *Use tax:* Finance appears interested in adjusting the current safe harbor chart to increase the amount of default use tax that taxpayers voluntarily pay. The timing is unfortunate. This is the first year that we have put on the tax forms a certification that encourages people to put something on the use tax line. As of April 1st, we had 8.9% returns reporting use tax, versus 5.7% at this time last year, with over \$250,000 increase in revenue. The Commissioner heard

get this

from a CPA at a large firm that 100% of his clients will file this year reporting some use tax – however, he thinks that the chart is already too onerous, assuming more taxable purchases online or out of state than is likely. We have heard this from other practitioners; that we should calibrate a more reasonable chart to encourage its use.

Current Use:

The bill as passed by Senate Ag gives one new position to Tax, however several areas of the bill are problematic and suggest an even greater resource demand for our PVR division.

- *Section 3, Land Use Change Tax:* The penalty structure will require more appraisals by PVR to determine the fair market value, rather than the pro-rated value, of parcels of land in the program less than 10 years.
- *Sections 5/6 Subdivision or “Parking Revisited”:* This time around, the bill charges PVR to investigate when listers report that enrolled land has been subdivided. The problem is that towns do not have uniform rules on subdivision which will complicate investigation, and, as with previous attempts, there will be unintended consequences, placing PVR at odds with farmers. Would be better to require the lister reports, and have PVR submit a report to the legislature summarizing the results and issues.
- *Section 8, Auditing Town Valuations:* Requires PVR to audit the valuations of current use parcels in five towns each year, and if, on average, the town values are more than 10% higher, PVRs determinations are substituted. This would involve roughly 300 parcels per year, and put PVR at odds with towns. Would be better to run a pilot and determine the true scope of the perceived problem before putting this structure in place.

Operation:

Returns Processing: We will be watching the number of returns this weekend carefully, since we have been running ahead; in any event we expect tens of thousands of last minute filers.

Strategic Plan: We held our quarterly senior staff meeting this week and reviewed our 2011 three-year strategic plan. We have made some significant progress on our four goals, particularly since we formed our Policy Division and switched gears on our IT system. We plan to hold our annual retreat after the session and begin updating the plan, which will be much easier now that our direction is clear.

VTax: Two of the principals of FAST visited VT this week for an important check-in. Everything on the project continues to go smoothly. In fact, the FAST team unveiled a demo of its base configuration of our corporate and business returns processing; staff was impressed. In the wake of the House “booking” the General Fund’s 20% share of the enhanced revenue from this project and our data warehouse, our processing unit is working with Finance and Management to optimize our procedures in accounting and reporting our results.

CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

From: Susan Spaulding
Date: April 11, 2014
RE: Boards and Commissions Update

UPDATE:

Housing & Conservation Board: Gus Seelig is contacting Josh Laughlin to tell him more about the Board and to see if he is interested in serving.

Vermont State Housing Authority: I spoke with Toby Young and she didn't say no, but she didn't say yes. The Executive Director of the VSHA will be calling her to explain what being a member of the VSHA means. I expect to hear back from Toby next week.

Consumer Advisory Council on Health Care Reform: Michael Costa believes Trinka is a productive presence and thinks it is good to have her at the table. I went ahead with the appointment.

Current Use Advisory Board: You gave a thumbs up to Casey Darrow as an agriculture person on this Board, minor screw up, the vacancy was for a selectboard member or lister! Bill Johnson from the tax dept has contacted Carol Dunsmore, ag rep whose term ended in January, and suggested she not seek reappointed to the Board but instead be appointed to a different board since the 2 ag reps are currently both from Franklin County. She is thinking about it over the weekend. Hopefully it will be squared away next week. Sorry about that.

Appointment List for April 8, 2014

Governor's Council on Physical Fitness & Sports:

APPOINTED: Sarah Neith, Burlington
REAPPOINTED: Laurie Knauer, Castleton
REAPPOINTED: Alison Logan, Winooski

Consumer Advisory Council on Health Care Reform:

APPOINTED: Joel Cook, Charlotte
APPOINTED: Mari Cordes, Lincoln
APPOINTED: Trinka Kerr, So. Burlington
APPOINTED: Deborah Lisi-Baker, Waterbury
APPOINTED: George Lovell, Jr., Goshen
APPOINTED: Ethan Parke, Montpelier
APPOINTED: Deborah Richter
APPOINTED: Peter Sterling, Montpelier
APPOINTED: David Tucker, Sutton
APPOINTED: Stuart Weppner, Elmore

Vermont State Housing Authority:

REAPPOINTED: Linda Ryan, St. Albans

Children & Family Council for Prevention:

REAPPOINTED: Laurey Burris, Shelburne (Substance Abuse/Parent)

Standing Committee for Children, Adolescents, and Family Mental Health:

APPOINTED: Jeetan Khadka, Burlington (Youth)

APPOINTED: Betsy Clavelle Cain (Clinical Director)

APPOINTED: Pamela Hunt, Essex Jct. (Parent)

APPOINTED: Laureen Mulhern, Bennington (Parent)

REAPPOINTED: Kathleen Holsopple, Fletcher (Parent)

REAPPOINTED: Cynthia Smith, Fair Haven (Family Member)

REAPPOINTED: Cindy Martell (Family Member)

Current Use Advisory Board:

APPOINTED: Casey Darrow, Putney (Agriculture)

REAPPOINTED: Gail Fallar, Tinmouth (local gov't)

New Motor Vehicle Arbitration Board:

APPOINTED: David Baker, St. Albans (Technician Rep full Member)

APPOINTED: Stephen Carbone, Waterbury Center (Alternate Technician)

Developmental Disabilities Council:

REAPPOINTED: Susan Ryan, South Hero (UVM Educator)

REAPPOINTED: Marcella Ryan, Winooski (Person with Developmental Disability)

Justice of the Peace, Town of Sutton

APPOINTED: Danielle Fortin

Justice of the Peace, Rutland Town

APPOINTED: Norman Cohen

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: April 11, 2014
Re: Weekly Report

Status of Governor's Priorities: House marking up Budget- no issues with DLC.

Legislative Issues/Contacts/Updates:

- S299: would allow for licensees to serve flights of various products for comparison purposes. The bill was passed out of Senate and is in House General.
- 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.
- House General Committee will be consolidating these bills and maybe some House bills next week. I am going up on Tuesday to speak to these changes.
- H884 Miss Tax Bill: Spoke this past Tuesday on some changes to the spirits tax that will affect in state manufacturers. Answered technical questions of how the tax works and who pays it. The committee is still looking at this and will most likely make some adjustments.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 05/07/2014 - Enforcement Hearings.

Evolving Issues:

- ERP/POS Project Kick off meeting next week.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in May.

Summary of Key Department Activity:

- April sales so far are at 4% which is a good sign. We are still year to date in a good position.

Commissioner's Commentary: Have a great weekend.

Elizabeth H. Miller
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