

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

**Sent:** Sunday, February 08, 2015 1:32 PM

**To:** GPS

**CC:** Johnson, Justin; Allen, Susan; London, Sarah; Coriell, Scott; Richards, Alyson; Miller, Lawrence

**Subject:** Weekly Reports - Executive Privilege 02 06 15.pdf

**Attachments:** Weekly Reports - Executive Privilege 02 06 15.pdf; ATT00001.txt

A few notes for all of you.

# WEEKLY REPORTS

Checklist  
2/6/15

Elizabeth Miller/Alyson Richards

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

TBD

- ☒ Agency of Transportation – Sue Minter
- ☒ Agency of Human Services – Hal Cohen

Sue Allen

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

Sarah London

- ☒ Department of Public Safety – Keith Flynn
- ☒ Agency of Administration – Justin Johnson

Susan Spaulding

- ☒ Boards and Commissions – Susan Spaulding
- ☒ Department of Liquor Control – Mike Hogan

To: Governor Peter Shumlin  
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development  
Date: February 6, 2015  
Re: Weekly Report

## LEGISLATIVE ACTIVITY

- **Economic Development Bill:** Lucy is working with Chairs Botzow and Mullin on the companion economic development bills being created in the House and Senate. So far, they both contain the Administration's provisions from the Governor's budget speech. Lucy is doing research on several other provisions in the Senate bill: Angel Investor Tax Credit; Strategic Employers; dedicated funding from VEGI growth for workforce development; and a special program for workforce training for advanced manufacturing and IT.
- **Marketing Discussion in House Commerce:** Lucy had a long and broad ranging conversation with the House Commerce Committee about the current structure and future possibilities for marketing Vermont and Brand development. Rep. Scheuermann feels strongly that Vermont should hire an outside marketing/branding firm to come up with a unified campaign for Vermont. Others agreed. Lisa Gosselin will be working on a marketing plan for the new funding that could come from the "Tourism and Marketing formula" we are advancing.
- **VCGI Board Meeting/Transition and Fee Bill:** Lucy attended what was hoped to be the last VCGI Board meeting. She heard considerable angst from current employees about the delay of an offer letter, and the inadequate time frame that they will have to consider offers. This transition is clearly and understandably stressful for them. Michael Clasen called asking about the two positions we need from the pool for VCGI. These two positions are critical to a smooth transition and smooth operations of VCGI when they are here.
- **Rental Center:** Lucy testified on behalf of the administration in favor of the bill's intent. She emphasized transparency for the customer and limits on interest. She also shared Dale Azaria's preliminary legal review and opinion that it will not affect mobile home financing.
- **CONFIDENTIAL - Additional Marketing Funding:** Lucy spoke with Steve Klein about the Administration's proposal for additional funding for marketing. He is very much opposed to this proposal because he feels it could undermine the integrity of the General Fund. He doesn't want to see carve outs like this, especially since the general fund is vulnerable and believes we should not be cannibalizing the portions that are performing well. Lucy asked him how he would feel if it were simply restructured as a straight waterfall which he did not like either. He said he was glad the legislature has finally gotten rid of the waterfall after years of attempts. He suggested an additional 1% be added to R&M tax that could be dedicated to the fund. Lucy let him know that the Governor would not be likely to support that idea.
- **CONFIDENTIAL - Tech Workforce Recruitment Events:** Lucy followed up with Shap on his idea to hold a couple of high profile tech recruitment events in Boston and New York. Shap is enthusiastic about using \$200,000 from the Governor's Enterprise fund for this purpose. He shared that he was getting significant negative feedback from people about using the funds for Global Foundries because they are big and huge and they don't need the money. He also said that he considers the money at risk with this legislature and thought using money for a recruitment event would be supported and may help to protect the fund.
- **CONFIDENTIAL - Vermont Strong Scholars:** Lucy is convening a meeting with Justin, Jim Reardon, Beth Pearce and Aly to explore financing for the program. Specifically, she would like to discuss financing it through the state's general obligation. Conversations around marketing VSS continue.
- **Testimony in House Ways and Means on the Misc. Tax bill regarding municipal parking garages and the updates to the Downtown Tax Credits.**
  - DHCD and Tax worked with the City of Winooski last year to address an issue around their municipal parking garage because they were leasing the parking spots to businesses and thus, they were not available for the public good and should be taxed. This fix is again in Misc. Tax. Noelle testified on how targeting the fix to designated centers support our land use goals.
  - We worked with Tax to update the caps on some of the qualified improvements a) limited use limited access (LULAs) that are 'closet elevators' that can improve accessibility, but cost less than an elevator. The 50 % cap

was increased to \$40,000; and b) the cap for other code improvements was increased from \$25,000 to \$50,000. The Committee seemed supportive of both.

- **Mobile Home Park Bill (H.123):** Rep. Bill Botzow's mobile home park bill was introduced this week and reflects input provided by Jen and Dale Azaria on earlier drafts. It would expand DHCD's enforcement authority and makes failure to meet habitability standards a violation of consumer protection laws. House General, Housing and Military Affairs Committee Chair Helen Head told Jen that her committee may not have time to take it up this year.
- **Disposal of Property:** The House General, Housing and Military Affairs Committee reviewed a draft committee bill related to the disposal of tenant property following an eviction. The committee's interest in the bill follows a decision by the Vermont Supreme Court – *JV, LLC v. Ayer and Martell*. Chairman Head feels the committee needs to act to eliminate a potential conflict in statute between rules for the disposal of property after a tenant abandons a rental property and the rules that apply after an eviction. Jen spoke with representatives of landlords, the Vermont Affordable Housing Coalition and Vermont Legal. None are aware of any related problems in practice and they do not feel legislative action is necessary.
- **Misc. Tax Bill:** Jen worked with Tax Commissioner Mary Peterson to develop the administration's position on language related to a 10% adjustment to the state property tax for affordable rental properties. In testimony before the Ways and Means Committee this week, Commissioner Peterson said it could support language offered by the Vermont Housing Finance Agency clarifying that the adjustments would be ongoing and certification of the properties renewable.

#### **PATRICIA MOULTON, SECRETARY:**

**Burton snowboards:** Megan Smith and I met with Donna Carpenter, Justin Worthey and others from Burton this week. Took a great tour and I better understood their complete vertical integration. They have workforce needs and are developing a proposal for the Vermont Training Program. It was also interesting to learn of their policy for greater gender diversity in leadership. They are also engaging in Innovation Engineering with the Vermont Manufacturing Extension Center (VMEC). We had hoped they would become a marketing partner for tourism to help us replace Cabot, but that may be ways out. They have an interest in working with us on the PR side, bringing travel writers to their campus for a tour. They are currently open for tours to the public daily and have a very compelling story to tell, but have no mechanism for marketing that. There is huge potential for factory tour stories, especially in the international press. They seemed most interested in our international reach. They are already promoting Vermont and all their products.

**EB5:** Anne Galloway is poking around indicating she has heard that we have suspended investment and all Jay Peak projects. I'll be talking with counsel, Susan Donegan and Liz later to figure out the best response.

**Windham County Economic Development Program:** We had a series of meetings in Brattleboro Thursday on the the application process. I received a proposal from BDCC I'll be discussing with Liz and the Governor. Also met with leadership at the Town of Brattleboro. It is obvious there's a pretty significant rift between BDCC and the leadership. I'm asking both parties to get together and work it out. We can't have these kinds of rifts when we're trying to rebuild an economy.

**GW Plastics:** Work continues with GW plastics. The new "value-added VEGI" idea will be very beneficial to them. I'm also talking with Annie Noonan about situations where we can provide 100% financing of training programs.

**Jim Masland contact:** Liz send an email earlier this week about a contact from Jim Masland regarding a company in Randolph that may leave or expand. I have reached out to Scott Traubt about his inquiry to meet with the Governor. I understand Green Mountain Defense Industries periodically has these discussions. Historically they've never gone anywhere for lack of response by the owner, Scott. The company is operating out of Stephens Precision in Bradford. We will continue to track this down but it is not a priority for the Governor to meet with him.

**Vermed** in Bellows Falls was recently sold to a Buffalo New York company, Graphic Controls. I have reached out to the Vermed leadership about contacting the Buffalo company. The Graphic recently purchased another company in the midwest and kept the company there. Signals thus far a positive the company will remain in Vermont. Will know more when we talk to them.

**DEPARTMENT OF TOURISM & MARKETING:** Megan Smith, Commissioner

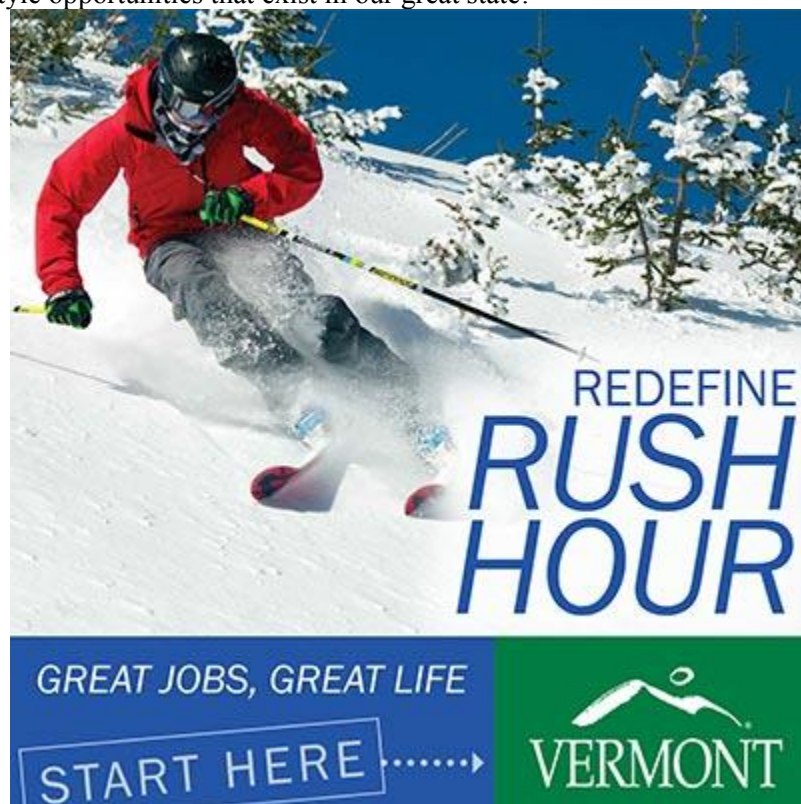
- **CONFIDENTIAL:** There is finally some positive movement for the Champlain Valley Expo. Since Tim Shea has taken over the leadership the board has turned over with some new blood including Al Gobeille and Sam Cutting. The biggest news has been the restricting of the debt from purchasing 3 buildings that have never been able to pay for themselves with programming. With a new CFO in place the cash flow is becoming a top priority but clearly the existing model of the fair is not sustainable. The grandstand, which used to be the big income piece, is losing ground every year and many of us are encouraging them to diversify the current country music dominance. GMP is also working to reclassify CVE so that the taxes and fees no longer apply and an overall utility project is under way. Megan is trying to work with them on marketing but this has proven to be challenging with the current staff.

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

- **VDTM, Vermont Chamber and Route 802 tech meeting:** Cook met with the Vermont Chamber and Route 802 to discuss progress on the travel planner and events calendar. The calendar is now ready for population of events and the Chamber and VDTM will begin outreach to encourage people to enter events. The travel planner is very close to completion and the App, ThisisVT is only one stage away from public promotion.
- **Partnership Development:** VDTM has developed a one page promotional document to distribute to potential partners. VDTM has begun reaching out to media partners to grow summer collaborative marketing investments.
- **Burlington City Marathon:** Cook will meet with Peter Delaney, executive director of the Burlington City Marathon, on Feb 5<sup>th</sup>. The Marathon is presenting VDTM with some out-of-state promotional options to advertise to marathon participants and their extended families.

#### **CHIEF MARKETING OFFICE ♦ Heather Pelham, Marketing Manager**

- **Great Jobs in Vermont:** With engaging fresh content provided by Lisa Gosselin, a new edition of the Great Jobs in Vermont Messaging Kit is ready to be distributed this week. The creative below will be included in the kit that is sent to college administrators, HR directors, business groups and SOV marketing managers throughout the state, for use in their own external communications. This public-private partnership continues to help promote the career and lifestyle opportunities that exist in our great state!



#### **DEPARTMENT OF ECONOMIC DEVELOPMENT: Lisa Gosselin, Commissioner**

- No report - Commissioner was on vacation



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

- **World Captive Forum (WCF):** Dan Towle, Director of Financial Services attended WCF along with Dave Provost of the Captive Insurance Division. The state exhibited and spoke at this event on a panel called “Regulation and Captive Diversification”. This conference brings together an international attendance and has proven to be a very beneficial conference. One of 2014 new captive insurance companies, MasterCard was prospected at WCF last year.

## **VERMONT TRAINING PROGRAM ♦ Beth Demers, Director**

- **Ironwood Brand:** Beth Demers met with Eli Gould of the Brattleboro based design/build company Ironwood to discuss the details of a VTP draft grant application. Beth went through the application, matrixes, and training activities with Eli. Next steps are for Eli to draft the application and get it to Beth for review.
- **Draft Applications:** Beth is currently working with: SSW (Morrisville), Imerys (Ludlow), Burlington Labs (Burlington), Vermont HITECH (South Burlington), and VSJF (Montpelier) on draft applications.

## **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Commissioner MacKay and Deputy Commissioner Hollar**

### **Commissioner MacKay**

- **Burlington Town Center:** Noelle hosted a meeting with the development team for the Burlington Town Center (Don Sinex, Kevin Worden from Engineering Ventures and Brian Dunkiel) and agency reps involved with permitting (AOT: Chris Cole, Michelle Boomhower, Rajnish Gupta. ANR: David Mears, Billy Coster. ACCD: Noelle MacKay, Chris Cochran, Jamie Duggan. NRB: Jon Groveman, Melanie Kehne). The development team provided an overview of the project and timeline. Noelle provided an overview of the Act 250 and agency permits for development in a downtown and each agency reviewed permitting requirements and any concerns that the development team should consider as they move through the public outreach and planning process. Notes from the meeting and agency contacts will be distributed. Don’s team will follow up with each agency and interagency meetings will be scheduled as needed.
- **CONFIDENTIAL:** In relation to BTC (Burlington Town Center), Noelle and Dale had a follow up phone call with Brian Dunkiel. As currently planned, this development could not take advantage of the priority housing Act 250 exemption because there are too many units. Thus, our meeting focused on the expedited designated **downtown** project. HOWEVER, the number of units might change so that they could use the exemption. Last year, we did not update the statute that already allowed for this in designated downtowns. The language is drafted and in NRB technical corrections bill. It is important for BTC that this go through this year in case they want to take advantage of this provision. DHCD worked with NRB on the language, and will continue to push and follow the bill once introduced. NRB asked Rep. Ellis to move this forward.

### **Deputy Commissioner Hollar**

- **National Housing Trust Fund:** Participated in a webinar on the status of this potential new funding of affordable housing for extremely low income households. HUD has published an interim rule that will guide the administration of the program. The soonest the program would get underway is 2016. Current estimates put funding for the first year at \$120 million nationally. The low amount will almost certainly undercut support for the current small state minimum allocation of \$3 million. Also, there is a great deal interest on the part of House and Senate Republicans in blocking the program.
- **Ending Family Homelessness:** With Josh, participated in a meeting of the leadership of AHS, VHCB and the Agency of Education around a potential initiative or campaign to end family homelessness (which is on the rise in Vermont) by 2020. While all are fully supportive, there were many questions about what the actual activities would be and what the consequences would be of redirecting resources from other priorities.

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

### **Partner Report**

- **AOT: State Park-and-Ride Facility Plan:** John attended the first Park and Ride Stakeholders Advisory Committee meeting to discuss progress on a Statewide Park and Ride Facility Plan. Up until now, park and rides were built as needed by municipalities and the state. This plan will help evaluate and balance limited resources with the need to maintain and expand existing facilities and with the need to build new locations to meet future demand.

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

### **Environmental Review**

- **UVM:** Laura and Jamie met with UVM Campus Planning staff to discuss the next, major, planned construction project on campus; the demolition of Cook & Angell Halls and construction of a new STEM building in the same general location, adjacent to the quad. The current facilities are very deficient in regards to adequate, code-compliant lab space, MEP equipment, safety, program and administrative goals. This multi-year, phased campaign will greatly increase lab space for grant-funded research, hands-on teaching labs and allow for a state-of-the-art facility in line with the President's initiative. Consultation will be ongoing.
- Laura and Jamie reviewed UVM's plans for 61 Summit Street prior to submittal of their Act 250 application. Judith and Laura had been working closely with the University on the rehabilitation plans for the building's use as an alumni hall. New construction will provide for a banquet/meeting space connected to the original main building through a secondary side door. The Division has requested an Archaeological Resource Assessment for the site of the new construction.
- **VCFA:** After a long and arduous consultation process, the Division and Vermont College of Fine Arts, Inc., have reached a general consensus on treatments to the historic campus buildings and appropriate mitigation to address the adverse effects of the College's current project plans. There are other items on which the parties do not agree, such as whether the campus should be considered a "historic site" under Act 250 rules. We expect the District 5 Environmental Commission will review the recent testimony of both parties, and direct the College and Division on how to proceed, potentially issue a permit with conditions, or ask for additional information.
- **Caledonia Courthouse Foundation Repairs:** Scott worked with BGS to help develop a Request for Proposal for archaeological work in advance of extensive repairs to the foundation of the older section of the Caledonia Courthouse in St. Johnsbury. The courthouse is located within an area that was originally used as the first cemetery in St. Johnsbury between 1790 and 1853. Although the cemetery, now known as the Old Burial Ground, was supposedly moved before the courthouse was constructed in the 19<sup>th</sup> century, archaeological work for a courthouse addition constructed in the 1990s uncovered numerous graves with human remains still present. As many as nine additional graves are expected to be found in the currently planned project area, which involves excavating soil from the perimeter of the historic courthouse to allow stabilization of the deteriorating foundation.
- **Shelburne Farms Driveway Construction:** Scott and Jamie filed an Entry of Appearance for an Act 250 Land Use Permit application by Shelburne Farms LLC and Crea & Phil Lintilhac to construction a new road to access several building lots in Shelburne Farms. The proposed road crosscuts several archaeological sensitive areas that will have to be tested prior to construction. In addition, the proposal currently calls for the removal of the existing driveway which may be one of the historic carriage road established during the original layout of the Shelburne Farm complex. Jamie and Scott expect to be able to resolve these issues with the Applicants and the District #4 Environmental Commission without a hearing.

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

### **CDBG-Disaster Work**

- **February DR Board Meeting**

Nathan has finished his review of three applications requesting a total of \$854,170 in CDBG-DR funding to complete a wide array of projects. Along with the three applications multiple award condition extensions will be brought to the board for their approval.

  - Westgate Housing, Inc. (a non-profit affordable housing organization) is seeking CDBG-DR I funding to complete renovations that would prevent water intrusion into 30 units of affordable housing located along the Whetstone Brook in West Brattleboro.
  - The Town of Wilmington is requesting CDBG-DR I funds to complete streetscape improvements along Route 9 in Wilmington. Proposed improvements will include the construction of approximately 500 feet of fully accessible sidewalks, new lighting, and a cross walk that will create the western gateway to the Town's historic downtown.
  - The Town of Athens is requesting CDBG-DR II funding to replace three undersized culverts. All three culverts have been designed to meet current ANR and VTrans codes and standards.
  - Many projects that have been awarded grants are in need of award condition extensions. The majority are requesting extensions due to required work related to the environmental reviews. Some of the applicants are also requesting small enhancements to cover the costs associated with archeological reviews.

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**Department of Financial Regulation**  
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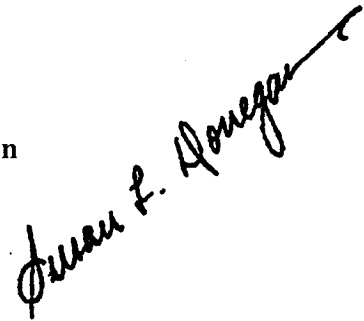
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**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: February 6, 2015**  
**Re: Weekly Report**



**Insurance Division:**

Commissioner Susan L. Donegan, Deputy Commissioner of Insurance Kaj Samsom and Deputy Commissioner of Captive Insurance David Provost are currently attending the NAIC Commissioners Conference, which is the first meeting of the year to set regulatory priorities. This morning, Commissioner Donegan listened to a briefing on the massive Anthem data breach and we will learn within a week whether any Vermonters were impacted either through out-of-state policies or by related-companies and products. Communication will be routed to regulators through NAIC Cyber Task Force and locally through Blue Cross Blue Shield Association and Blue Cross Blue Shield of Vermont. If any Vermonters are involved, the company will notify DFR and policyholders per our data breach law and start identify theft repair protocols.

**Banking Division:**

A meeting between the Banking Division and the owners of an unlicensed virtual currency bitcoin vendor that has an ATM located in the Burlington Square Mall is scheduled for later today. Administrative charges were previously filed against the ATM owners due to a lack of response to DFR under the state's money transmitter license law.

DFR has joined forces with the licensee supervisory departments in Maine, New Hampshire, Massachusetts, Connecticut and Rhode Island to form the New England Regional Mortgage Committee. All six states together will examine the larger regional and national mortgage lenders, brokers and servicers who are domiciled in New England. By combining the examination efforts, the licensee has to deal with only one examination, not six. As currently scheduled, the group will conduct one large examination each quarter going forward.

**Captive Insurance Division:**

Deputy Commissioner David Provost and Dan Towle, director of financial services for ACCD, represented Vermont at the World Captive Forum earlier this week, which was attended by several hundred people from around the world. Provost spoke at a seminar on Tuesday.







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**CONFIDENTIAL AND PRIVILEGED  
MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: February 6, 2015

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**Press Contacts:**

- WCAX is arranging an interview with Jill regarding Sexual Education in Vermont schools.
- Lisa Rathke, AP, asked for and received a comment on the House Education Bill released Thursday.
- Terri Hallenbeck, Seven Days, spoke to Rebecca on the House Education Bill released Thursday.
- Amy Nixon, VTDigger, asked for and received a comment on the House Education Bill released Thursday. (My written statement to her via email: We are pleased to see many of the ideas that we and the Governor have floated reflected in this first draft. It provides a place to start the conversation, and makes it clear that there is no one simple answer, but that there are several steps we can take to keep local voice and accountability, even as we look for efficiencies and better outcomes for students.)
- Josh O’Gorman, VPB, spoke with Jill about the Yield Proposal, and Rebecca about the bills released Thursday in House and Senate Ed.
- Josh O’Gorman spoke to Rebecca about economic development and small schools.
- Stephanie Machado, Local 44, asked for a comment on the House Education Bill released Thursday. We have been playing phone tag.
- Michael Fischer, LSC TV, arranged an interview with Nancy Lewis, AOE Child Nutrition Coordinator, about the Summer Food Service Program.
- Katy Savage, Vermont Standard, spoke with Aaron Brodeur regarding the out of state tuition bill (Clarkson Bill).
- Tiffany Pache and Anne Galloway of VTDigger spoke with Jill at length yesterday about small schools, specifically the small schools in the area of South Royalton, Rochester, Bethel, etc.
- Diane Rado, Chicago Tribune, spoke to Jill and Michael Hock via email about what the state is using for a science assessment.

- Tiffany Pache, VTDigger, spoke with Jill and Rebecca (and VDH) about how the heroin epidemic may be impacting schools (such as increasing special education costs).
- Christine Hinkel, WCAX, asked if gender neutrality was a topic of conversation in Vermont schools.

### **Public Presentations/Speeches/Meetings:**

#### *Educator Equity*

Deputy Secretary Amy Fowler attended the Educator Equity workshop sponsored by CCSSO in San Diego. We are on track to meet the deadline for submission on June 1.

#### *Hal Colston*

I asked Colston to meet to get his thoughts on attracting educators of color to Vermont. Given the increasing diversity of our student population, we need strategies to attract and retain a more diverse teaching force.

#### *Justin Johnson and Jim Reardon*

Justin

We are meeting with Justin (Thank you, Justin) to get his guidance on collecting data for the teacher retirement system. Secretary Beth Pearce wants us to collect the needed data, but this would entail building an entirely new data collection system. We see two possible solutions, and prefer the first below:

- 1 - The Agency could create a system to collect this data, but we believe this would duplicate to a large degree the system the Treasurer's office now uses to collect the employee contribution from school districts and independent schools. There would be a cost to create this system and it would not capture the universe of potential employees, e.g., the agency is not authorized to collect fiscal or salary data from independent schools. In addition, efforts to collect such data in the past have been met with overwhelming resistance by these entities in the legislature. The Agency has also been working to integrate its current data collections into a Statewide Longitudinal Data System [SLDS] and eliminate all non-integrated systems. A redundant data collection would not only increase costs and reporting entity frustration, but also contradict the State and Federal governments' shared investment in the SLDS.
- 2 - Another approach would be to modify the data system used by the Treasurer's office for collecting employee contributions so that it will capture the additional data needed. We do not believe this will require a significant modification although the Treasurer has stated it is a more complex task. It is the Agency's understanding that the Treasurer's Office is performing due diligence on the quarterly reports and auditing employer data to ensure its integrity and compliance with state statute. We recommend we verify whether these audit

procedures would only require a modification to incorporate the Federal reporting component. The Agency of Education is not currently organized to audit State and Federal grants provided by non-Agency entities nor is the Agency aware of any grants not directly provided by the Agency.

## CCSSO

I attended part of the CCSSO “Innovative Learning Network” meeting while in DC. The primary value of these sessions is to network with other state chiefs and deputies. I also had a chance to speak with Linda Darling Hammond, who coordinates on messaging around ESEA reauthorization. She works quite closely with California. CCSSO also paid for the ticket down, which enabled us to visit our congressional delegation at no cost.

## Emerging issues

### *General Comment*

Sue / Justin / Aly

We are really tapped out at the moment. I am not complaining, but making an observation about capacity. We have too many balls in the air, and the legislative session is placing huge demands on us. As the Agency plays a more high profile role, this will be something we need to monitor carefully. I am also worried about the legislative demands with respect to our budget. They seem to think they bought a Toyota, when they may be driving a Lada.

## NCLB

While in DC, we met with staffers for Patti Murray (WA) who is the ranking Democratic senator on the HELP committee, as well as Senator Sanders and his staff. Our goal was to explain Vermont’s situation with respect to NCLB and float some hopes for reauthorization. The response seemed positive. Senator Sanders seemed to think some direction would be set by the end of this week. We have been coordinating quite closely with counterparts in other states, including California, to amplify our voice. The following summarizes the key points of our ask:

### 1. Invest in a Level Playing Field for Children

- a. **Expand early childhood education investments** to close the achievement gap before kindergarten, reduce special education placements, and reduce later school failure;
- b. **Reinstate investments in community schools and wraparound services** that allow low-income students to get health care, social services and counseling, before and after school care and supports (these have a large payoff in achievement and were once a large part of ESEA);
- c. **Support 21<sup>st</sup> century grants (Title IV) that subsidize extended time and summer programming** to reduce learning loss over the summer and to provide extended support for learning during the school year; and
- d. **Support intensive language learning for English learners** through funding for curriculum, program services, and professional development for their teachers.

## 2. Build the Capacity of Schools and Educators

- a. **Invest in forward-looking systems of professional learning for educators (Title II)** built on best-practices in preparation (including teacher residencies and model teaching schools that provide extensive clinical training; also principal training) and high-quality professional development (sustained, collegial, content-specific professional learning, intensive institutes coupled with coaching and mentoring for both teachers and principals); recognize and promote excellence (e.g. National Board Certification, career ladders that develop and deploy master and mentor teachers);
- b. **Invest in state capacity to support improvement** by supporting increased state education agency set-aside from 4 to 8% to be used for diagnosis of school/district needs (through an inspectorate/School Quality Review process) and technical assistance for improving struggling schools.

**3. Redesign accountability** so that it drives continuous improvement, not punishments, and allow states to develop and propose accountability models that reflect their unique circumstances (e.g. very small schools and classes in a rural state).

- a. **Invest in better assessments and allow states to construct better assessment systems** that track student learning and progress on an annual basis in ways that give diagnostic information for teaching while monitoring overall progress for all students by subgroups: Allow states to propose systems of assessments, validated by state test results, which measure deeper understanding and provide more detailed diagnostic information about individual children, and which reflect unique state circumstances.
- b. **Encourage multiple measures of school progress:** Allow states to develop state systems for monitoring progress and supporting improvement that reflect the breadth and depth of critical outcomes we value and students need to master to thrive in civic and economic life in the 21<sup>st</sup> century. Allow states to combine assessments with a portfolio of measures in a dashboard of indicators that incentivize strong programs, provide transparency to parents and the public, and help the state evaluate school progress, support continuous improvement, and customize supports and interventions.
- c. **Allow flexibility for states to develop alternative accountability approaches that serve the same goals but which are customized to local conditions.** For example, Vermont is currently building a state system which relies on site-based school quality reviews, inspired by inspectorate models used in other countries, as well as performance assessments of proficiency with respect to 21<sup>st</sup> century transferable skills. Through site reviews, we will be able to get a more nuanced understanding of local successes, challenges and conditions, and we will be able to provide customized feedback and recommendations for improvement based on the observations of a

visiting team. In addition, because visiting teams will bring educators across school sites to observe, these school quality reviews will support development and sharing of professional expertise across school sites.

**4. Invest resources equitably** - Maintain a strong federal commitment to ensuring states distribute resources equitably. That means:

- a. Preserve parts of the law which ensure stable funding from year to year (Maintenance of Effort), rather than eliminating them.
- b. Preserve the portion of the law that states federal dollars should be spent on top of (not instead of) state and local funds.
- c. **Target funding to poor children** by preserving concentration grants focused on the highest-need schools (rather than portability that would essentially create an individualized voucher program with a range of diffuse uses).
- d. **Require evidence in state plans of movement toward equitable resources/opportunities to learn** across schools; require a resource audit and appropriate investments in schools found to be struggling.

*Education Related News Articles for this week:*

[Peter Shumlin: A better quality education at a price Vermonters can ...](#)  
[House committee revisits school district consolidation](#)  
[New School Consolidation Bill Addresses 'Top-Down' Concerns](#)  
[House Education Bill Proposes Larger School Districts](#)  
[Vermont schools report low vaccination rates](#)  
[Doctors, Shumlin split on vaccination strategy](#)  
[EDUCATION REFORM BILL TAKES SHAPE](#)  
[VARIABLE INCOME TAX PROPOSED FOR SCHOOL SPENDING](#)  
[REBECCA BELL: SOME COMMON VACCINE QUESTIONS ANSWERED](#)  
[Lawmakers Say Shumlin Budget Would Spike Property Taxes](#)  
[Sleight of hand](#)  
[Budgets, taxes up slightly in Hinesburg](#)  
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**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Feb 06, 2015**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

Review of our customer service window hours to ensure we are not open more than necessary.

**Legislative Issues/Contacts:**

No contact. H70 supporting a casino in VT discussed in Hse. G, H, MA on Tues. I am listening to the testimony. A lottery staff member in attendance described a full swing of seriousness and comical comments. I was surprised that it even got time, except for having 18 sponsors.

**Press Issues/Releases/Contacts:**

New stories about VT Vet Home and lottery profits. Even the VLCT weekly legis update made comments although they were not researched and wrong – lottery profits have always gone to education since our inception; and this will only take money from education.

**Significant Events/Meetings:**

none

**Evolving Issues:**

none

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**Summary of Key Agency Department Activity:**

I am working with managers to review employee survey due to our incredibly low scores. I also have a meet planned with HR to figure out how to address this. While I believe some steps taken a year ago were helpful there is likely some underlying concerns that are not surfacing anywhere except this survey.

**Executive Director's Commentary:**

After discussions with Intralot it appears our claim will go unchallenged. They are quite hopeful for another vending console order. It seems that sales in VT are doing better than many other states even though we substantially less machines.

interesting.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Sue Minter  
**DATE:** Friday, February 6, 2015  
**SUBJECT:** VTrans - Confidential Report to the Governor

**NOTES FOR GOVERNOR**

**LEGISLATURE**

Budget: FY16 budget presentations (program details) continue to both House and Senate Trans; BAA to Senate, and Position Pilots (while Mazza not pleased, Westman and Degree get it; Helm reportedly asked why we were not proposing more given the savings of relying less on consultants). We are working with Rep. Brennan to support his goal of presenting that TIB Floor as a resolution to our FY15 and 16 holes that result from the January downgrade (\$6M combined). However, I am going to discuss with Mazza, who I do not believe is on board. While supportive of this effort, I do not want you to be on record unless we believe this will succeed. I will discuss with Mazza our concern that our TIB is rapidly losing value/ capacity (Treasurer says it has reduced by 50%), and establishing the floor this year may be critical to our ability to bond for the Western Corridor and complete that project in FY17 if we don't get Federal TIGER funds.

UPDATE: Just spoke to Mazz. I wanted to feel him out on the TIB floor (as opposed to try to sell him on it). He "hasn't made up his mind" on the TIB floor, but is reluctant because of the timing. First, the low prices are new and we don't know how long they will last. This will be seen as a gas tax (no one understands the details of the TIB Floor), and we would only be raising \$6 mill. While that solves our FY16 problem, it still leaves us with unknowns for FY17 – especially in light of Fed. uncertainty. Raising the gas tax by 2 cents now will ultimately reduce (eliminate?) the ability to raise fees the following year (limited appetite of the Leg.) I am inclined to agree with him on this. Curious on your thoughts. To be continued...

Snow Storm Penalties/Reaction: Following the snow plow collisions (now up to 6), both committees are considering increasing penalties for crashing into plows. Sears also asked Senate Transportation members to enforce reduced speeds on the interstate during a storm (as MA does).

TMDL: We have also presented Water Quality/ Stormwater and Transportation 101 to both House and Senate in coordination with ANR. No blow back yet. They want to hear from towns soon...

### RAIL

Rail Council met this week. Supports reduced fares for Vermonter in-state travel (\$18). Requested Leahy staff (Chris Saunders) help us get all the parties together regarding pre-clearance.

### NOTES FOR STAFF

#### More Legislative Details

*Justin*  
*SW*  
Position Pilot: We have had productive, thoughtful and detailed discussions on this topic in Senate Trans (with Sen. Westman and Degree) and House (Rep. Helm – who carries our budget in House Approps). Note that in spite of initial push back on positions, when shown our analysis of savings (state employees vs. consultants) Rep. Helm reportedly asked why we were not proposing more. Mazza, however, left the room before he heard our details/analysis. I expect there will be push back in both Chambers from Rs on this. Hoping we may have a few people who can present our rationale. However, they may not bother, in the end... I DID want you to hear that in our conversation in Senate Trans, both Sen. Kitchel and Sen. Westman stated that they would have to RIF 200 state employees to make the necessary budget cuts (is this news to you?)

#### Rail

I chaired this week's meeting of the Rail Council (Brian always covered this and I never participated previously). Among other things they recommended we maintain a special service for Vermonter riding in-state. While rising from \$12 to \$18, Amtrak has improved this as an on-line service (finally). We are also developing potential service plans with Amtrak for Rutland-Burlington, as well as with our New England state partners for NY- Montreal & Boston –Springfield- Montreal (which is required by FRA for us to receive any future Federal money). Note that while Mazza doesn't understand the purpose of this Council and thinks we should abolish, I now fully see that this protects the Legislature from having to hear from rail enthusiasts...

#### Morrisville Bypass

You should be aware that the Town wants us to rename the old and new roads. The Town/ Region that advocated for 3 decades for Route 100 to go around Morrisville, doesn't want people to think that it is the preferred route for Route 100. We are being as flexible (and patient) as the sign rules allow us to be and are working to meet their wishes. The new road will carry the designation of "Alternate VT 100" with a supplemental "Truck Route" plaque below the sign. The road through downtown will carry the designation of "VT 100". These options appear to be consistent with the wishes of the Town and the Region and are in accordance with the Manual on Uniform

Traffic Control Devices. One of the major advocates of this change is the brewery (who I know you have heard from). They are also quite upset by their inability to have a sign facing the new road. While I do not disagree with their complaint, this, once again, is one of the many negative impacts of our sign (billboard) law. The Travel Information Council (TIC) did not support their special request.

#### TDI

Chris Cole met with TDI this week. VTrans has two agreements to negotiate with TDI, an 1111 ROW Access permit and a lease. The 1111 permit will contain all of the conditions that TDI needs to adhere to in order to construct the project as well as to having it live in our ROW. The lease is a standard lease and will contain the annual amount they will need to pay VTrans for occupying a space in our ROW. Regarding annual payments, TDI has used our lease payments from VT Gas as their submission for their Act 248 application and we indicated that an appropriate starting point for them was probably 10 times that amount. They wanted to understand our rationale; we explained that they didn't have condemnation powers and really were reliant upon us to provide them their corridor. Chris intends to maximize the amount we can get them to pay for use of our ROW understanding this deal will establish precedent for use of our highway ROW for these types of projects. Please indicate if you do not support this approach.

I spoke to Cole on this

all set

#### Salt Deliveries and Municipalities

Following up on the request that we help Rutland, I wanted you to know that we stay in close touch with towns on salt, and do try to assist as possible, though our contracts stipulate we cannot. We also try to get the vendors to extend the same prices to towns as to the state. We heard earlier this week that a few towns in the southwest region of the state were having a hard time getting their salt orders filled. All three towns are served by Cargill, who is one of the two vendors under state contract. Vendors who bid on the state contract may elect to extend pricing to municipalities (at their discretion). This year Cargill elected to extend their pricing to municipalities, but American Rock Salt did not. This means that towns can either buy salt from Cargill for the same price we pay, or they can go out for bids on their own and buy from any vendor they choose. Some buy from multiple vendors over the course of a winter season.

In the past we worked with VLCT to pull together a salt contract for municipalities. The idea was a good one, but many towns were not comfortable estimating how much salt they would use which made it impossible to pull together a comprehensive statewide package that the vendors could rely on for bidding purposes.

So far this winter we (VTrans) have had no real problems (yet) with salt deliveries. We have been advised by the salt vendor (American Rock) that it's a distribution issue and not a supply issue, and that they will take care of us. We have spoken with our counterparts in New York and have learned that they are having problems with deliveries, so we will be monitoring things closely, talking to our vendors regularly, and making sure we prioritize our delivered salt so it goes where we need it the most.

**Burlington Town Center**

An interagency group met with Don Sinex, Brian Dunkiel (his attorney) and his development team to discuss the expedited Act 250 process for a designated downtown. The meeting went well, we identified our team members to Mr. Sinex and indicated we didn't see any hurdles at this point but we needed to review the traffic study his engineers would be submitting to VTrans. We don't see any transportation show stoppers for this project at this point.

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** February 6, 2015

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**Highlights:**

**AHSCO:**

Meeting with Turrell Fund Regarding Children's Savings Accounts pg. 2  
Children's Integrated Services and Medication Assisted Treatment pg. 2

**VDH:**

Funding Available to Vermont Business to Support Nursing Moms at Work pg. 3

**DMH**

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Status of Families 60 Days After Closure Due to Reach Up Limits pg. 6  
Burlington Warming Shelter Opening pg. 6

**DVHA:**

Pediatric High Tech Cases pg. 7  
Community Health Team Assessment Review pg. 7

**Secretary's Message**

This week I presented an overview of the AHS budget to HAC, which went well. They did have questions about the impacts of reductions to programs, services and staff, in particular about LIHEAP. The AHS and DCF financial and leadership teams worked diligently with me and we do have a solution to the LIHEAP issue that will allow us to retain the current state eligibility standards.

I connected with a number of stakeholders this week. I attended a meeting of the VNAs Board of Directors, Vermont Care Partner Representatives, and attended the Early Edge Dinner sponsored by the Permanent Fund. I had a separate meeting with Rick Davis, Permanent Fund, to discuss how we could work together on early childhood issues. I also made a site visit to the Rutland Family Services District Office to talk with the staff. I learned a lot about the functioning of the protective services social work team that I would like to share with you at a later time.



On Wednesday, I attended the meeting that AHS convened to focus on Ending Family Homelessness by 2020. Other stakeholder participants included VHCB, VHFA, ACCD, AOE and VSHA. This meeting reviewed the U.S. Interagency Council on Homelessness framework and the discussion included how to move that agenda forward in Vermont. I think this is a real opportunity to end our reliance on hotels and also move toward ending family homelessness.

### **Agency of Human Services Central Office (AHS CO)**

#### **System of Care Support for Individuals Who are Deaf and Hard of Hearing**

AHS Secretary's Office attended the panel discussion during Deaf Rights Day at the Statehouse in Montpelier. We continue to collaborate with the Governor's Office and the Agency of Education to build a sustainable and responsive system of care for individuals who are deaf and hard of hearing in the wake of the closing of the Austine School and the Center for the Deaf and Hard of Hearing.

#### **Children's Savings Accounts**

The AHS Secretary's Office hosted a meeting with the Turrell Fund to share information about Children's Savings Accounts (CSA) and the research related to college completion for those children with accounts. Rep Jill Krowinski plans to introduce a bill related to CSAs as a universal program for Vermont. CSAs also are a recommendation from the Child Poverty Council. A primary component of the initiative is the investment of philanthropic partners; Turrell is extremely interested in being a participant as we continue to explore the opportunities.

#### **Adverse Childhood Experiences Bill (ACEs)**

AHS Secretary's Office has been coordinating across AHS Departments and with the Agency of Education to inform Rep Till's drafting of a bill related to Adverse Childhood Experiences (ACEs). Rep Till is informed by the recently submitted Blueprint Report on ACEs and trauma and by the DOC's report on Children of Incarcerated Parents.

#### **Re-invigoration of the Children's Integrated Services Team**

In Rutland, the Children's Integrated Services (CIS) team has revamped the "way we do business" to create better expectations around teaming, while making direct services more effective and efficient. IFS will be restructuring their meetings to focus on supervisor-peer consultation, data, in-depth case review, consultation, teaming and professional development. This is the result of a world café held in November and a staff survey done in October.

guid

#### **Children's Integrated Services and Medication Assisted Treatment (MAT)**

The Bennington CIS Administrative Team had an abbreviated meeting so that members of the group could attend Grand Rounds at Southwestern Vermont Medical Center. Dr. Nels Kloster was discussing MAT with medical staff. The team is hoping to organize another Grand Rounds focusing on babies exposed to toxic substances during pregnancy. This is another positive community connection with the medical community.

#### **HUD Consolidated Plan Advisory Group**

The AHS Secretary's Office participated in this week's meeting of the Consolidated Plan Advisory Group. This group advises Vermont's Department of Housing and Community Development on the shaping of Vermont's Consolidated Plan, submitted to HUD. The plan, in turn, guides federal funding for housing and economic development activities over the next five years. Much of the public stakeholder input the department received this round, echoes the recent housing needs assessment and

AHS' request for more housing designed to be affordable to people at 30% of area median income and below.

#### Sober Housing: Exploring Affiliation with National Association of Recovery Residences (NARR)

The AHS Secretary's Office, along with ADAP and DOC, participated in a call this week to explore with interested parties what might be required for Vermont's providers of sober/substance-free/recovery housing to form an affiliate of the National Association of Recovery Residences. There appears to be advantages to Vermont's providers adopting common standards and definitions promoted by NARR, but concerns about new administrative infrastructure and positions required -- and state funding available -- seemed out of synch with a state our size. These discussions will continue and AHS will recommend these private entities continue to pursue Vermont affiliation on a Vermont-scale with costs borne primarily by a coalition of providers.

#### Springfield Transitional Housing for Youth

Springfield Continuum of Care (CoC) discussed plans for transitional housing for transitional age youth in Springfield through the Springfield Housing Authority with supports from local agencies. The CoC had identified for this region. Through collaboration between housing and human services we have developed the beginning of a plan and hope to have a program in place by the summer of 2016.

#### Vermont Department of Health (VDH)

##### Board of Medical Practice Approves Amended Stipulation for Dr. Cynthia Haselton, MD

On February 4, the Board approved a stipulated amendment to a May 7, 2014 Order against Dr. Haselton, a Burlington internist. The 2014 Order, addressed improper prescribing, mostly fraudulent prescriptions of controlled substances for her own use and some improper prescribing for family members. The revisions add sanctions to address substandard practice that was also discovered. She is now indefinitely banned from prescribing Schedule II and III substances in the event she returns to practice

#### Tuberculosis

Initial testing of 150 students and employees identified as contacts to the case revealed 8 individuals (7 students and 1 adult) infected with TB. As a result, VDH has decided to recommend testing for the remainder of the student population on February 6. In addition, testing will be offered to all staff on February 9. Testing was also provided by VDH at a child care center where the case was also employed. At this time, however, no children or staff at that location have tested positive for TB infection.

#### Funding Available to Vermont Businesses to Support Nursing Moms at Work

A new funding opportunity for small employers was released in February to establish lactation spaces in 15 worksites statewide. "Supporting Nursing Moms at Work," a grant made possible by the Association of State and Territorial Health Officials, will provide up to \$1,000 in funding and technical assistance to ensure compliance with federal lactation regulations at worksites with less than 100 employees. Grantees will work closely with staff from the breastfeeding coalition or a District Office throughout the grant period to develop breastfeeding policies for their businesses.

### Vermont Tobacco Free College Campus Summit

On February 4, the University of Vermont, with the support of VDH, hosted the Vermont Tobacco Free College Campus Summit. The Summit provided an opportunity for administration and staff from all Vermont colleges to examine the benefits of tobacco-free campus policies and to share best practices from across New England. The event featured keynotes from Harry Chen, MD, Commissioner of VDH, Clifford Douglas, Director of the University of Michigan Tobacco Research Network, and Betsy Rosenfeld, Regional Health Administrator for the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health.

### Lower Blood Pressure through SASH Self-Management Programs

VDH has partnered with Support and Services at Home (SASH) to provide chronic disease self-management support services to SASH participants. An assessment conducted by the Department has shown that the program yielded statistically significant improvement in blood pressure readings for participants with hypertension. The program is expanding to three additional sites in February.

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

#### Vermont Psychiatric Care Hospital (VPCH) Collaboration Efforts with State Facilities

During the last two weeks, VPCH has looked in detail at the incidents with patient to staff violence. VPCH looked at the 10 patients who had the most incidents and divided them into categories. While the most severe incident did occur when a patient was not taking medication, in all other situations, patients were taking medications. VPCH met recently with the Medical Directors of Dartmouth Hitchcock Medical Center and New Hampshire State Hospital and have also been communicating with Maine's state hospitals on how they handle violence in their state hospital settings. They are working collaboratively with the States on identifying best practices to continue to reduce these types of incidents.

#### Brattleboro Retreat (BR)

DMH spoke with Peter Albert regarding their Joint Commission survey for their Buprenorphine program (Tyler 1) and their Hub Services. It was a two day survey with No Findings. They have three indirect findings which are suggestions, and do not require a plan of correction. The findings were in the areas of nutritional consult, individual treatment plan, and Diversion Control Plan suggestions. The exit interview indicated that they should fully meet the Substance Abuse and Mental Health Services Administration's (SAMHSA) accreditation standards Center for Substance Abuse Treatment (CSAT) requirements. A formal report will follow.

Additionally, the Retreat Consultant group will be doing a mock CMS site visit survey this coming week to assess the Retreat's readiness for CMS re-survey. The Consultant has also spoken individually with Representative Pugh to update her on their general work with the Retreat as part of the Services Improvement Agreement (SIA) that is in place.

### House Committee on Health Care Testimony on Integration of Mental Health

Dr. Batra testified before the House Health Committee on Tuesday. He presented them with a picture of what integration of mental health into health care services would look like. He also presented them

with data on the burden and cost of chronic diseases. He explained that it would not only help people to adopt healthier behaviors, but would also change the course of disease, as well as the cost of care in a significant way. He asked them to consider health coaches or behavior change specialists as a core component of Medical Homes and added that screening for mental illness and providing integrated care would allow for the chance of meeting the goals of Triple Aim (Population Health, Experience of Care and Cost of Care). The Committee was very engaged and asked many thoughtful questions about what first steps could be taken.

#### Health Care & Rehabilitation Services of Southeastern Vermont (HCRS)

George Karabakabakis; CEO, contacted Commissioner Dupre to report that the Brattleboro Reformer will be conducting an interview with them regarding the former CEO's salary and deferred compensation. HCRS has provided the department with a copy of the press release that they will be issuing (*see copy attached*).

#### Department of Disabilities, Aging and Independent Living (DDAIL)

##### Allegations at HowardCenter for Poor Consumer Care

Marie Zura, DS Director with HowardCenter, gave DDAIL a heads up about a disgruntled staff person (Steven Cross) who is alleging giving poor consumer care at Howard. The allegations focus on issues during transportation of consumers and staff injuries. Marie believes he has already contacted Adult Protective Services, local and/or state police and also stated he was going to contact the Burlington Free Press and/or VT Digger. HowardCenter is investigating and following up as appropriate.

##### FY16 Budget testimony continued in House Human Services

DDAIL Testimony this week was well-received. Questions focused on the impact on services due to cuts in programs for people who are blind or visually impaired. The likely impact is that people will wait longer for services but not lose access.

##### ABLE Act may be gaining traction

The ABLE Act of 2014 was signed into law by Obama in July, 2014. It allows for the establishment of tax-exempt savings account for individuals and parents of persons with disabilities who acquired their disability before age 26. Mary Peterson is looking at the tax implications.

#### Department of Corrections (DOC)

##### Testimony to House Appropriations Committee:

The DOC testified this week on its 2016 budget. Meetings with Representative Hooper suggest that the CHSVT cuts and moving more USMS custody inmates are the two areas likely to gain most interest.

##### Offenders Max Out

Mr. Gonsalves (DOB 6/30/61) is currently incarcerated for ten sex offense convictions and will be maxing out on 3/3/15. He has engaged in treatment in the facility, however, his long term risk to reoffend is considered to be high. He will be released non-compliant with treatment. At this time he has not given the DOC a residence for his release but has met with Shawn McMoore from the Community Justice Center in Rutland and hopes to work with them upon release.

Mr. McHugh (DOB 3/8/73) is currently incarcerated for L&L behavior and a sex offender registry violation and maxes on 3/1/15. He will no longer be under DOC supervision. He has given an address

in Swanton; a residence owned by his father. He will be released compliant as he completed treatment in the facility prior to release. Burlington P&P, where the case originated from, will be working with St Albans P&P to send the notification out to local law enforcement.

#### Population:

The department's incarcerated population averaged 1,944 for the previous week. The male population averaged 1,787 with 315 being presentenced. The female population averaged 157 with 33 being presentenced.

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

##### Status of Families 60 Days after Closure due to Reach Up Time Limits

This report is in accordance with Act 50 of 2013 and reports on the status of families whose Reach Up benefits have closed due to time limits. More than half the families whose assistance closed return to the program within two months. Of those that did not return, nearly all continue to receive 3SquaresVT benefits while only 12 percent received General Assistance

##### Family Services Labor Management Meeting

The first meeting of the DCF Family Services Labor-Management was held on January 30, 2015 at VSEA headquarters. DCF had positive and productive conversation with social workers and supervisors from around the state. The agenda primarily covered workload and safety issues. Labor also let management know of their many concerns about Senate Bill 9, pending in the legislature. Specifically, they are concerned about the proposed new crime and the addition of the ability for social workers to physically remove children from homes. DCF is planning to meet monthly over the next several months to continue the conversation.

##### Child Care Provider vocal about complaints with Compliance Process

David and Mary Ann Baker, owners of New Beginnings Too - a center-based child care program, have appealed violations cited at a December 16, 2014 visit by a Licensing Field Specialist. Two violations were incurred: one for an incomplete staff file and another for proper grounds maintenance. The appeal process addresses whether or not the violations are appropriately cited based on the factual evidence. In this case, the two cited violations were upheld. The program has come into compliance with the staff file violation as of 1/12/15.

The Bakers have made a Public Records Request to obtain copies of this Licensor's site visit reports over the past six months and have involved Senator Jane Kitchel. They believe that their violations should have first received an informal verbal warning – which subverts the regulatory process wherein standards and consistency are essential. They have asserted plans to file a grievance with the Commissioner of DCF and the Secretary of AHS.

##### Administrative Change at the Bennington Coalition for the Homeless

Avaloy Lanning has been removed as the Executive Director of the Bennington Coalition for the Homeless after less than eight months due to poor performance, according to the board. A three person team will lead the organization until a search is completed for a new director. The Office of Economic Opportunity (OEO) has been working with the Coalition to provide additional funding and technical assistance after being determined a high risk grantee following the 2013 OEO monitoring process. At that time (2013), the former Executive Director had been terminated. OEO is working with the Coalition Board of Directors to assist them through this current transition by providing monthly technical assistance and securing a consultant to work on organizational development with the board.

### Burlington Warming Shelter Opening

DCF has partnered with the Champlain Valley Office of Economic Opportunity (CVOEO) to start "The Burlington Warming Shelter" located at the former Ethan Allen Club, 298 College Street in Burlington. Other local agencies like the United Way, Spectrum, the University of Vermont Medical Center, The Howard Center and A New Way as well as volunteers from all over Chittenden County have helped in this initiative. The site was donated by Champlain College for this season only and will be available until April 3rd. The shelter will open on Monday, February 9th barring any appeal to the Burlington Zoning and Planning Board. It will house up to 20 individuals experiencing homelessness during this season's colder months. DCF, along with the community, will be trying to develop other options for a warming shelter next year. The goal of the warming shelter is to provide single adult individuals experiencing homelessness a warm place to stay when temperatures are extreme, rather than issuing motel vouchers.

F-11

### Department of Vermont Health Access (DVHA)

#### Senate Finance/Medicaid Claims Edit Testimony

Senate Finance heard testimony on 2/3 from BCBSVT, MVP, Vermont Association for Hospitals and Health Systems (VAHHS) and CIGNA regarding new language in the draft health care committee bill. The new language requires that there will be a new common set of edits based around Medicaid edits and going into effect on January 1, 2016. The bulk of the testimony focused on the fact that this proposal is much more complicated than it seems on the surface and that they are happy with the current claims edit trajectory. Those testifying described the content of the meetings the Green Mountain Care Board (GMCB) has been holding as well as the alternative option of requiring that commercial payers work with McKesson, their vendor, to get to a common platform. The current concern is this approach would be a significant challenge for DVHA, given our claims edits run on a different platform.

Senator Ashe has asked for language reflecting this option to the Senate Finance Committee by next Tuesday (2/10). DVHA is working with the GMCB on this and is currently analyzing if such a change is at all feasible for Medicaid.

Sue Lawrence . Ashe

The GMCB will be holding a call with stakeholders on Monday to go over any last minute questions, comments, etc. prior to providing the Senate Finance Committee with proposed language regarding this additional option.

Overreach

#### Pharmacy Benefit Management (PMB) Update

Extensive improvements with the new PMB system continue to occur. DVHA is receiving positive feedback and less operational concerns from providers and pharmacies. Concerns that have been presented from beneficiaries and providers have been corrected rapidly.

#### Pediatric High Tech Cases

Eight pediatric high tech cases are going to appeal regarding a reduction in RN utilization. They are being represented by Vermont Legal Aid. In 2014, 28 high tech pediatric cases were re-assessed by VDH, the Vermont Nursing Association and approved by DVHA's medical director, with consultation with primary care physicians, to reduce RN hours for these patients based on clinical need and utilization trends. DVHA's general counsel is representing the state during these appeals and an outside physician will hear all cases.



### Community Health Team (CHT) Assessment Review

DVHA asked Blue Cross and Blue Shield of Vermont (BC/BS) to review the 2014 assessments and payments to support the Community Health Teams. Blue Cross and Blue Shield agreed to review whether inequities among customers occurred as a result of the allocation by assessed entity factors for CHT assessments being unchanged in 2014, while the relative market shares of the various assessed entities seem to have changed.

The process of establishing the assessments that BC/BS pass along to their customers to support the Community Health Teams is as follows:

- Each quarterly CHT assessment amount is split into three monthly amounts and allocated in proportion to the number of members covered during the month who were attributed to a Vermont PCP using the Blueprint attribution algorithm.
- For those customers who participate in the actual experience (utilization) of their case (Cost Plus, Refund Eligible, ASO's participating in the Blueprint program such as the State of Vermont program) the amounts allocated to their members are charged directly to the case.
- For fully insured business the CHT amounts allocated to their members is used in the experience of the case used in rate development. In particular:
  - For the Exchange business the experience in 2012 of the population expected to go to the Exchange was used as the basis for the amount charged in the Exchange premium attributable to this expense. (The actual charge for 2014 exchange rates was approximately \$0.73 PMPM.)
  - For Merit rated customers (i.e. fully insured large group customers) the CHT amount attributed to the members covered during the experience period<sup>1</sup> of the case was used to determine the amount to be charged in the rating period.

The cost of the assessments for the CHT program is recovered from BC/BS customers in a manner consistent with our standard practices and with typical industry practices:

- Customers such as the State of Vermont, which are charged with the actual experience of their case, were charged for the actual amount assessed allocated via a mechanism reflecting their population receiving the benefits of the existence of the CHT.
- Fully insured customers that pay a prospectively determined premium and are then fully insulated from the experience of their case during the period covered by that premium pay an estimate based on their experience during the period for which experience was known at the time the premium was determined.

This produces an equitable sharing of the costs of these assessments consistent with the properties of the products involved.

## **DMH PRESS RELEASE**

FOR IMMEDIATE RELEASE Contact: George Karabakakis  
February 5, 2015 (802) 886-4500

HCRS CEO George Karabakakis issued the following statement today regarding the deferred compensation paid to Judith Hayward upon retirement from HCRS:

“In June, 2010, upon the recommendation of its executive and finance committees, the HCRS Board of Directors approved a deferred compensation award of \$450,000 to be provided to long-time CEO Judith Hayward upon her retirement, which was expected to occur in either June 2013 or June 2014.

“The award was granted in recognition of her many years of service to the organization during a period of growth and change and in view of the fact that the HCRS did not, during the period of her employment, provide a deferred compensation retirement benefit to its CEO. Specifically, Judith served as the chief executive officer of the organization for more than 15 years. Toward the end of her service the organization had grown to more than 600 employees with an annual budget of approximately \$49 million, serving as many as 4,500 clients each year.

“HCRS planned to fund the award in three annual increments of \$150,000, which was initially booked at the end of fiscal year 2010 and funded during fiscal years 2011, 2012 and 2013.

“In 2012 it was discovered during the agency’s annual CPA audit that the award had become immediately taxable under IRS regulations due to the way that the deferred compensation award was structured. Consequently, in 2013, the executive/finance committee of the board approved an additional payment of up to \$200,000 to cover tax expenses paid by Ms. Hayward on the previous withdrawals.

“With a change in management effective in June 2014, the HCRS executive leadership and board of directors intend to take this opportunity to examine HCRS employment policies regarding hiring and compensation of senior executives. Among those steps is the establishment of a qualifying Sec. 457(b) deferred compensation program for the CEO, a personnel committee to oversee employment policies at the board level, and a commitment to open and transparent communication with all concerned.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: February 6, 2015

**Secretary's Top Issues**

**Ag/ANR Laboratory Presentation to Legislature**

Secretary Ross and Deputy Secretary LaClair joined with ANR and BGS leadership to present to four House Committees (Corrections & Institutions, Agriculture, Natural Resources and Energy, Fish, Wildlife and Water Resources) on developments in the joint Ag/ANR lab.

**Raw Milk in the Legislature**

State Veterinarian Kristin Haas monitored testimony in House Ag taken by the committee from multiple witnesses, including current raw milk producers and Rural Vermont Board members. VAAFM was not asked to testify but will be invited back to respond to testimony taken today and to comment on the draft bill once it exists.

**Poultry Slaughter**

AAFM Staff met with Representative Komline and Andrea Stander of Rural Vermont this week to discuss the Agency's recommendations for H. 52, a bill that proposes to enact state statutory language which would clarify the fact the Vermont poultry producers can slaughter/process up to 20,000 birds annually without the otherwise required inspection.

**Farmers Market Inspection Plan and Protocols**

The Food Safety and Consumer Protection (FSCP) management team met this week to continue to refine its farmers market inspection plan and protocols. The 2015 goal will be to visit every summer farmers market once during the season and inspect the commodities/devices regulated by the Division.

**Cheese Council Annual Meeting**

Deputy Secretary Bothfeld attended the Cheese Council's Annual Meeting. The Cheese Council had a successful year but the budget is extremely tight for 2015. Executive Director's report highlighted tremendous achievements this year for the council.

**Declining Dairy Numbers**

The dairy count for February reveals that as of this month there are 896 dairies in Vermont. This is three fewer cow dairies than last month (down to 865), and 34 fewer than last year. Goat and sheep dairies remained at 27 and 4, respectively.

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STATE OF VERMONT  
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**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** February 6, 2015

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

**January 30, 2015**

**Senate Agriculture**

**Capital Construction Bill**

Jolinda LaClair, Deputy Secretary, joined BGS Commissioner Obuchowski, ANR Deputy Secretary Trey Martin, and VTC President Dan Smith in Senate Institutions to address the Capital Construction Bill proposal for a \$25 million Vermont Ag and Environmental Lab. Review of siting, conceptual design, and partnership amongst state agencies and VTC to build a state of the art, energy efficient, lab of the future...critical to the Administration and State of Vermont's goals for Water Quality, Food Safety and flow of Commerce. Few questions from the committee; overall very positive receipt of presentation.

Next Thursday 2pm: 4 House Committees led by House Corrections/Institutions in Room 10. Overall same presentation however starting where the legislature left off last May.

**Senate Natural Resources & Energy**

S. 40 Renewable Energy Standard and energy Transformation Program

1.) Darren Springer, PSD Dep. Secretary.

As introduced, S.51 is identical to H.40. Outlined bills, reasons behind them, how requirements could be met.

2.) Aaron Adler, Leg. Counsel

Primer on RECs and RPS. Overview of the bill. Began walk-through.

**H. 35 Water Quality Bill**

H.35 started where it left off on Friday – current use.

- Friday PM was a markup session that the Agency provided input on as the committee went through the agriculture sections. Matt Chapman attended as the committee reviewed the storm water sections.
- The Agency attended the Senate caucus regarding water quality. The committee asked mostly broad and general questions. Sen. Bray quickly went through S.49 and suggested that 6 different committees would be working on it. The Agency was not asked to provide any input.

- 2/4 H.35 is scheduled for a walk through in House Ag for most of the day. It is in F&W as well at the same time.

**February 3, 2015**

### **House Agriculture, House Institutions and House Appropriations**

#### **Fairs and Field Days**

Jackie Folsom, Lobbyist for Fairs and field Day Assoc. and representing the Farm Show, Jeff Goodwin from the Caledonia Fair, Jason Sicard Orleans Fair, and Chris Asby from the Champlain Valley Fair.

- The Fairs are important to the State of Vermont- they collect taxes on concessions and rides that they return to the state; they bring visitors to the state and support Vermont tourism and marketing (meals and rooms taxes), agricultural educational opportunities, and venue for other community or statewide events.
- All representatives from the fairs testified to the importance of both the Capital Grants and the Stipend money to the state fairs.
- The Capital Grants are seed money (50% match required) for accomplishing capital projects at fairs that address ADA accessibility, health and safety (burying overhead wires, lighting, upgrading transformers, bathrooms), water quality issues like drainage, and help the fairs perform continued maintenance on their historic buildings.
- Stipends are used by fairs to support the competitions premiums, ribbons, in some cases to just turn the lights on. They represent 7-8% of fair budgets in some cases. The elimination of the stipends, as proposed will result in an increase in ticket prices.
- Rep. Dan Connor read a letter from Cecil Brannon and Stephan Tatro regarding the effects on the Maple Festival. This is the largest statewide celebration of maple in the state and is a huge tourist attraction in the St. Albans region.

Sentiments expressed by the *Committee* include:

- So few opportunities for joy and community. The fairs are important to promote and engage community. yeesh.
- Water quality bill H. 35 specifically mentions ag fair. How will fairs address WQ? A: the fairs would use Capital Grants to address WQ issues such as drainage. They might not be able to address WQ without capital funds.
- The fairs have connections with Act 250 district coordinators, they keep up with composting requirements are working with solid waste districts (presents a good opportunity to address composting education).
- There has been the suggestion financed through a rooms tax the state could support working lands and agricultural fairs. This would be a permanent source of funding. jgh.
- What level of funding do you want? Capital grants would like to see full funding- because money goes into the local community. Some fairs have two year capital plans others have ten year plans, the proposed disruption in funding will impact these plans.
- What do the fairs send to Vermont on rooms and rides? They did not have a definitive #. Ms. Folsom is investing getting figures from the tax department. Estimates were shared with the committee.

### **House Agriculture**

#### **H. 52 Poultry Inspection**

Randy Quenneville, Agency of Agriculture, gave testimony concerning the operations of the VT Meat Inspection Service, its personnel and areas of coverage. Overview of HACCP and SSOP plans and required testing for inspected plants.

Also general questions about H.52

**February 4, 2015**

### **House Ways and Means**

## Current Use discussion

- Darby Bradley provided the history of the Current Use program and a history of bills introduced over the last six or so years and their disposition. Mr. Bradley suggested that a standalone Current Use bill is a bad idea. Any legislation should be part of the Miscellaneous Tax Bill.
- Sentiments by Mr. Bradley and Putnam Blodgett (representing the CUTC), is that the moratorium is a bad idea. Representatives in Ways and Means made similar comments and that the moratorium seems arbitrary.
- VLCT opposes the Governor's proposal addressing current use (Valuation of farm buildings at 30% and three year moratorium).
- Representative Clarkson has a draft proposal for the Committee to consider. Leg, Council reviewed the draft and compared it to existing law and what was in H.329 as passed the house. The Committee will continue its discussion. It includes a flat land use change tax of 10%, rather than the tiered approach; if a portion of a parcel is to be removed it would be treated as a separate parcel-potential to increase base value (fiscal notes forthcoming); half or the land use change tax would go to municipalities to support the assessment of the land coming out (the state needs to be in partnership with municipalities); easy out provision; and a requirement that the tax department provide guidance on valuation of parcels that are conserved.

## February 3, 2015

### House Agriculture

#### Raw Milk

State Veterinarian Kristin Haas monitored testimony in House Ag taken by the committee from multiple witnesses, including current raw milk producers and Rural Vermont Board members. VAAFM was not asked to testify but will be invited back to respond to testimony taken today and to comment on the draft bill once it exists. Witnesses and a summary of their testimony follows:

1. Andrea Stander - not happy with the Agency's policy and wonders why VAAFM is spending its limited resources "putting the screws to" this small group of farmers;
2. Owner of Family Cow Farm - Having milk quality testing done as required in the law is stressful for her because one bad test will result in her "losing all of her customers"; she does not like the farm tour requirement - too cumbersome; she would like to see a central drop off location rather than traveling to each person's home - using the farmers market for this purpose is cost-prohibitive and is not working well for her or her customers. (Chair Partridge stated that it may be time to change/eliminate the "farm tour" requirement of customers).
3. Nate Rogers - owner of Rogers Farm - "VAAFM should be a partner in the issue of raw milk, but instead they are a roadblock trying to squeeze out the raw milk producers and put them out of business"; He would also be in favor of a central drop off location other than farmers markets.
4. Frank Huard - He and Tier 2 farmers "need the committee's help" by establishing unlimited markets; he stated, "The (Agency's) policy is a classic example of the Agency overstretching its authority"; he wants to not have to hang a sign that tells people they will die if they consume his product; he stated, "there have been no reported cases of illness from raw milk consumption in VT"; he stated, "I am willing to compromise, but I don't want to give away the farm, and I will have to go out of business if nothing changes"; he stated that the VAAFM lab is or will be charging \$24.00 per sample for raw milk testing.
5. Rich Larsen - he stated that last year's bill was a success, but there are some serious problems. He thinks that VAAFM should be a partner to raw milk producers. He does not like the farm visit requirement because customers at farmers markets do not understand this. He wants the roadblocks removed that keep people from obtaining good quality products.
6. Lisa Kaimen - she stated that the "regulations" (she means policies because there are no regulations for raw milk) are burdensome, arduous and expensive. She would be doing better by spending the time with her cows on her farm rather than "running all over the place delivering samples, etc"; she thinks the TB and Brucellosis testing is unnecessary because TB and Brucellosis have been eradicated, and she stated that her vet testified to VAAFM that he took an oath to do no harm so he thinks that annual TB/Brucellosis testing is contrary to that; she stated that farm safety for lay persons is a concern relative to the farm tour requirement; she stated that Agency



regulations create an issue of geographic discrimination; she stated that as a Tier 2 producer, delivering at farmers markets was a logistical nightmare this past year; she stated that the animal health testing requirements have increased her veterinary expenses by 50%; She closed her testimony with the statement - "the biggest threat to food safety is an exhausted, depleted, overdrawn dairy farmer"

- Representative/committee member Rodney Graham stated that raw milk dairy farmers are being unfairly treated; he thinks that raw milk producers should be subject to same regulatory framework as the commercial producers.
- Chair Partridge - What are the top things RV would like changed?  
Andrea Stander responded that list is different for Tier 1 vs. 2 farmers; she stated that Senate Ag committee is interested in looking at changes to current statutory language; further stated that on the top of the list would be the farm visit requirement, the limits on how much raw milk can be sold and the animal health testing requirements. She stated that RV wants unlimited markets so that they and their customers can get full access to unlimited amount of product.
- Rep/Dr. Bartholemew stated that the committee worked hard last year to enact language that was representative of a compromise btw both sides. If VAAFM has now enacted a policy to subvert that legislative intent, he wants to hear an explanation from the Agency. She further stated that there will be a raw milk bill forthcoming. VAAFM will be asked to testify in that context.

## **February 4, 2015**

### **House Fish & Wildlife**

- Commissioner Snyder and Devon Green from Tax and Diane Bothfeld discussed removal of ag land from current use as structured within H.35. Committee wanted comparison on Forestry and Ag programs and the violation process that would lead to expulsion from Current Use. ALSO - was asked to commit to a stakeholder meeting prior to beginning rule making (rules required in H.35). Mentioned using farmer working group and reaching out to NOFA and possibly Rural VT to reach smaller farmers.
- Provided information on regulatory process that would result in expulsion from Current Use. Corrective action notice - then notice of violation - potential for hearing. Order from hearing and appeal process described.
- Note: Proposed meeting with administration on Current use to make sure we are on the same page on the time that ag land is out of program.

## **February 5, 2015**

### **Senate Natural Resources**

#### **S. 49 Water Quality**

Deputy Secretary Diane Bothfeld provided an overview on the and the importance of water quality to the state and the agency. Further discussion of Current Use as a deterrent and tonnage Fee for fertilizer. To push back on need for 7 positions for implementation of TMDL, funding mechanism through fertilizer fee and loss of current use if not in compliance with water quality.

## **February 6, 2015**

### **Senate Agriculture**

#### **S. 49 and Miscellaneous Tax Bill as it relates to Current use**

Farm Bureau Clark Hinsdale and Joe Tisbert

- Mr. Hinsdale felt that the approach to this biennium and legislative session was different from prior sessions. Ag Policy proposed by the Administration was vetted with farmers prior to policy being unveiled. He characterized it as an "assault" on farmers.
- The Current use program should be a policy rather than a program, and shouldn't be called a "subsidy".
- A problem with Current Use is the overvaluation of agricultural land and buildings in the program (especially conserved farms). This is done by some listers and fills the municipal budgets.

- The state has had great success in bring new and young farmers to the state. He is concerned that the moratorium will discourage young farmers.
- Valuation of farm buildings at 30%- bad idea. IBM doesn't pay taxes on its sole use infrastructure so why should farmers.
- Removing farmers from Current use for water quality violations is inequitable. Not all farmers are enrolled in the program. Most violations can be resolved immediately once they are found. The Agency has the tools necessary to enforce the AAPs.
- Education of the AAPs- He interacts with all types of farmers and small farmers are unaware of the accepted agricultural practices. Maybe there should be a certification course to own livestock. He shared a story about a horse that was forced to live near a stream and contributed significantly to the pollution of a stream in his community. But once the horse owner was made aware that the horse shouldn't be confined with access to the stream the situation got better.

### **House Agriculture**

House Ag took up H.35 this week with a walk through of the bill by M. O'Grady on Wednesday. The following questions were asked as they went through the bill:

- Why no 'findings' section was included
- How will intermittent streams be treated; what are they and will they be regulated
- Questions as to the current definitions of farming
- Manure stacking standards questions
- Questions as to why private wells are mentioned in the bill when it is all about Lake Champlain
- What will 'regular flooding' mean and how will these areas be mapped
- Questions regarding property boundary language relative to manure management
- Who sets NMP standards as part of the AAPs
- What does 'manage agricultural waste' mean?
- Much confusion as to what 'T' means relative to the revised universal soil loss equation
- Questions as how a ditch will be defined
- Questions regarding structures and river corridor prohibitions language
- Livestock exclusion questions
- Tile drains language questions
- Small Farm Certification questions (many; mostly regarding how these will be defined)
- Inspections, rights of entry, prior notice requirements, concerns regarding farms where owners work full time off the farm.
- Substantial discussion of training requirements and how they would be implemented
- Substantial discussion of manure applicator definitions and how this provision would impact traditional bartering between farms.
- Downsizing proposals stimulated the most conversation; reluctance to provide this authority without serious discussion.

Ag Resource Management Director Jim Leland expects to be called in next week to address many of these questions. He sensed a general reluctance to embrace the entire initiative at this time and general concern over what this will mean to the average small farm operation; some skepticism of a regulatory effort in this area.

### **House Fish and Wildlife**

#### **Continued work on H.35**

VAAFM was asked to provide testimony regarding potential permit fees. We were specifically asked if we would oppose language in the bill to require a study of the possible funding opportunities that could be realized from permit fees. I said that we would not object to that.

Testimony then ventured off into areas related to enforcement, the MOU, our interactions with DEC and the AGOs office, the difference between AAPs and BMPs and how these were defined in federal law, and differences between MFO and LFO permit authorities. It also appears that the tonnage fee concept has not been met well and the committee

is searching for alternatives to funding for our proposed positions. We will be asked to provide our enforcement report next week and testify regarding our enforcement efforts generally.

## **Press**

- The Agency of Agriculture issued a press release about the VT Farm Show Consumer Night activities including Capital Cook Off and Buy Local Market on 1/28/15
- The Agency also issued a press release about the Farm to School Awareness Day event at the statehouse on 1/29/15

## **Significant Events/Meetings:**

- State Veterinarian, Kirstin Haas, communicated with Senator Sanders' office this week regarding the Veterinary Medicine Loan Repayment Adjustment Act, federal legislation that would tax-exempt the monetary awards received by qualified veterinarians through the federal loan repayment program. If passed, this federal legislation would also exempt Vermont's state program. Haas encouraged Senator Sanders to sign on as a co-sponsor of the bill, which will be introduced on February 10<sup>th</sup>. Multiple national agriculture and animal health organizations are supportive of the bill, including NASDA and the United States Animal Health Association.
- FSCP Director, Meat Inspection Head of Service and Meat Programs Section Chief met with Representative Komline and Andrea Stander with Rural Vermont this week to discuss the Agency's recommendations for H. 52, a bill that proposes to enact state statutory language which would clarify the fact the Vermont poultry producers can slaughter/process up to 20,000 birds annually without the otherwise required inspection. Collaboration will be ongoing, and the Agency will likely be asked to offer suggested language amendments to the bill to meet federal standards.
- State Veterinarians Haas and Mehlenbacher and Animal Health Specialist Kuehne participated in a meeting this week with NY Department of Ag and Markets' field veterinarian and inspector to discuss issues related to cattle movement btw NY and Vermont.
- State Veterinarian, Kristin Haas, participated in a monthly executive committee conference call for the United States Animal Health Association. The schedule for the upcoming Government Relations Committee meeting being held in D.C. in March was finalized. Haas will lead the discussion at that meeting re. the interaction between FDA and USDA on the topic of sheep and goat Brucellosis and Tuberculosis testing that is currently required by FDA. A successful resolution to this discussion will be of benefit to Vermont.
- Assistant State Veterinarian traveled to Rutland for the annual meeting of the Humane Euthanasia of Animals Board. The Board reviewed notes and policy decisions from the prior year meeting and re-elected the current chair to serve one more year. The Subcommittee for Practical Exams presented a bank of oral questions that examiners can use during the practical exam for certified euthanasia technicians (CETs). The Board edited and removed some questions and the Subcommittee will provide an updated draft for final approval. The Board also reviewed the list of current CETs and Registered Animal Shelters and possible upcoming practical exams for CETs in training.
- Animal Health lifted a quarantine on a farm in Pawlet that had exposure to a rabid skunk. Field staff will do a site visit next week.

## **Evolving Issues:**

- State Veterinarian, Kristin Haas, is in the process of coordinating a New England regional emergency response exercise that will be held in White River Junction in May. The exercise is funded by a food security FDA grant administered by Haas and will focus on Foot and Mouth Disease vaccination, deployment of the National Veterinary Stockpile, and usage of the dairy farm permitting system that was developed in New England two years ago.
- The Animal Health section was notified this week that it will be awarded an additional \$7,000 in the 2015 USDA cooperative agreement to further offset the cost of testing poultry as required by statute and to enable the State Veterinarian to become certified as a Foreign Animal Disease Diagnostician via training at USDA's Plum Island facility.

- The Food Safety and Consumer Protection management team met this week to continue to refine its farmers market inspection plan and protocols. Once the outreach tools needed by inspectors are completed, the FSCP field staff will be consulted for input during an upcoming Division meeting. Outreach to the industry will be ongoing throughout the spring prior to commencing inspections. The 2015 goal will be to visit every summer farmers market once during the season and inspect the commodities/devices regulated by the Division.
- Animal Health Specialist IV collected tissue samples (obex, retropharyngeal lymph nodes) for Chronic Wasting Disease testing from a red deer sent to slaughter in the Benson area. All captive deer in Vermont that die or are sent to slaughter are required to have testing for CWD performed. Prior to 2013, producers paid for the testing, but as of a legislative change in 2013, the Agency now bears that cost.
- Animal Health Specialist IV is working with a cervid producer who is non-compliant regarding facility and animal identification requirements. The Section anticipates that the producer will finish constructing his catch facility this week, allowing field staff to complete a herd inventory reconciliation. RFID ear tags were provided to the producer at no charge to place on deer with tags.
- Assistant State Veterinarian met with Produce Safety staff regarding Agency activities around FSMA and to prepare for the internal meeting later in the week.

## **Summary of Key agency Department Activity**

### **Administration:**

#### **Cheese Council Annual Meeting**

Deputy Secretary Bothfeld attended the Cheese Council's Annual Meeting at Trapp Family Lodge in Stowe. The Cheese Council had a successful year but the budget is extremely tight for 2015. Executive Director's report highlighted tremendous achievements this year for the council including assisting more cheesemakers to attend national competitions, doing more educational meeting with members on food safety and improving distribution as well as getting Vermont Cheese into local, national and international media. Bothfeld presented the new Milk Matters information brochure and answered questions on current activities at the Agency and at the legislature.

#### **Farm Show**

Deputy Secretary Bothfeld orchestrated the Dairy Update meeting at the Farm Show on January 29. The two hour meeting featured statistical update for the industry for 2014, launch of the Milk Matters dairy informational brochure, Farm Labor Housing and Wage and Hour requirements, Update from USDA Farm Services Agency of programs and updates from Senator Leahy and Congressman Welch's Staff. Attendance was approximately 75 people and questions were centered around the Milk Matters brochure and Farm Labor Housing, Wage and Hour information.

### **Agricultural Development:**

- Reg Godin, Senior Market Development Specialist, is helping plan an upcoming agritourism conference in Rutland - *"Welcoming Customers on Your Farm: Using Agritourism, Education and Direct Sales to Increase Farm Profits"*. This early April conference (sponsored by USDA Rural Development and the Rutland Regional Planning Commission with additional support from Rutland Area Farm and Food Link (RAFFL), University of Vermont Extension, Farm-Based Education Network, Vermont Farms! Association, the VT Dept. of Tourism and Marketing, and the VT Agency of Ag) will allow for farmers, educators and service providers to gather, share ideas, and build connections that will enhance Vermont's agritourism community. This conference aligns with Vermont's Farm to Plate goals to increase food literacy, farm profitability, and local food availability as well as more opportunities for farms to engage in technical assistance opportunities.
- The Working Lands Enterprise Initiative team recently released a comprehensive annual report for 2014. While only 23% of funded projects have been completed to date (grant agreement timelines range from 12 to 18 months in length) recently released data from Fiscal Year 2013 indicates positive trends within the Vermont's ag and forestry sectors due to Working Lands investments, including:
  - 25 new jobs created (full time equivalents)

- Aggregated gross income increased by \$880,831 across sectors
- Grant recipients increased product output by an average of 25%
- 91% of grant recipients increased their capacity to fulfill additional contracts
- 74% of grant recipients feel Working Lands grant funding had a high or very high impact on their business

To find out more about the Working Lands Enterprise Initiative, to download additional data, and to review program goals for 2015, please visit our [website](#) and check out our [Fiscal Year 2014 Annual Report](#).

- Senior Agricultural Development Coordinator Alex DePillis analyzed acreage required under H.40 (Renewable Energy Standard and Energy Transformation – RESET – Program) to meet the distributed generation category, using entirely ground-mounted solar panels. The approximately 400 megawatts (MW) of solar panels that would be required by 2032 to meet the 10% distributed generation category, at between seven and ten acres per MW, would amount to upwards of 3,000 acres. If solar project developers place all of this approximately 400 MW on Vermont's approximately 381,000 of NRCS-mapped prime agricultural soils, and assuming a generous total of 5,000 acres, their siting would remove from agricultural production approximately 1.3% of the prime agricultural soils until (and if) the site is decommissioned and reclaimed.
- Senior Agricultural Development Coordinator Alex DePillis has engaged with regional farm-energy stakeholders to apply for a new source of USDA funding, [Energy Audit & Renewable Energy Development Assistance Grants](#). This would provide a way to fund farm energy assessments ranging from a simple audit to an “ambassador”-type function which would assist with the steps needed to achieve implementation.

### **Act 250 – 9(B) Criterion Review**

- During the month of January, the Agency issued 12 review letters for proposed projects that triggered review under criterion 9(B) under Act 250. Of the review letters sent, 9 projects did not require any mitigation due to findings that indicate no or *de minimis* impacts to primary agricultural soils, or soils do not meet the definition. Additionally, one project did not require mitigation for impacts to primary agricultural soils because the proposed project meets the definition of affordable housing, and is therefore exempt from the mitigation requirements.
- The review findings for 2 projects indicated that on-site mitigation is acceptable to mitigate for proposed impacts, potentially resulting in 21 acres of soils preserved on-site. For one of those projects, there is not enough on-site soils remaining; therefore, the Applicant is requesting the use of off-site mitigation to satisfy the mitigation requirements, potentially resulting in payment of mitigation fees for a total of 56.37 acres. We are awaiting District Commission findings.

### **VAAFM hosts 4<sup>th</sup> Annual Farm Show Consumer Night, featuring the Lake Champlain themed Capital Cook-off and Buy-Local Vendor Night on January 28<sup>th</sup>**

- The Capital Cook Off was hosted by Vermont Secretary of Agriculture Chuck Ross and Deputy Secretary Diane Bothfeld, the Iron Chef-style cooking competition challenged three teams comprised of Vermont Senators, Representatives, and Agency of Agriculture, Food, and Markets staff to craft a delicious dish using local ingredients over the course of one hour.
  - Much anticipated was the competition's secret ingredient: freshly caught Lake Champlain Yellow Perch. The secret ingredient and the event's overarching “Lake to Plate” theme was revealed by Dep. Secretary Bothfeld alongside Champ, mascot of the Vermont Lake Monsters, and Clover the Cow, mascot of the Vermont Agency of Agriculture, Food and Markets.
  - Agriculture Secretary Chuck Ross went on to reiterate that, “The ‘Lake to Plate’ theme is a reminder of the importance of our communities’ collective responsibility to support our working landscape, keep our rivers and lake healthy, and sustain viable agriculture.”
  - Each Cook-Off team prepared Yellow Perch, alongside a number of other local foods, including vegetables, beans, honey, and meats, to be tasted and reviewed by a panel of judges including Lyndon Virkler, Dean of Education at New England Culinary Institute, Brian Roper of Sodexo, Allison Weinhausen of City Market, Hannah Egan Palmer, food writer from Seven Days, Paul Dunkling, owner of Ray's Seafood, Doug Paine, head chef of Juniper and Bleu in Burlington, Richard Jarmusz of UVM Medical Center Nutrition Services, and Lt. Governor Phil Scott.

- After a thorough debate, the judges declared the Agency of Agriculture team to be the 2015 Capital Cook-Off champions, dethroning the defending team from the Vermont House of Representatives. The Ag Agency's winning dish, a spin on fish tacos, featured seasoned and fried perch on a bed of slaw and paratha bread. The Agency team members - John Roberts, Maria Steyaart, Lauren Masseria, and Shelly Saleem, were thrilled with their dish and proud to have participated in such a fun and exciting event celebrating local foods.
- Consumer Night team donated over 25 lbs. of food left over from the Capitol Cook Off to the Chittenden Emergency Food Shelf on the morning 1/29, including fresh greens, herbs, onions, root vegetables, oven-roasted tomatoes, cut carrots and potatoes, chicken and vegetable stock, butter, sour cream, milk, olive oil, and cider vinegar. The chef was excited to receive a bounty of high-quality ingredients, which he said were perfect for the Food Shelf's hot meal program.
- Capital Cook Off participants and spectators, Buy Local Market vendors and consumers appreciated the attendance from the governor at the event
- The Buy-Local Market featured over 50 Vermont vendors, selling local product and sampling their delicious food.
  - The vendors featured cheese, vegetables, meat, maple syrup, honey, jams, sauces, beer, wine, liquor, wool products, and much more.
  - Many of the local products used in the Capital Cook Off were donated by vendors from the Buy-Local Market

#### VAAFM hosts Farm to School Awareness Day at Statehouse on January 29<sup>th</sup>

- On Thursday, January 29th, the Vermont Agency of Agriculture, Food & Markets, in partnership with the Vermont Farm to School Network, announced the recipients of the 2015 Farm to School grants at a special ceremony at the Statehouse cafeteria.
  - The Vermont Farm to School Grant Program, now in its ninth year, works to improve nutrition among Vermont's children by connecting food producers to their local schools, as well as providing enriched educational experiences and curricula. Farm to School grant funding allocated by the Vermont legislature enables Vermont schools to engage students in their local food system by incorporating local food and farm education in their cafeterias, classrooms and communities. This program has currently reached 101 schools, impacting 27,000 Vermont students.
  - One teacher praised Farm to School curriculum saying, "How do I engage ALL students in a way that is meaningful and productive? Educators are always looking for 'the topic' that will spark a student's interest, 'the topic' that will engage the student in reading, writing, math, social studies, science, art, music, PE and other disciplines. I've found that Farm to School education, along with overall health and wellness education, is THE topic."
  - This year, grants were awarded to ten Vermont schools, including five implementation grants and five planning grants. Student representatives from schools that previously received grants also attended the event to demonstrate how awarded grant monies were used to bring more local foods into their cafeterias, and to share success stories and lessons learned.
  - Agency of Agriculture Secretary, Chuck Ross, Agency of Education Secretary Rebecca Holcombe, Commissioner of Health, Dr. Harry Chen, and Deputy Secretary, Jolinda LaClair, also spoke at the event, along with State Representative Mitzi Johnson who introduced the first Farm to School bill in the statehouse. Commenting on the progress Farm to School has made since the bill was passed in 2006, Representative Johnson said, "It's really exciting to see the (Farm to School) work ripple throughout communities, foster curriculum about ecological cycles, and improve access to healthy food in low income communities."

#### Produce Safety Program Coordinator continues to meet with federal, state and local partners determining producer impact

- Meeting with VAAFM ARM staff (Linda Boccuzzi, Jeff Comstock, and Cary Giguere) to address produce industry questions around (1) potable water use for washing and (2) disposing of waste water (including disposal of wash water treated with sanitizer). Coordinator will collaborate with ANR & VDH to address these questions and produce a guidance document for industry.

- Meeting with NOFA-VT to discuss FSMA implementation and potential impacts on the produce industry as well as future collaboration around providing outreach and education to growers.
- Participated in 50 state conference call hosted by FDA to discuss details of FDA's recent congressional budget request.
- Collaboration with Maria Knirk (New York State Department of Agriculture) on the "Foundation of Law" chapter of the NASDA Technical Working Group's Operational Plan for FSMA implementation.
- Meeting with Food Safety & Consumer Protection Section Chiefs to discuss FSMA implementation and produce safety program development.

#### Preliminary presentation to VT Farmers Market Association (VTFMA) of VAAFM's farmers' market cursory inspections

- VAAFM staff shared, with the VTFMA board meeting on 1/28, the Food Safety and Consumer Protection Division's process for conducting cursory inspections of specific food products and scales during the 2015 summer farmers' market season.
- The cursory inspection concept was described as an opportunity for VAAFM regulators to visit farmers' markets, outreach to vendors, and provide education about specific compliance requirements.
- VTFMA will help share the inspection process information with market managers, vendors, and partners over the next month.

#### Continuation of inter-agency discussion about increased opportunities for local product procurement in state government

- State government representatives from VAAFM, BGS, ACCD, and AoA gathered on February 3 to provide programmatic updates and discuss opportunities for ongoing collaboration around local procurement
- The statewide matchmaker event, hosted by VT Fresh Network in partnership with VAAFM and VT Specialty Food Association, occurring on March 25 will include participation from State of Vermont BGS Purchasing.
  - Currently 34 VT farms and food producers are signed-up along with 6 state and regional buyers
- BGS and ACCD shared the 4 up-coming regional vendor engagement workshops scheduled to share the process for Vermont producers to successfully bid on government contracts
  - Workshops currently scheduled in Hyde Park, Newport, Rutland, and Burlington in Feb-April

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

#### **Consumer Protection:**

- The Vermont Weights and Measures Metrology laboratory has been very active and reports that over the last eight weeks the lab has tolerance tested 5,000 hydrometers and calibrated 183 weights billing out over \$15,000 in fees over that period of time. Work was done for companies located in CT, NH, MI, and VT.
- Weights and Measures Specialist Marc Paquette was interviewed by Mark Johnson at the Vermont Farm Show discussing the Weights and Measures program and different types of violations and penalties assessed.
- Consumer Protection staff Marc Paquette and Mike Larose coordinated the maple grading section of the forestry contest at the Vermont Farm Show in Essex. 207 students from around the state from local FFA and Vocational chapters converged on Essex to participate in this yearly event.
- Weights and Measures inspection staff have been finding significant violations. Since the last update given (Jan. 1) staff have documented 6 scanner violations and 11 short weight violations resulting in a total of \$58,500.00 of penalties being sent to the office for processing. There has been a large increase in the number of short weight violations found (accounting for \$20,250.00 of the penalties). Training provided to Weights and Measures staff from the National Institute of Standards and Technology (March 2014) greatly contributed to the confidence and ability to conduct these inspections.

#### **Meat Inspection:**



- Program is providing extra coverage for the federal plants under the cross-utilization program as USDA continues to struggle to fill open federal inspector positions within Vermont.
- Program is running through the list of delinquent retail license holders for 2014, to determine licensees out of business from those operating without a valid license.
- Program is handling many request ranging from remodeling of retail stores under new ownership, questions concerning the regulations surrounding rabbit slaughter and regulations connected with curing and smoking and on-farm slaughtering.
- The program held an inspectors meeting to discuss several new Federal Notices, Directives and the Poultry Modernization Act.
- Information received from USDA that funds will be deposited for drawdown of the 50/50 funded program soon but the reviews of the proposed state budgets is still on going so total allotted amounts will not be available until reviews are finished

### **Animal Health:**

- Animal Health Field Staff:
  - Provided animal disease traceability supplies to a livestock dealer in Highgate.
  - Continued a tissue residue case investigation for a bob veal calf with a ceftiofur violation.
  - Met with, and licensed an unlicensed livestock dealer involved in a tissue residue violation.
  - Working to coordinated annual farmed cervid facility inspections and herd inventories with three producers that are somewhat non-responsive to phone calls.

### **Dairy:**

The dairy count for February reveals that as of this month there are 896 dairies in Vermont. This is three fewer cow dairies than last month (down to 865), and 34 fewer than last year. Goat and sheep dairies remained at 27 and 4, respectively.

## **Agricultural Resource Management:**

### **Water Quality Program**

A large farm operation in Irasburg/Orleans has been issued a corrective action letter for not managing their silage leachate control system in a way to prevent the discharge of wastes to surface water, and for managing a livestock mortality compost pile in a location that may not meet NRCS practice standards.

### **Public Records Request**

We have received a records request from Kathryn Flagg of Seven Days for information related to the last five years of water quality complaints / enforcement / penalties imposed and collected. We are in the process of clarifying the nature/scope of the request so we can better respond to Ms. Flagg.

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

- Staff conducted an inspection related to a complaint on a MFO in Caledonia County to evaluate water quality concerns.
- Staff met with a LFO to discuss BMPs as well as digester substrate importation, which requires a LFO permit amendment.

- Staff met with a MFO in Franklin County to discuss the farm's NMP as a follow-up to a complaint investigation related to potential water contamination from farming operations and manure spreading.
- Staff met with a SFO in Franklin County to discuss manure storage and options to avoid a winter manure spreading request. The farm is likely going to increase their storage capacity so that they don't have to request a manure spreading exemption.
- Staff are continuing to process LFO permits and permit amendments for several farms.
- Staff met with an ANR Environmental Enforcement officer to discuss their program's tracking system from inspection through enforcement. We are hopeful to incorporate some of their methodology to improve efficiency as well as our accountability and tracking efforts.
- Staff attend a training conducted by an ANR Environmental Enforcement Officer (EEO) to discuss their inspection and investigation process. The EEO was invited to AAFM to present their procedure so that we can improve and discuss our inspection process.
- Staff are drafting reports and memos related to inspections and enforcement cases.
- Staff are coordinating enforcement efforts, both in house and with the Attorney General's office for several ongoing and future enforcement actions on MFOs and LFOs for water quality compliance concerns.
- Staff are continuing to work on the USA FoodSafety water quality database. This includes database testing, development and data migration.

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

- Staff completed FY 2014 CREP report to FSA.
- Staff coordinated with VLT and DEC re: finalizing easement area/shape and preparing two applications to DEC's Ecosystem Restoration Program (ERP) on behalf of farms interested in enrolling land in a River Corridor Easement (RCE).
- Staff communicated with contractor re: design of barnyard/silage runoff collection system and treatment area to be installed on SFO in Cambridge via BMP program. Engaged Agency engineers in conversation about design standards and specifications. Agency engineer is creating CAD drawings to better illustrate our design expectations to the contractor.
- Staff compiled farm Agency/VACD/UVM Extension BMP and technical assistance history for VLT on SFO in Randolph.
- Staff worked with agency staff to finalize CREP succession of interest document.
- Staff procured a display table and two passes for Agency staff at upcoming UVM Extension No-till and Cover Crop Symposium.
- Staff processed field data gathered for planning CREP projects in ArcMap.
- Staff worked on paperwork needed for upcoming CREP contract signings.

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

- Secretary Ross spent the first portion of the week in Washington, DC attending the NASDA Winter Policy Conference.
- Upon returning to VT Secretary Ross had several meeting regarding water quality, and with our partners in the Dept. of Environmental Conservation.
- Secretary Ross and Deputy Secretary LaClair joined with ANR and BGS leadership to present to four House Committees (Corrections & Institutions, Agriculture, Natural Resources and Energy, Fish, Wildlife and Water Resources) on developments in the joint Ag/ANR lab.
- Secretary Ross met with Governor Shumlin for several meetings on Friday, including meeting with Mansfield Heliflight, the Bourdeau Brothers (a feed & fertilizer company) and another assorted group of representatives of the environmental community.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**

**From: Deborah Markowitz, Secretary, Agency of Natural Resources**

**Date: February 6, 2015**

**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Ski Leases:** Commissioner Snyder and FPR staff met with Okemo and Jay Peak Resorts last week to review ski lease matters and the State Auditor's recent report on state ski leases. Both ski areas report that they are at least even with – or a little ahead of – last year's revenues, and with the recent snows they are anticipating a strong finish to the ski season. Ski area representatives at both locations felt that the Auditor's report unfairly focused only on ski lease revenue compared to ski area growth and it failed to present the positive economic impact ski areas have on the State's economy.

I will be reviewing the Auditor's report with Michael's team to look for things we can do to address some of the recommendations in the report without reopening leases. I will also review the recommendations to see whether there are items that should be focused on by us or the legislature to modernize the leases in ways that make sense both for the state and for the ski industry. In the event that we come up with recommendations I will schedule time to get your input before we move forward.

**Burlington Town Center:** OPLA participated Tuesday in a multi-agency meeting with the developer of the Burlington Town Center project to discuss the permit process and natural resource considerations associated with the project. The goal was to provide the developer with information and technical assistance in planning for the permitting process and to identify any apparent site constraints in advance of a series of public meetings facilitated by the developer to solicit community feedback on the proposed design.

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## **EVERYTHING ELSE:**

### **Legislative Issues/Testimony:**

**Compliance & Enforcement at House FW&WR:** DEC's Compliance and Enforcement Director, Gary Kessler, appeared before the House FW&WR Committee on Jan 23 to provide an overview of the tools CED uses, how the Division addresses complaints and tracks them, and how a case is prosecuted. Kessler also discussed Next Generation compliance and enforcement and our efforts to enhance targeted and strategic enforcement in the Department.

**Hinesburg Water System:** The Hinesburg Water System is currently on a connection ban due to the Town having overcommitted the existing system's available water capacity. Senator Snelling requested a status update on Hinesburg's progress to connect two new wells on the system. A Water Supply Source Permit (April), Construction Permit (May), and Permit to Operate (June) will be needed.

**Water Quality / H.35 / S.49:** Commissioner Mears and DEC staff continue to provide testimony before and monitor hearings in House and Senate committees on two parallel water quality bills. Commissioner Snyder testified before the House Fish, Wildlife and Water Resources Committee regarding the removal and re-enrollment process used for the Current Use program by Property Valuation and Review for farms that do not follow AAPs. On Thursday, Deputy Secretary Martin joined VTrans Secretary Minter and staff to provide testimony to the Senate Committee on Transportation regarding water quality protection in the transportation arena.

**Fee Bill:** Director of Parks Craig Whipple provided Fee Bill testimony related to a request from VASA to the House Committee on Ways and Means.

**ANR / AG Lab:** Deputy Secretary Martin joined a BGS Commissioner Obuchowski, AAFM Secretary Ross and Deputy Secretary Leclaire on Thursday to provide an overview of the capital bill proposal related to construction of a new ANR / Ag lab on the Vermont Technical College Campus. The state's team was joined by a representative from VTC to underscore the growing partnership and long-term value of the project for VTC.

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

Secretary Markowitz released an op-ed in support of the **Clean Water Initiative** on Jan 28.

**F&W Board Votes on Proposed Deer Hunting Changes:** Proposed changes to VT deer hunting regulations received a first vote by the Fish and Wildlife Board at their Jan 21 meeting in Montpelier. A series of public hearings, follow-up board meetings and two more board votes will be following in coming months before any changes can be adopted.

**Other Fish and Wildlife Releases:** FWD Expands Two Addison County Wildlife Management Areas; and Retired FWD Biologist Receives Yankee Sportsmen's Heritage Service Award.

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

**VT League of Cities and Towns (VLCT):** VLCT hosted an all-day meeting on the implementation of the Universal Recycling Law. Deputy Commissioner Schuren and Solid Waste Program Managers and staff presented on Universal Recycling implementation and the statewide Materials Management Plan requirements. Approximately 100 town representatives attended, asked great questions about state requirements and local options for meeting them, and got answers.

**Lower Connecticut River Hydroelectric Relicensing:** DEC participated on a call this week with the US Fish and Wildlife Service and New Hampshire Department of Environmental Service to discuss TransCanada's request to FERC for a 1-year license extension for the Wilder, Bellows Falls, and Vernon Projects, and to determine whether the agencies should file a letter with FERC supporting TransCanada's request. TransCanada's request for an extension results from delays on several aquatic studies following the announcement that Vermont Yankee would be shutting down. TransCanada will have limited time for proper review and analysis of the study results in order to propose operational changes before their FERC license applications for the three projects are due in early 2016. The federal and state agencies, working collaboratively on project relicensing, would like to keep the three TransCanada projects and two FirstLight projects, located downstream, on the same schedule in order to prescribe operation conditions that will benefit this section of river. Currently, one FirstLight project is not eligible for a FERC license extension. At this time the agencies have decided that it would be best to remain neutral until we have a better idea whether or not FERC will grant the extension.

**Free Ice Fishing Festival:** Sat, Jan 31 was the second annual free ice fishing festival, held at the Mallets Bay Fishing Access. F&W holds this event to encourage kids and adults to try ice fishing, without the need to buy a fishing license on this day. Despite very cold temperatures, there was a fairly good public turnout and it seems to have been a success.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**AnCBio- Newport:** A water supply construction permit was issued for the new AnCBio biomedical facility and existing office building. This permit allows water distribution lines and associated appurtenances supplying Bogner Drive to be replaced and upgraded to provide domestic water supply, process water, and fire protection to the existing office building and the new AnCBio biomedical facility. The office building will house 100 employees and the new biomedical facility will employ 225 people for each of two shifts daily.

**Bennington Water System:** The Drinking Water State Revolving Fund (DWSRF) is finalizing a \$2.96 million loan for a joint Town of Bennington and Southern Vermont College water storage tank/transmission main project, which will solve compliance issues (lack of disinfection; repeated total coliform bacteria hits) related to the lower college campus, place the College on the Town water system, and help solve the Town's South End water pressure issues. It is rare that the public health deficiencies of two different water systems can be solved with one project and the DWSRF has played a leading role in facilitating this joint solution.

**ANR Online / nForm Project:** DEC continues to move ANR Online forward by utilizing web-based nForms. DEC is planning for a soft launch for Underground Injection Control, Underground Storage Tank, and National Pollution Discharge Elimination System online permit applications next week. DEC is utilizing a train the trainer model in rolling out the use of this online form, which is malleable and can be used by programs across the Department.

**Possible New Wind Project:** Watershed Management Division staff from Lakes, Rivers, Stormwater, and Wetlands met with developers and consultants on a relatively small wind proposal (6-8 turbines) for a hillside above St. Albans/Swanton. There may be some wetland issues. DEC staff are working with the developer to avoid impacts to wetlands.

## **Fish & Wildlife**

**Data to Help Manage Moose:** Staff compiled historical and current moose population and density estimates, along with harvest data, for North Dakota and Minnesota biologists who are working on a GIS mapping project. The objective is to create GIS layers that display the relative changes in moose densities and distribution, by management units, across North America.

**Fishing:** Cold weather is keeping most fishermen/women indoors. Some violations are still being detected, however, including license and methods issues.

**Master Angler Pin:** Staff finalized the design for the 2014 Vermont Master Angler Pin. Anglers participating in the Vermont Master Angler Program who submit a minimum of 5 qualifying trophy fish catches earn a lapel pin. In 2014, 35 anglers earned the pin. The design of the lapel pin changes each year. This year it will feature the same brook trout painting as available on the new Conservation License Plates, which was painted by former F&W Commissioner Berry.

## **Forest, Parks and Recreation**

Nothing to report this week.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: February 6, 2015

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** Entergy informed me yesterday that the NRC approved and the Trustee has paid \$12M from the NDT to reimburse Entergy for decommissioning planning expenses to date. NRC apparently did not take action on our letter to them from the AGO and Department. The NRC granted Entergy the on-site staff reductions requested on Monday, and Entergy has put those into effect, along with disabling the ERDS. We are still hopeful Entergy will provide real-time access to plant data through the Plant Process Display System, and are in discussions with them about that.

Clarity on the Strontium 90 issues was gained this week through conversations with Entergy, the NRC and the Health Department. More detail is in the Engineering Section below.

**TDI:** After our interagency meeting yesterday, I met with TDI to start discussion of a counter-proposal. I shared the State's opening numbers - \$20.5M versus \$7.5M offered,



and other conditions of a settlement including reservation of an option for capacity (and/or energy), use of the LCBP for trust fund entity, fiber, commitment for renewable supply, etc. The meeting went fine, and I expect them to come back shortly. They did not faint at the number, but didn't ask to sign a deal either! I am concerned about them reaching agreement with VTrans too quickly and having a greater share of available funds going to the lease arrangement than is required by statute. We expect to try to execute an MOU in the mid-June timeframe.

**VGS:** VGS has not yet notified the board of the Phase II cost increase estimates. We have not heard anything further from them about IP. We are receiving and responding to the landowner letters and including a suggestion they continue constructive dialog with the company for those not asking to "hold" communication, and for those that are suggesting they resume dialog.

**EIP (H. 40, S. 51):** The House and Senate now have identical bills reflecting the EIP proposal. Darren testified on the proposal in Senate Natural Resources, which took limited testimony on their version, introduced by Chair Bray with 7 co-sponsors. They will resume testimony after the do more work on water quality issues and once House acts. House Natural Resources is deep into mark-up of the bill with occasional additional witness testimony. Darren is in Committee and working with Representatives on changes that can garner support and do not harm underlying purpose and intent of proposal. Stakeholder testimony largely positive outside of solar siting issues. Klein and Bray have committed to keep EIP bills clean, and work on siting issues separately. Expect House Committee to finish work next week and vote the bill out toward end of week based on current schedule.

### Meetings this Week:

Feb 2 – Chris at VTA Board meeting; Darren at Dynapower event; Darren VEIC/VTrans conference call

Feb 3 – Chris NESCOE/GIG conference call; Darren testifies on EIP in Senate Natural Resources and Energy Committee

Feb 3-6 – Darren in HNRE on H.40

Feb 4 – Chris Entergy call, Anabarc call, meeting with FairPoint

Feb 5 – Chris TDI meeting 5<sup>th</sup> Floor

Feb 6 – Chris NDCAP transition conference call; Chris - PSD/TDI meeting;

### Meetings next Week:

Feb 9 – Chris/Jim Porter meeting with Justin on H.117; Chris attends cabinet meeting; Darren/EAN meeting

Feb 10 – Chris/Jim Porter in House Commerce on H.117; Darren VEIC/LCCC Energy Panel

Feb 11 – Chris testifies on VY decommissioning at statehouse Joint Hearing;

Chris/Twomey/TAX meeting on Entergy PILOT  
Feb 13 – Chris/Jim Volz and Darren H.40 overview

**Media:** Darren spoke with John Herrick/VTD and Paul Heinz/Seven Days re H.40; Chris with Herrick on VY

## **Everything Else:**

### ***PERD***

#### **Legislative Updates**

- Attended Efficiency Vermont Overview in HNRE. Representative Olsen questioned them about how much of their program is based on lighting savings, why they are still incentivizing CFL's and what the transition will be towards incentivizing and claiming savings from LED's. Rep. Olsen also expressed his concerns about the new Home Energy Reports and said he's received many complaints from constituents regarding. Representative Ellis asked if they have a breakdown between Res. And Commercial. They said they can provide that.
- Attended Weatherization Program overview in House General, Housing and Military Affairs Committee. Highlights provided include:
  - OEO receives 7.9 m state funding/1 m federal funding (Department of Energy)
  - The Low Income Weatherization Program is primarily funded by the Gross Receipts Tax – a 0.5% tax on the gross receipts of all non-transportation fuels sold in the state of Vermont. During the five fiscal years between FY10 and FY15, additional funding from ARRA and the GMP/CVPS merger was received
  - In FY 2014: 1,281 homes were weatherized. Average project cost was \$8,500.
  - 40% of all units weatherized are Multi-family
  - Vermiculite is found in 10% of homes. Until FY14 presence of vermiculite meant an automatic deferral of Wx services. Now they have received some outside funding to treat those homes (have done 15 so far). Still not enough funding to treat the 400 or so homes that have been deferred.
  - Weatherization Impact:
    - Low –income people save an average of more than \$1,000 annually on energy costs.
    - Total 1st year gallons of #2 oil saved for 511 fuel assistance households weatherized in PY14: 109,865
    - 150 weatherization professionals were employed statewide in livable-wage, high-skills jobs.
    - Homes that are weatherized use an average of 270 gallons less/year of fuel.
- Staff submitted the legislative report, "Efforts to improve energy savings in affordable housing and increase the number served", to the House and Senate Natural Resources and Energy Committees. The report was authored by individuals from OEO, VFEP, and

VHCB with review and comment by other stakeholders. The report was called for in Act 89 of 2013.

#### Energy Efficiency Utility Activities

- Staff met with VEIC and EVT finance and budget reporting representatives to review EEC and TEPF spending relative to budget for the 2012-2014 performance period. Spending was over budget by the amounts below, however, within the spending threshold as defined by the QPI for budget to actual spending performance. Staff confirmed the expenses occurred in year 2014, however, they have not been invoiced for in the VEIC's December EEU invoice. Rather, VEIC moved the over spend to its balance sheet and plans to include these costs in the January 2015 invoice. DPS's Finance is considering if this practice is in compliance with the generally approved accounting principles (GAAP) required by the EEU P&A.

<b>EEC Bal Sheet</b>	<b>Amount</b>
Fringe (adjustment for 2.8% increase)	\$192,673
Labor (with Std Fringe & Indirect)	\$319,123
Programs	\$0
<b>Over Spend</b>	<b>\$511,796</b>
Threshold	<b>\$1,140,000</b>
Within Threshold?	<b>Yes</b>

<b>TEPF Bal Sheet</b>	<b>Amount</b>
Fringe (adjustment for 2.8% increase)	\$22,620
Labor (with Std Fringe & Indirect)	\$71,625
Programs	\$0
<b>Over Spend</b>	<b>\$94,245</b>
Threshold	<b>\$116,000</b>
Within Threshold?	<b>Yes</b>

- Staff attended the NSAA eastern Conference where 32 efficient snowmaking guns were tested. Results from these tests are pending.

#### Other Items

- Staff is in the process of updating the state's progress towards achieving the thermal efficiency goal of improving the energy fitness of 25% of the state's housing stock by 2020 (80,000 homes). This update will include the number of units retrofitted as of the end of 2014. For reference, the number of units retrofitted as of the end of 2013 was 15,749.

#### Public Service Board Dockets

- 7676 – Staff coordinated with VGS the drafting of a memo to the Board requesting the VGS DRP be opened. Staff will file the memo with the natural gas potential study attached once the natural gas potential study final report is finalized.

### SEP-Competitive

- Building Energy Labeling Project – PSD Staff, in coordination with the other project partners, has submitted the proposed task changes, which would cut the required \$60,000 from the project budget to DOE. We now await their approval of the proposed changes. Once approved we will finalize the budget forms and Scope of Work and submit to DOE. This should be the final step to have the conditional award lifted.

### Thermal Energy Finance Pilot

- Worked on refining roll out details for Phase II currently slated to move into gear around March 1<sup>st</sup>.
- Conducted phone call with OCU to discuss procedures for implementing and marketing the Heat Saver Loans
- Continue to revise procedural questions re: questions pertaining to refinancing, loan modifications, ability to obtain multiple Heat Saver Loans, emergency loan qualifications, etc. Held conference call with participants to discuss decisions related to the launch of the full program in March.

### Clean Energy Development Fund

- Approved the SSREIP incentive payments of \$38,490 for 23 solar PV projects totaling 172.3KW of new PV capacity, \$5,000 for a two pellet systems, and \$900 for 1 solar hot water system.
- Completed the quarterly federal SEP report on our three ARRA funded financial programs.
- Approved an invoice from Grow Compost for \$21,542.67. They are continuing to retrofit a truck to use for the pick-up of post-consumer food waste and they are building their pick-up route and sites.
- Released a press announcement on the Grow Compost and similar Casella grants that support two pilot projects that use food waste in existing anaerobic digesters on farms.
- Reviewed Stafford Hill storage project invoice and followed up with project contact to procure additional backup documentation.
- Evaluation
  - Continued to review NMR's evaluation report of the CEDF.
  - CEDF staff are slated to receive a preliminary briefing on February 3<sup>rd</sup> from 2-4pm followed on Friday, Feb. 6<sup>th</sup> with an on-site presentation to CEDF staff and PSD leadership
- Clean Energy Industry Report 2015
  - Organized meeting for advisory group set for February 11, 2015 from 1:30 to 3:00 pm at PSD. Receiving RSVPs now. Draft agenda for meeting is set and available.
  - Revised 2015 draft survey with input from the department and stakeholders. This will be sent to ACCD and DOL for input in advance of the Advisory meeting on 2/11/15. The survey will be finalized by the second week of February to allow for adequate time to conduct the survey.

- Modern Wood Heating
  - CEDF team interviewed Advanced Wood Heating finalists and discussed which proposal to choose, and also how to potentially merge the top proposals into a single team and scope of work.
- Upcoming Meetings:
  - Preview findings from the CEDF Evaluation. February 2, 2015 2:00 to 4:00 pm PSD
  - Presentation of CEDF Evaluation findings to PSD staff and leadership. February 6, 2015, 1:00 to 4:00 pm, Giga

#### Renewable Energy Items

- Received signed AA-14 back from Attorney General's office for RPC energy planning contract, with some suggestions on how to modify the contract prior to sending it to the Secretary of Administration (including removing some Attachment D items, which have been sent to PA for review, as well as removing the detailed scope of work in Addendum I).
- Participated in webinar on public engagement with individuals from PERD, PA, and CAPI and discussed challenges to public engagement efforts in PSD work.
- Met with Calais energy committee members to discuss their energy planning efforts and how to synergize them with the Comprehensive Energy Plan principles. Procured requested information on number of accounts and makeup of portfolios from their three serving utilities.
- Provided ANR with information on construction costs for different scales of solar projects (assumed for their fee bill calculations).
- Sent list of VT municipally owned hydroelectric facilities to David Filippelli of Atlas Holding.

#### EIP/RESET

- Began reworking dataset from DEC's FACET modeling into a better format for general analysis. DPS expects to use this data to contextualize the discussion of what proposed RPS obligations imply for meeting State GHG and RE targets.

#### Net Metering

<u>Net Metering Activity 1/24/15 – 1/30/15</u>				
	Registrations	Applications	45 Day Notice	CPGs Granted
<b>Count</b>	17	1	0	41
<b>kWAC</b>	100	51	0	781
<b>Ave Size kW</b>	5.864	51	0	19.056
<b>Cumulative Capacity of ALL Formal Notices Submitted**</b>				
<b>Year Total to Date</b>	<b>Total Since</b>			

1999			
2014 kW	2015 kW	1999 – 2015 kW	% of 15% Cap
966.07	2560.34	76984.13	~ 51.3%

**\*\*Note: These totals now include systems of all sizes, and include those systems for which 45 day notices have been filed as well as those for which formal permit applications have been filed.**

#### Heating Fuel

- Since last reporting Crude Oil prices rose slightly now at \$47.57 v. \$45.70
- The natural gas market continues its decline at \$2.680 v. \$2.941 a week ago.
- The weekly fuel survey indicates that locally Vermont fuel prices have continued their decline

#### Utility Resource Survey/Rule 5.200

- Given the short notice and lack of preparation, Utilities elected not to use the spreadsheet form DPS sent to them as an optional template for submitting 5.200 annual reports. Discussions with power supply folks regarding the best way to acquire the data asked for in that template are ongoing and so far productive. Nothing like a perceived threat to status quo reporting customs to get a good conversation going.

#### Vermont Gas Systems

- Continued development of impact analysis of second cost estimate overrun on economics of the project.
- Developed scenario MMBtu price forecasts to be used in DPS analysis of project benefits. These include a high, mid, and low case for Heat Pump heat as well as Natural Gas and Compressed Natural Gas. The completed analysis will calculate savings and associated business for several “what-if” scenarios (what if fuel oil prices keep falling and NG prices stay where they are, for example?).

#### Other

- Convened meeting with Building Performance Professionals Association of Vermont to discuss policy initiatives and current market dynamics affecting the home energy contractors in the state.

#### ***Engineering***

##### Vermont Yankee Spent Fuel Management & Decommissioning

The draining of the drywell surrounding the empty VY Reactor Vessel was completed on 1/29. The reactor vessel head was also reinstalled on 1/29 subsequent to this draining. Reactor Vessel reassembly activities continue and will assure that the refueling floor space immediately above the reactor vessel is available to support transferring spent fuel from the Spent Fuel Pool

to dry casks at a future date. VY expects to complete vessel reassembly this week or next week. Systems maintenance and testing for maintaining Spent Fuel Pool integrity continued during the reporting period, including testing of the on-site Emergency Action Level and Evacuation alarms.

#### State Nuclear Engineer Attends NRC “Exit Interview” for VY Site Inspections During Defueling

On January 29, NRC Senior Resident Inspector Sarah Rich reported to VY senior staff that a single, preliminary “green” finding (i.e. violation) resulted from the NRC inspections conducted during VY’s final defueling. (A green finding is of minor safety significance, but could potentially lead to more significant issues if not corrected.) An erroneous assumption in a VY calculation dating from early 2000 resulted in the wide range reactor water level instrumentation becoming decalibrated and overestimating the reactor water level during defueling. The finding was generated because VY operators did not sufficiently question the wide range reactor water level readings when the narrow range water level instrumentation showed a somewhat different (and correct) water level. Sarah noted that VY was already implementing appropriate corrective actions to address this issue. Additionally, Sarah reminded VY staff that with the implementation of a new on-site (SAFSTOR) organization, there are many people performing new roles. Maintaining a questioning attitude in performing new duties is extremely important. Sarah also introduced Marc Ferdis, the NRC project manager in the Division of Nuclear Materials Safety (DNMS) branch who will lead the NRC’s oversight of VY during decommissioning.

#### NRC Discusses Disposition of State’s Comments on VY Emergency Response Organization Licensing Amendment Request

On 1/30, NRC staff conducted a teleconference with representatives from PSD (including the State Nuclear Engineer) and DEMHS to discuss the disposition of comments filed by these two entities on VY’s Emergency Response Organization (ERO) Licensing Amendment Request (LAR). These comments included one that was the basis for the State’s Request for a Hearing regarding the continuation of the Emergency Response Data System (ERDS) for VY now that it has permanently shut down. The only discussion regarding the State’s Hearing Request was a mention that the convened Atomic Safety Licensing Board had recently denied the State’s Request. The main purpose of the teleconference was for the NRC to explain how the remaining questions in the State’s comments had been addressed during the NRC staff review of the LAR. Based on this discussion, it was generally agreed that the State’s comments, excluding the Request for Hearing regarding ERDS, had been appropriately dispositioned. The NRC staff also noted that such a teleconference with the host state was one of the last steps in LAR review process; hence a final decision on the LAR would soon be made. The State Nuclear Engineer was notified on 2/4 that the NRC had approved the LAR.

#### Update on Strontium-90 Indications Investigation

The Department of Health (VDH) and VY continue to investigate strontium-90 (Sr-90) readings reported by the State’s newly-contracted offsite lab (ALS Lab) in 2 of 21 ground water well samples collected at the VY site in August 2014. VDH had contacted the NRC to have the August 2014 ground water samples tested by a third independent laboratory. This third set of



tests, performed by Oak Ridge Associated Universities Laboratory, confirmed the presence of Sr-90 in the samples examined by ALS lab. VDH was using 1 picocurie per liter (pCi/L) as its Sr-90 concentration limit (i.e. a reading above 1 pCi/L indicated the presence of Sr-90). In comparison, VY procedures use 3.5 pCi/L as the Sr-90 concentration limit, which is well below the EPA Sr-90 concentration limit of 8 pCi/L for drinking water.

At Entergy's request, the State Nuclear Engineer helped facilitate a teleconference between VDH, the NRC, the Public Service Commissioner and several key Entergy officials to discuss the Sr-90 findings. In this teleconference (on 2/3), VDH's principal investigator, Dr. Bill Irwin, outlined VDH's evaluation methods and the results to date, namely: the VDH / ALS Lab methodology is based on ASTM-5800 standards. (VY's testing methods are based on the widely-accepted EPA-905 standards.) Using these standards, ALS Lab had determined Sr-90 concentrations of 3.47 pCi/L in the GZ-13s onsite groundwater well and 2.18 pCi/L in the GZ-16 onsite groundwater well. Both of these values are below VY's 3.5 pCi/L concentration limit, which by itself could account for why VY was not reporting Sr-90 in the samples. (VDH also noted the existence of 3 additional results very near the 1 pCi/L concentration limit.) During the teleconference, VDH committed that it would continue to share testing results with VY and that it would notify VY prior to any formal announcement to the public of these findings. VDH also agreed that when it announces these findings, it will emphasize that the Sr-90 readings are in groundwater wells rather than drinking water wells and that the locations with Sr-90 indications are well-isolated from the public and the environment surrounding the VY site.

#### 2015 Vermont Gas Systems Addison Transmission Pipeline Project Activity

The company has not completed actions planned to protect and preserve the pipeline segments constructed and installed during 2014. Extreme weather conditions continued to preclude field work during this report period. (The company has filled several pipe segments with nitrogen and will complete this process on the remaining segments in Colchester and Essex when weather permits.)

#### Vermont Gas Systems Welding Program

VGS responded to a warning letter, previously issued to the company by the Department, which described probable violations of gas pipeline safety regulations related to pipeline welding of the ANGP project during 2014. The response contains statements of recent actions taken by the company to establish the welding processes utilized on the project were performed in accordance with applicable codes and standards. The actions included specific tests performed and documented to determine the integrity of welds produced by the aforementioned procedures. The response also describes actions the company has scheduled to execute a detailed review of existing ANGP welding records, to perform a comprehensive assessment of the company welding program and to implement welding program improvements prior to resumption of mainline construction activity (which is currently suspended). The Department Gas Engineer will monitor and review these actions to verify completion.

#### Vermont System Planning Committee (VSPC) Meeting

Engineering participated in the VSPC winter meeting held January 28, 2015. The first item for

discussion was the VSPC annual report and it was approved without comment and will be sent to the PSB. The next item for discussion was a detailed review of the VELCO Long Range Transmission Plan (LRTP). Only small corrections to provide clarity were suggested. The report states that assuming system conditions and operation protocols do not change significantly, VT will not need any major upgrades as VT's load is level or declining. The LRTP includes two transmission projects: 1) re-construction of the Coolidge – Rutland 115 kV line, which has been put on hold due to the declining loads and will be re-evaluated in the 2018 revision of the LRTP; and 2) the Connecticut River area which is being studied by ISO-NE. The next draft of the report is anticipated by the end of February. VELCO also gave an update on the proposed TDI Clean Energy Power Link HVDC line. VELCO has signed an agreement with TDI regarding payments by TDI for the interconnection to VELCO at Coolidge Substation.

#### Weekly Summary of Underground Damage Prevention Activities

* Underground Facility Damage Reports (UFDR) received:	1
* Notice of Probable Violations (NOPV) issued:	0
* NOPV Agreed to by Violator and paid to PSB:	1
* NOPV Challenged by Violator and requesting a hearing:	0
* Assessment Letters on contested cases to PSB:	0
* PSB Orders issued:	0

#### ***Regional Policy***

##### Forward Capacity Auction

- This past week ISO-NE ran the ninth FCA, for capacity period 2018-2019. There was sufficient capacity in all regions except the Southeastern Massachusetts/Rhode Island capacity zone. 1,060 MW of new generation and 367 MW of new demand-side resources successfully bid into the auction.
  - The clearing price for all capacity zones except the Southeastern Massachusetts/Rhode Island capacity zone was \$9.55/kW-month. There was insufficient capacity in SEMA/RI, and new resources in that zone will be paid \$17.73/kW-month, with existing resources in the zone paid \$11.08/kW-month. The total cost to ratepayers will be approximately \$4 billion in 2018-2019, up \$1 billion from the last FCA.
  - This was the first FCA that utilized a sloped demand curve, with the starting price equal to 1.6 \* Net Cost of New Entry (with cost of new entry determined to be the cost of building a new gas-fired power plant, and the projected revenues for such a facility from the energy and ancillary services market subtracted from CONE to determine Net CONE).
- On January 30, FERC issued an order rejecting NEPGA's request for rehearing or clarification of an order involving, among other things, NEPGA's challenge to ISO-NE's administrative pricing rules in the absence of sufficient competition in an FCA. In the January 2014 order, FERC granted NEPGA's complaint on the administrative pricing rules but denied NEPGA's proposed remedy, instead adopting an ISO-NE proposal. The rehearing order issued yesterday denied NEPGA's request to reconsider its

administrative pricing proposal, reaffirming that the “proposal does not appropriately protect consumers and the market from sudden, significant price increases.”

- On January 30, FERC issued an order denying all rehearing requests concerning its order approving a system-wide demand curve. Generators filed rehearing requests concerning the Renewables Exemption that was strongly supported by NESCOE, the extension of the new entry price lock-in period from five to seven years, and the interplay between the curve and reliability requirements. However, FERC did provide clarification that “a resource may not utilize both the renewable resource exemption and the new resource price lock-in” and directed ISO-NE to revise the tariff to reflect this clarification. The order also rejected certain public power entities’ rehearing request for a self-supply exemption from the minimum offer pricing rules.

#### SPEED and Connecticut PURA

- On February 2 staff filed additional comments with the Connecticut Public Utilities Regulatory Authority. The comments emphasized that the PURA docket is focused on structural issues with the SPEED program and does not involve individual representations by Vermont utilities. On the same day, VCE/IWAG filed comments focusing on representations by Burlington Electric and Green Mountain Power.
- It’s unclear at this point when PURA will decide this issue.

#### Peak Energy Rent

- On January 30, FERC issued an order rejecting NEPGA’s complaint seeking to modify the PER Adjustment for Capacity Commitment Periods (CCPs) 5-8 and eliminate it beginning with the upcoming FCA 9. FERC found that NEPGA failed to establish that the current rules are unjust and unreasonable. The order lists several examples of an absence of sufficient evidentiary support for the claim and notes that there is an ongoing stakeholder process discussing changes to the PER beginning with FCA 10 that should not be preempted. Both the order and a concurrence by Commissioners Clark and Moeller state that if NEPGA or another party can establish a more material nexus between the new Reserve Constraint Penalty Factors and the PER Adjustment with respect to CCPs 5-8, FERC would consider a new complaint at that time. Commissioners Clark and Moeller also state that, while NEPGA did not meet its burden as a complainant, “NEPGA and other parties have raised valid concerns regarding the continued application of the existing PER Adjustment in light of the increases in the Reserve Constraint Penalty Factors in ISO-NE’s energy market put in place in 2014.”
- On January 30, NESCOE and states had a call to determine whether there is a coordinated state position regarding the removal of Peak Energy Rent provisions starting with Forward Capacity Auction 10. States agreed that the PER should be removed as there are known costs associated with PER, while the benefits are uncertain.

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

#### Electric

Barton Village Electric – Misuse of Bond Proceeds; we met this week to discuss the information request from the PSB including a request for our recommendations on Barton’s informational filing disclosing that it may have misused bond proceeds. PA discussed with Barton’s counsel our possible recommendations that essentially include comments that Barton needs to file for a rate increase, restore and segregate the misused funds, consider asking VEC to manage and perhaps eventually purchase the electric department, discuss Barton’s misinterpretation of the PSB order on what the Bond funds can be used for and discuss the possibility that tax payers may need to cover a possible shortfall in the range of \$300,000 or more. PA provided recommendations to the PSB.

Enosburg: Franklin Foods Economic Development Special Contract (draft) — Staff has reviewed a draft proposal to lower Franklin Foods electric rate by \$.02 for the next 3 years. In response to informal inquiry regarding an accounting order to defer the costs of the discount, we initiated informal discovery to learn what the rate impact of the contract may be on Enosburg. This week Enosburg provided information indicating that it has sufficient cash to absorb the cost of the discount and will file the Economic Development Agreement without a request for approval to defer the cost. If it becomes necessary, Enosburg may file at some later date for approval to defer the cost. We have indicated we would support the filing.

GMP: GMP filed its Q1 2015 Power Adjustor on January 30, 2015 proposing an adjustment of about \$700k for an over collection of power related costs. The proposed Power Adjustor calls for a rate adjustment decrease of \$0.0079 per kWh in accordance with the New Alt Reg Plan approved in Docket 8191. Staff is reviewing the filing; a recommendation is due to the PSB on February 27th.

Stowe Electric Department (SED): Tariff 8553-Rate Design- Stowe filed for approval of its updated/new rate designs that include updated cost allocations, consolidation of customer rate classes and new optional Time of Use and Critical Peak Pricing rates. The rate class cost of service and rate redesign is the first in Vermont to use load data generated by AMI (Smart Meters). The rate design is under review including a review of the electronic spreadsheets that support numerous cost allocations. The Department recommendation is due March 16, 2015.

Swanton: Tariff 8536-Rate Design Filing – This is Swanton’s rate class cost of service and rate design filing. Staff is reviewing the filing and preparing discovery questions.

Swanton: Docket 8291--Financing for Capital Projects Compliance Filing: This week Swanton submitted executed loan documents for two of its capital projects. There are some questions regarding unclear language in the documents pertaining to use of the utility truck and how the funds for the loans will be recovered [through electric department rates and fees (ratepayer revenue) or through municipal tax revenue]. Questions regarding the filing have been sent to Swanton.

VEC: Petition of Vermont Electric Cooperative, Inc. pursuant to 30 V.S.A. §219a(n), §248(j) and Board Order Section 8007(b) for a Certificate of Public Good for a 1.0 MW Group Net-Metered

Photovoltaic Electric Generation Facility in Alburg, Vermont. Staff is reviewing the petition for possible discovery questions.

VEC Miscellaneous Charges TF 8554—VEC has filed a petition to update rates for its miscellaneous services (such as disconnections, reconnections, establishment of service) that were last updated in 2009. The proposed changes are to reflect VEC's current costs to provide such services based on cost causation. We are reviewing the filing and may be recommending that changes be made. We are scheduling an internal meeting with PA to discuss possible options. A PSD recommendation is due February 18, 2015.

#### Natural Gas

Vermont Gas Systems (VGS) — Alt Reg Plan (ARP) extension---We met with VGS to discuss a PSD draft of changes we are proposing to the VGS ARP that included the need for a fully litigated rate case if VGS plans to include the Addison/Middlebury plant in its rate base for its FY commencing on October 1, 2015. At the meeting VGS indicated it has not yet determined when the project may be completed and placed into service and therefore may want to simply extend the existing ARP for one additional year and thereafter, have a fully litigated case for the 2016/2017 rate year. They indicated this week they would prefer extending the current VGS Alt Reg Plan for one additional year. We have indicated we would have no objections to the one year extension along with some minor tweaks to the plan.

VGS- Interruptible Tariffs including its Lock Price Program. Staff continues working with VGS on redesigning its interruptible tariffs with an objective to streamline and reduce the current 200 page tariff to something more manageable.

VGS—work continues on the use of rate payer provided expansion funding. The parties have agreed to work together to build a 'model' that will delineate the financial rate payer impact of various options. PA is assessing the probability of a successful outcome regarding a possible IRS private letter ruling. We are continuing work on the model this week.

#### Energy Efficiency Utilities

Fiscal Agent (FA)-Financial Statements: Request for Restatement of 2012 and 2013 Energy Efficiency Charge Financial Statements - The Department provided comments to the PSB proposing that the FA restate its financial statements for 2012 and 2013 and note in those restatements that there were material misstatements of remittances as well as a failure of internal controls to ensure accurate and reliable financial statements. The FA provided comments to the PSB responding to the Department request saying the mistake was the fault of GMP and that some of our statements were "very misleading and inaccurate". Staff has prepared a response clarifying any ambiguities and expressing our appreciation for the FA's agreement to restate 2012 and 2013. The response has been sent to the PSB and the FA.

#### Non-Docket Projects

Staff is continuing to work on a comparison of GMP's and VGS Alt Reg plans that identify differences between the plans and how those differences impact stockholders and ratepayers.

We are completing the comparison in anticipation it will be needed later regarding inquiries from AARP and the legislature.

### ***Public Advocacy***

TDI /New England Clean Power Link Project – Docket 8400 —PSD met with VTRANS on 2/4/15 to discuss the Section 248 process and numerous VTRANS issues with respect to this docket. The petitioner and PSD filed responses indicating no objection to CLF's Motion to Intervene, but noted that intervention should be granted on a permissive basis and limited to the specific interests identified in the CLF motion. In furtherance of our 30 V.S.A § 218c(7) obligations, the PSD continues to reach out to the Selectboards of each impacted town. The PSD is scheduled to meet with the Alburgh Selectboard on March 10<sup>th</sup> and is working towards appropriate dates to meet with Fairhaven and Benson. This statutory section requires we fulfill these obligations before we take a position before the Board on the project. Petitioner recommended the public hearing be located in Rutland, possibly at the VIT studio with a satellite location in Alburgh. Petitioner also recommended the February site visit include the full land segment of the project with the exception of Alburgh, which could be visited during the May site visit. PSD supported this proposal.

GMP Actual O&M Cost Proceeding – Docket No. 8389 – On February 15, the Department will need to inform the Board as to whether an investigation is necessary in this proceeding. While this proceeding is not establishing rates (O&M costs were established in the merger proceeding), it is evaluating GMP's post-merger actual O&M costs in a manner similar to a rate case. The result will be accurate actual O&M costs for use in allocating costs in an upcoming rate design case and to evaluate GMP's post-merger cost structure. GMP has responded to three rounds of discovery, with a few follow-up questions remaining. The Department is focusing on certain areas of concern – storm costs and vegetative management, manner in which certain costs are accounted for related to power supply, medical and pension costs. The Department will be receiving its consultant's report on the review in the upcoming week and will make a decision on whether further investigation is necessary.

Addison Expansion—Docket 7970 —On January 23, the Board filed a Motion with the Supreme Court requesting a remand. The Court has not yet acted on that request.

The Department continues to work with the company and affected landowners regarding easement/condemnation issues. A contract with a real estate appraiser is in process. Letters to landowners have resulted in several responses, seeking either the pause in communications with VGS or reimbursement of expenses or both. The Department has established a work plan which will hopefully allow for the smooth administration of this process. Other actions promised in the letter to landowners are also in process, but unlikely to be completed in the timeframe the landowners would like.

VY Decommissioning – No Docket – The NRC provided a presentation on the mechanics of its review of Entergy's post-shutdown and decommissioning activities report ("PSDAR") to the

NDCAP members at the panel's monthly meeting. The presentation prompted a number of questions from panel members, without many satisfactory answers.

VY ERDS License Amendment Request – NRC 50-271-LA – The NRC issued Entergy's requested license amendment, allowing certain staff reductions at the plant related to emergency planning. However, the period to appeal the associated Atomic Safety and Licensing Board denial of the State's contention has not yet expired, and the State intends to appeal. An appeal is due February 22, 2015.

FairPoint Service Quality Investigation – Docket 8390 – The Department received first round discovery responses from FairPoint. Second round requests are due to FairPoint by February 11. The Board held a status conference to determine whether immediate action by the Board is necessary to address the backlog of FairPoint trouble load. The Department argued, and the Board concluded that immediate action was not required as FairPoint has consistently brought down the backlog for the past month and outstanding troubles are now below pre-strike levels. The Department still has concerns related to FairPoint's response time to complaints from customers with medical conditions.

Sheffield Wind – Docket 7156 – The Department met with First Wind representatives to discuss the results of the Department's sound consultant's – Jim Barnes – attenuation analysis at the Brouha residence. Barnes's analysis revealed some violations of the CPG sound condition. The parties are still at an impasse related to next steps at the Public Service Board. The parties agreed to develop proposals for a best reading of the CPG condition and reconvene to determine whether the parties could present a joint recommendation to the Board on best interpretations and practice related to sound monitoring at the site going forward.

VTC Digester – Docket No. 7965 – On February 3, VTC provided a response to the Department's request for information regarding odors at the VTC digester. The Department is reviewing that information in light of a recently filed complaint by the proprietor of a campground near the VTC digester in Randolph.

VGS – Alternative Regulation – No Docket – The Department and Vermont Gas are close to agreement on an extension of its existing alternative regulation plan, and have requested an additional two weeks from the Board to resolve outstanding issues. A revised plan will be filed by Feb 13. The Agreement would extend the Plan for one year with two modifications: (1) clarifying the manner in which the capital structure is established; and (2) clarifying the documentation requirements necessary to meet the known and measurable standard. Importantly, VGS would commit to keeping all Phase I capital costs out of rates for the upcoming year.

GMP – NextEra Seabrook Capacity and Energy Purchase – Section 248 proceeding – No Docket – On January 30, GMP filed a 248 petition for authorization to purchase 150MW of capacity backed by the Seabrook nuclear station from 2019 to 2034, with a small amount of energy purchased beginning in 2021.

*fyi*



VGS – Penalty Proceeding for Violation of Rule 5.409 – On January 30, VGS provided responses to discovery promulgated by the Department addressing when VGS knew about cost increases for the Phase I project. The next step is for the Department to file testimony by February 17.

Chelsea Solar – 2.0 MW Standard Offer Project in Bennington - Docket 8302 – At a status conference on 2/29, Petitioner agreed to file an alternative schedule by 2/20/25 and PSB granted an extension for filing Partial MOU between Petitioner and PSD until 2/9/15.

VEC Substation in Alburgh, VT Docket 8378 – PSD filed discovery on 2/4/15 regarding need for the project, consideration of alternative sites and aesthetic impacts and potential mitigation of project on nearby residential property.

VEC-VELCO Substation in Newport, VT Docket 8385 – Site visit and public hearing on this project were held on 1/29. Only one individual attended the brief public hearing and had no comment on the project. Intervention deadline is 2/5/15 and it is likely no one will intervene. Based on initial review of the petition as well as the site visit, PA anticipates we will be negotiating an MOU on this project.

Use of EEC Funds to support electro-technologies - Docket 8311- PSD filed discovery on VEIC, GMP, BED and VGS. There is discussion about whether to seek a stay in this docket, to await the outcome of legislative initiatives that are likely to have a direct bearing on the proceeding. If a decision is made to do so, it will behoove parties to seek that stay quickly, so as to not expend resources on preparing discovery responses.

GMP Upgrade to Woodstock Substation Project – Docket 8030 – The petitioner filed Ken Kaliski's responses to PSB-issued questions regarding noise monitoring. Additionally, the petitioner filed supplemental testimony explaining that the nearest residence was farther away than the petitioner's testimony stated and requesting PSB approval to monitor noise from the southern fence line instead of the eastern one.

Woodstock Aqueduct Company – Tariff 8556 – The PSB has set March 16<sup>th</sup> as the deadline for the Department's recommendation. The PSB clerk's office requested PSD approval of Woodstock's notice to customers.

GMP IRP – Docket 8397 – The PSD will participate in the public hearing scheduled for February 9<sup>th</sup>.

VELCO/GMP Bennington Substation Project – Docket 7763 – In a procedural order, the PSB relieved the petitioner of a post-construction site visit obligation. The PSB based this conclusion on the petitioner's post-construction aesthetics assessment which concluded no further mitigation was necessary – and on the PSD's concurrence.


Barton Solar Alleged Violations – Docket 8372 – The PSD attended the PSB Show Cause Hearing at which the petitioner had been instructed to appear and through live witness testimony show

why the PSB should not impose the \$1,000 civil penalty imposed based on an alleged CPG violation claim. The neighbors (Menards) who complained about the violation are not parties to this docket and they did not appear.

Vermont Water Utilities Rate Increase – Tariff 8517 – The petitioner filed its disconnection notice with the PSB. The PSD recommended approval of this disconnection notice as part of the rate increase proceeding.

### ***Telecommunications***

Connectivity Initiative RFP– The PSD released an RFP seeking proposals to provide broadband service to 1771 underserved locations in 268 census blocks throughout the state. \$963,350 from the VT USF is available to fund winning bids. Bidders must offer proposals to offer 10/1 broadband service to all unserved locations in an eligible census block. Bids must include retail prices and terms and conditions, and bidders must agree to adhere to these terms for 3 years.



E-911 Contract Dispute with Intrado – The E-911 Board has a contract dispute with its vendor, Intrado. PSD technical staff have met with E911 Board and Intrado staff in an attempt to better understand the issue and advise the assistant AG assigned to the matter. PSD staff finds that neither side has a completely compelling argument. The Intrado system does not present all of the information available in the E-911 system, which requires E-911 call takers to get additional map information from the E-911 Board website. Intrado argues that it meets the requirements of the contract (which are vague, apparently purposely). Intrado supplied commercial off-the-shelf software which has limitations that the Board should have been aware of.

Barre Town Public Meeting – Barre Town is holding public hearing on a proposed AT&T tower. The public hearing is on February 18. The town has requested the presence of the Department

WCVT Annual Report – WCVT, a public access station, sent its annual report to the Department this week, pursuant to Public Service Board Rule 8.

Stowe Cable CPG Petition – The Board has scheduled a prehearing conference for Friday, February 6. Division staff, together with a member of CAPI and a member of Finance and Economics, have met to discuss the CPG petition and plans for moving forward in the docket. A community needs assessment is not required for the CPG petition, but PSD intends to complete a survey of existing Stowe Cable customers regarding service and content quality as Stowe Cable has been operating under a grandfathered CPG without renewal since 1983. PSD staff are in the process of identifying an outside vendor that will be able to complete the survey within a reasonable budget and timeframe. PSD staff are also working with the Petitioners' counsel to establish a stipulated schedule for the docket.

Transition of the VTA to the PSD – As part of the transition process, PSD staff are attempting to obtain all contracts or other agreements relating to VTA's fiber projects. PSD staff are also reviewing a proposed RFP prepared by the VTA for management of VTA's fiber network. DPS

staff are evaluating whether it will be necessary to issue a contract with an outside vendor for the management of the fiber network.

Designation of Vermont-Eligible Telecommunication Carriers – PSD and the Petitioners have agreed to a preliminary schedule for the docket, which has been filed with the Board. PSD staff have requested that Shoreham Telephone Co. provide supplemental mapping data regarding broadband availability within its service territory to better analyze Shoreham’s request for a waiver of broadband service requirements. Shoreham has agreed to provide the data by Friday, February 20.

Wireless Telecommunications Facilities (248a) Petitions – PSD submitted recommendation letters to the Board in response to the following Applications

- US Cellular *de minimis* modification to a 120 foot tower in Woodford—DPS recommended approval of the application;
- AT&T *de minimis* modification to a 140 tower in Brownington—DPS recommended approval of the application;
- AT&T *de minimis* modification to a rooftop mount in South Burlington – DPS recommended that the Board withhold issuing a CPG as the application contained several factual inaccuracies regarding the scope of the project;

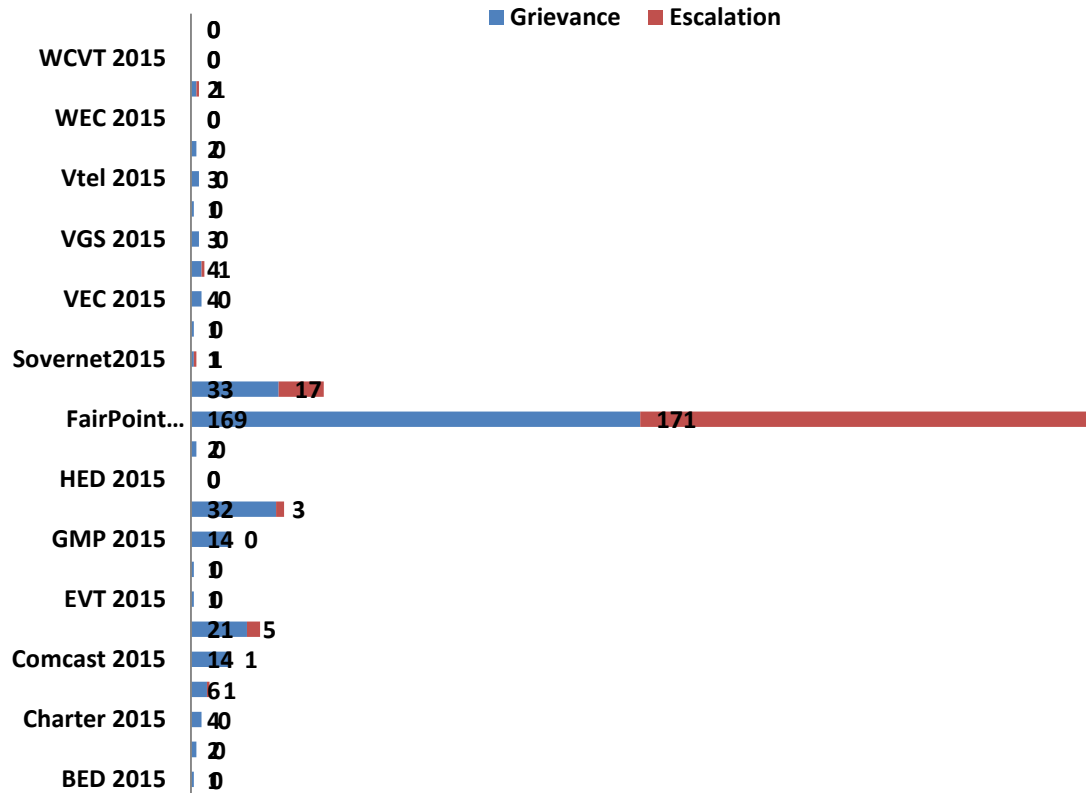
DPS also received notices or applications for the following:

- AT&T 45 day notice for construction of a 120 foot tower in Barre Town—The Barre Town Selectboard and Planning Commission have scheduled a special meeting on February 18 to discuss the application, which will be attended by DPS staff.

### **CAPI**

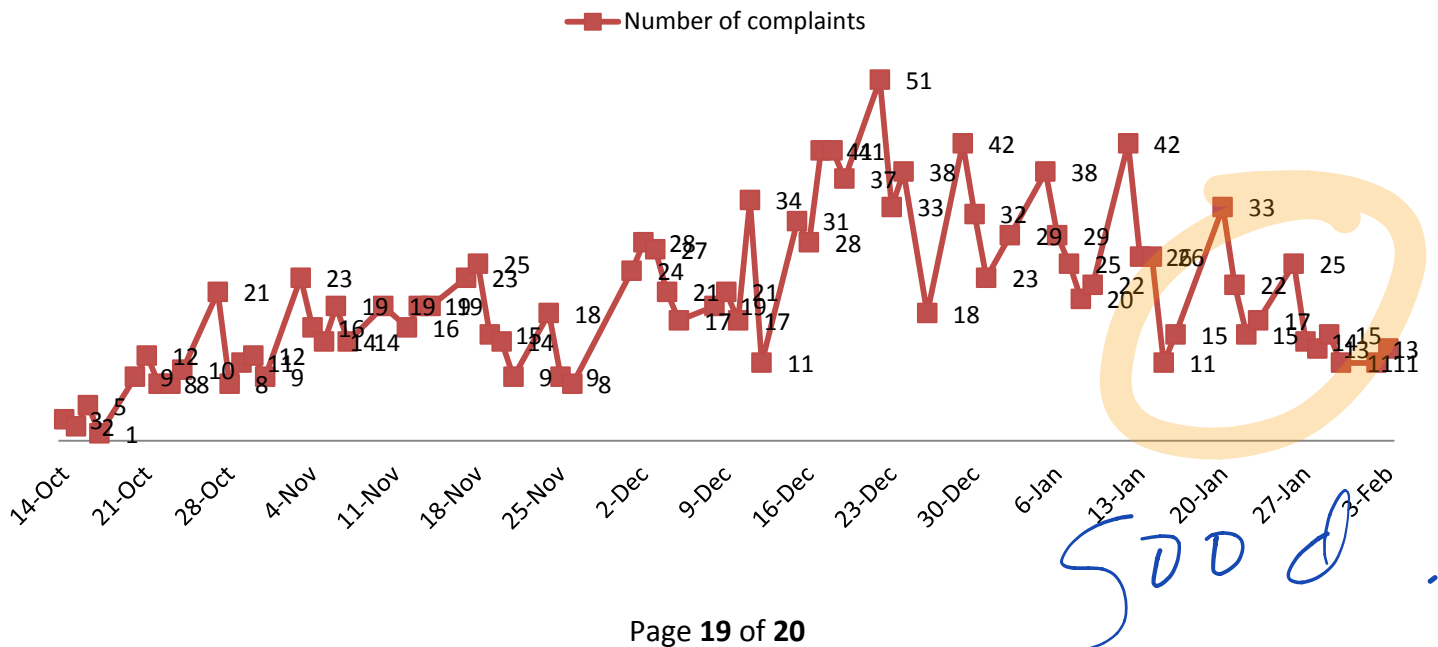
*Please note that this report covers activity from Sunday to Saturday, January 25 – 31, 2015.*

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



## FairPoint Complaints

Beginning 5 days before 10/17 strike to present



### **CONSUMER COMPLAINTS**

Complaint topics included, but were not limited to:

- (78) FairPoint phone service: 55 repair delays or other issues; 4 service order delays
- (1) EEU charge question
- (1) VTel battery backup
- (2) Comcast billing
- (1) VEC Patronage Capital refund
- (1) Swanton Village municipal water insurance for customer's distribution pipe
- (1) Technical questions about solar installation

### **OTHER DIVISION ACTIVITY**

Stowe Cable Renewal, Docket 8428: CAPI worked with Finance and Telecom on the Stowe Cable CPG renewal. CAPI is in discussions with the Center for Rural Studies about working with the Department again to complete a survey as part of the community needs assessment.

FairPoint Service Quality Investigation, docket 8390: CAPI, PA, and Telecom divisions met with consultants to coordinate work on the docket. CAPI then provided the consultants with records of all complaints against FairPoint, beginning January 2013.

GMP Smart Grid Report: Members of Green Mountain Power met with representatives from the Department to review results of their pilot consumer behavior study regarding the effectiveness of pricing and availability of real-time information about consumption in reducing usage during peak hours. Results showed that customers tended to reduce consumption during critical peak events, but did so inconsistently over time. It also showed that customers with critical peak pricing and an in-home display of their usage reduced their usage to a greater degree than those with critical peak rebates and those without an in-home display.

Equipment Distribution Program: The website for the program, [vtedp.org](http://vtedp.org), has been re-directed from its former home on the website of the Vermont Center for the Deaf and Hard of Hearing to the DPS website. It provides information about the program and a downloadable application. In addition, the program received notice from Lenovo about a recall of power cords used by laptops sent out by the program. We have sent letters to all EDP consumers who received the affected cords from the program to alert them and initiate a cord replacement process.



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

**To:** The Honorable Peter Shumlin  
**From:** Keith Flynn, Commissioner of Public Safety  
**Date:** February 6, 2015  
**Subject:** Weekly Report

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## DEMHS

### Issues/Updates:

A Major Disaster (DR4207) was declared by the President for 10 Counties for the severe winter storm of Dec. 9-12, 2014. Applicant briefings will commence next week.

The Public Assistance Coordinator vacancy was authorized and posted.

Hazard Mitigation staff at FEMA Region 1 were notified of Vermont's intention to utilize sole source procurement to contract with RPCS for local hazard mitigation plan support, and they did not object. This resolved a longstanding concern and clears the way for more hazard mitigation plans to be developed.

FEMA Region 1 was provided with an updated, comprehensive list of all pending HMGP approvals, identifying priority projects that are ready for approval. FEMA has had some of these projects for review for more than 700 days.

Homeland Security Funding Opportunity Outreach Sessions were held in Hartford and Rutland to inform responders on what is allowable for each funding opportunity and to help in the completion of applications

DEMHS staff met with USAR and VT National Guard representatives to discuss possible training sites for a rubble pile, a training site dedicated to urban search and rescue. This is being discussed as a component of the upcoming Vigilant Guard '16 exercise.

The Director will be out-of-the-office attending to a family matter in California, Deputy Director Nagy will be Acting Director.

### General Information/Other:

Discussions were held regarding the Community Emergency Response Team (CERT) status. Further discussions will need to continue regarding transitioning this program from being DEMHS driven to either local support or another volunteer management program. Discussions continue.

DEMHS staff met with Health Department staff to discuss the viability of a potential merger of the CERT / Medical Reserve Corps program in Washington County into Lamoille County.

PIO activities included distribution of DEMHS newsletter and press release regarding DR4207 declaration.

All EMAP documentation was uploaded to the online system for read-ahead reference for the assessment team.

Planning Chief finalized and submitted the EMPG 13 and 14 quarterly reports.

EM Planners participated in the EGC Emergency Management Workgroup meeting.

Planning and HS Staff conducted the VY Graded Exercise Mid-term Planning Conference call.

73% of towns have submitted updated LEOPs. Information on updated LEOPs will be going out to towns in the month of February.

EPZ Planner working on changes for State EOP RERP Incident Annex based on January TTX.

EPZ Planner is working with VDH to create emergency KI distribution plan.

FEMA obligated DR-4140-PW-00285(1), close-out for Roxbury's Braintree Hill Road, for \$115,248 (\$13,856 less than original version, adjusting to actual documented cost); and also DR4140-PW-00302 for Windsor's Juniper Hill Road for \$92,523. Juniper Hill Road was the subject of a FEMA Determination Memo and this one may end up being appealed.

HS Planner is coordinating CI orientation (Banking and Finance) for DFR which will probably take place in early March.

HS Planner provided CI Orientation (Defense Industrial Base and Critical Manufacturing) to leaders at the Vermont Chamber of Commerce.

CI Planner sent out notice to electrical sector partners to pulse for interest and coordinate Texas A & M (TEEX) Disaster Response for the Electrical Sector class with private owner-operators for a delivery date TBD; work continues to develop the Critical Infrastructure work plan.

Planners participated in GIS Seminar at the EOC facilitated by the HS Northern Exercise Planner. This is lead up to future GIS-focused exercised planned and sponsored by ECG. HS Training Coordinator participated in Training Needs Assessments in St. Johnsbury, Hinesburg Rutland.

HS Northern Exercise Planner facilitated the MS/MC Newport CAT2 After Action Report/Improvement Plan Planning Meeting.

HS Southern Exercise Planner working on drafting scope and agenda for initial planning meeting for the Agrimark/Cabot Exercise.

HS Acting Section Chief participating in Regional THIRA/SPR After Action conference call on February 6th.

VT ALERT developments include: ongoing edit and update of E911 Outage Group; continuing to develop Alert Templates; town of Swanton is currently discussing activation procedures through VT ALERT; planned meetings to discuss VT ALERT have been scheduled with the towns of Ludlow, Woodstock and Pomfret; Brattleboro selectboard is implementing a schedule to transition to VT ALERT from Code Red; VT Health Department is reviewing health care communication equipment and protocols to see if VT ALERT can be implemented into their procedures.

DLAN training was held in St. Johnsbury.

Legislative Contacts:

Recovery and Mitigation Chief supported ANR Testimony to House Fish and Wildlife Committee on regarding Roxbury Fish Hatchery.

VSP

A Troop

FF

9 Total arrests, 6 DUI arrests

Multiple Troop wide motor vehicle accidents due to weather.

BCI

Untimely Waitsfield, 78 year old female with multiple health issues, she was found deceased at her residence on her couch, natural.

NUSI, case of possible sex assault involving a 5 year old female, no disclosure.

NUSI, case involving sex assault between 13 year old female and 21 year old male.

BCI assist to Uniform Division during storm, Friday, welfare check on 20 year old male for mental health.

NUSI, 6 year old male disclosed digital penetration in anus by babysitter, no disclosure during DCF/LE interview, child has mental health issues.

Untimely in Charlotte, 54 year old male suffered a fatal heart attack, witnessed by family.

Three SOR photos

Two Civilian Backgrounds completed

Assist to York, ME PD on background

Assist to Rhode Island SP on background



Public speaking x 3 by Det. Sgt. Thomas at U32 HS on teen safety and awareness, power point presentation created by Thomas.

Allegation of drugs being smuggled in by four CO's by inmate at NWRCF. Two of the four CO's currently not working any longer. Interview revealed that this occurred 2010-2011, no evidence to support at this time, statute of limitations are expired, SA has been consulted, more to follow on this case this week. Unless more develops, will likely become a personnel investigation and turned over to HR.

Justin

Assault at NWRCF, inmate vs. inmate, victim not cooperative.

Det. Trooper Sweitzer assisted NIU in Concord, VT with K9 request, also assisted with installation of new Bishop in Burlington.

WCSIU, child abuse investigation involving 5 year old with bruises. They were caused when she was pulled off a bed by her father, the child was initially taken into custody, but after review by Judge placed back in home.

B Troop

FF

5 Total arrests

Troops conducted a welfare check on Elysia Conley. Through the course of attempting to locate her, they discovered several people from out of state moving into Conley's residence. Upon locating Conley, she admitted the people moving into her residence were "holding her hostage" for drug dealing purposes. She agreed to speak with NIU. Subsequent investigation led to a vehicle stop that located 64 grams of heroin, 27 grams of crack cocaine & 14 grams of cocaine. A search of Conley residence resulted in an additional 250 bags of heroin, 2.5 grams of crack cocaine and the Smith and Wesson .40 cal pistol with an obliterated serial number. NIU arrested 4 people and 1 person will be arrested later.

Sex Offender Registry Checks

FBI conducted a search warrant in Derby Line related to a fraud

Troopers executed a search warrant in Derby related to a fraud, unrelated to FBI case. Property was seized and subject arrested.

BCI

Assisted the NIU with search warrant execution in Concord, VT

Assisted Derby Troops with Search warrant for Fraud case in Derby Line

Death investigation in Waterford, Vt (Natural) 77 yr old male with DNR in place. Multiple health issues. ME signed off on Death Certificate

Death investigation Lyndonville, VT (natural) 66 yr old male was walking up the stairs at Lyndon State College and collapsed. History of hypertension. Doctor Signed off on Death Certificate

Death Investigation Barnet, Vt (natural) 62 yr old male was at his residence with his wife and collapsed when walking to the bathroom. Attending physician signed off on Death Certificate. Nothing suspicious.

12 Sex offender registry checks in Orleans county

4 Sex Offender Registry checks in Caledonia County...one registrant is unaccounted for.  
arrest of inmate at Newport Correctional Center for (inmate vs inmate ) simple assault  
2 new prison assault cases in Newport Correctional Facility

Sex Assault case involving a disclosure by a female that she was raped 4 yrs ago and had a child as a result.

C Troop

FF

17 Total arrests, 2 DUI arrests

Lost Skiers, Pico/Killington- all came out fine and safe.

Serious injury snowmobile crash in Mt. Holly- Aux. Troopers responded with sled to get to crash scene.

BCI

Windsor OIS

Follow up on Shoreham Armed Robbery

Untimely 54 y/o female in Monkton. Unknown cause (possibly diabetes related or OD suicide) – body gone for autopsy.

Saturday 1700, Missing Person, Denise Hart.

Report of potential child abuse involving 3 month old child presenting with abrasions to back of the mouth, multiple interviews conducted, investigation continues

New case report of a 7 year old disclosing to a teacher that someone is touching his privates. Multiple interviews conducted, investigation continues

Fraud case that was transferred from uniform division

Assist to RCSD for phone extraction involving sexting/child porn case

Evidence trip to the lab to drop off and return evidence.

Set up appointment and review Scribner homicide case (1977) new information discovered.

Attended webinar by the National Center for Missing and Exploited Children on attempted Abductions.

Met with loss prevention at Hannaford's Supermarket to discuss pending fraud case and discuss ways to expedite reporting procedures.

Arrested Jon R. Gilbert for L&L with a Child. City of Rutland.

Processing of vehicle from Zink sexual assault Wallingford

Search warrant execution at C1 on vehicle from sex assault

Court prep for weight of evidence hearing on 1/29

D Troop

FF

19 Total arrests, 3 DUI arrests

Stopped a vehicle on I91 in Springfield; occupants refused a 0099, so a search warrant was applied for and granted; 1100 bags of heroin were found during the search; 2 subjects will be charged with Felony Poss of Heroin.

Welfare Check/Missing Person – Landmark College/Putney. Reported that Christopher Hardy had gone for a walk early in the AM and had not returned by noon. There was a snowstorm in the area, cold temperatures, Christopher is autistic, and had only been in the area/college for 5 days. Subject found walking on Rt5, ok.

Entire day shift & and two DMV units. 3 vehicle 10-50 on Interstate 91 in the work zone for approx. 1.5 hours.

BCI

K9 committee meeting

Served subpoenas for grand jury (Special)

Completed Case- Subject cited and release for Sexual Assault.

SOR Photographs

Assisted Brandon PD with a search warrant for Child Pornography in Putney

Obtained Facebook messages from Accused ex-wife

Assisted Brandon PD with a search warrant for Child Pornography in Putney

Grega Homicide follow up with Suffolk County Police Dept. – Fatal Crash report request

Death Investigation write-up

Death Investigation write-up

AG case, material review for embezzlement

CO poisoning death complete, review with family

natural death in Cavendish

Whitingham shooting follow up (review FB communications, forward to SA; phone conference with SA re: several defense motions)

Wilmington stabbing; DNA results reviewed with lab

Suicide in Rockingham

Interview report completion for sex assault in Guilford,

Case follow-up on suspected Luring a child in Saxtons River,

Case follow-up on Suspected sexual assault, Brookline,

New intake suspected sexual assault in Townsend,

Completed New High Risk Evidence searchable form

Work on Death Invest reports. Completed.

Follow up with NIU on overdose death

Work on CRT report for Castleton

death invest of 51 y/o paraplegic male at his residence. Call was in Vernon, Windham County Sheriff's death investigator was out of town. Sent for autopsy.

death invest of 94 y/o female, found frozen in driveway. Sent for autopsy.

Evidence Room organization (CALEA)

4 hr Taser Instructor online recert class

Firearms quals for ICAC and Polygraph members at Royalton Barracks

TSU – Scheduling for upcoming trainings and courses

Assisted Royalton Troops execute a warrant for heroin and a stolen firearm

Completion of suspicious elderly death write up

Began bill review (H.062

## TOPS

Assisted NIU with motor vehicle stop. Consent search led to large drug seizure of cocaine and heroin (64 grams).

Assisted NIU with motor vehicle stop. Consent search led to large drug seizure of cocaine and heroin.

Assisted NIU w/Controlled Delivery of 3lbs MJ from CA to Bellows Falls/Warrant execution 2 arrested and 2nd package showed up while there containing 4 lbs MJ.

## Arson

Sgt. Lamothe investigated a fire at TDI, a heavy wrecker and repair shop, in Swanton. In a one and a million chance the video surveillance hard drive was recovered and a security firm in Essex was able to playback the footage. The fire started in a trash barrel within the work area. Approximately 7 hours before the fire an employee was seen working in the area. The fire was accidental.

Sgt. Lamothe and Sgt. Hill investigated a fire in Highgate. The fire destroyed a residence. The fire started in a ceiling fan in the master bathroom. The fire was accidental.

Sgt. Otis investigated was called by the Halifax fire department and asked to look at a fire. They believed the fire was the result of a chimney fire. Sgt. Otis confirmed the fire was caused by the chimney.

Sgt. Otis responded to New Haven to assist with the investigation on Sunday. He was asked to conduct an origin and cause investigation on a vehicle.

The fire unit received calls from Morrisville and Underhill about fires. After screening the calls it was determined the fire unit did not need to respond.

Sgt. Otis assisted Springfield PD with a bank robbery investigation.

Sgt. Smith was assigned a bill review, assisted with a search warrant in Derby and sex offender checks.

## ICAC/CSST/OCME

### CSST / OCME

Prepared drug evidenced for destruction run

Testify at State House on Human Trafficking

Worked with poly unit on test status for upcoming PE changes

10 Autopsies

4 inspections

### Computer Crimes

Continued forensic examinations on numerous state and federal child exploitation cases.

Eric assisted with the forensic preview of evidence during the execution of a CP search warrant in Putney, VT.

Gregg assisted US Secret Service with the examination of a DVR in a homicide investigation.

Current Cases: 7

Pending Cases: 9

New cases this week: 3



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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Justin Johnson  
**DATE:** February 6, 2015  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Contract Administration items:**

Salt supplies are an issue again. We are also at 59" of snow fall this year and Kevin was hedging our contracts on 60". This may be a financial issue soon.

**Randolph - AG/ENV LAB:**

Presentation to Senate Institutions went well. Joint Hearing scheduled for 2/5/15 presentation in Room 10. Hearing deemed moderate success.

**Bennington:**

VVH Mold - New heat pumps continue to challenge the entire team. Manufacturer's rep replaced heat pump valves last week and two more yesterday, and they appear to be operating within specifications but still not heating the spaces. Our Engineer has come to the conclusion that the previous console heat pumps were performing at 2.5x their listed output, and therefore the rooms were comfortable. The new heat pumps were sized slightly larger, but only performed at stated values, which we now know is not enough. We now believe the rooms are incredibly poorly insulated. The problem rooms are all corner rooms, 1976 vintage, little or no insulation, and lots of poor sliding windows. Engineer has found a quick and easy solution that we are implementing today, using reheat coils that fed these spaces from an earlier phase to augment the new heat pumps. Stay tuned. Project still progressing well in the lobby and admin offices.

VVH Kitchen - Design meeting held yesterday. We are still hoping to design and bid by June 15 this for this year's construction, as it has many benefits. One major hurdle is feeding the residents while the kitchen is out of order. Another hurdle is costs overrunning the 2011 estimate. PH continues to work the schedule and budget – both are moving targets until we get further into design.

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

Master Plan: Due to weather, the January DRB meeting was not held; next meeting is 2/23/15. Prior to DRB, we need signoff from the Fire Service Advisory Board (FSAB); this meeting is scheduled for 2/10. Draft of ACT 250 permit is ready for review on 2/5. Further test borings revealed even more ledge in areas of work. The LA Group had to revise plans once again in order to avoid ledge. DD drawings submitted on 1/26 and review comments back on 2/2. The drawings are coming along well. Budget is tight, but we are reviewing potential cost saving alternates.

### **Springfield – SOB:**

Thursday, 4:30pm, P&P called stating that they smelled propane in the office, and that they were leaving. Called the Springfield Fire Department who responded quickly and swept the building with gas meters and found nothing. P&P had left the building and did not notify anyone else in the building of the odor. If this had been an actual leak, this could have been a very serious problem. Lynn Boyle has discussed this with P&P. The Fire Department cleared the building for the call, and checked all streets behind the building before returning to their station.

### **Legislative Contacts:**

- Met with Rep. Hooper (House Appropriations) to discuss FY16 budget request. Rep. Hooper is liaison to BGS from House Appropriations governance.
- Met with Rep. Shaw, along with Marjorie Klark (DPS), Wanda Minoli and Becky Wasserman to discuss Pittsford; specifically, drafting of legislation to implement the Pittsford Wood Training Center.

### Senate Institutions -

2/4 **IT Investments:** Jim Reardon, Wanda Minoli and I testified regarding the AHS and ERP IT investments contained in the Governor's proposal.

### House Corrections & Institutions –

- 2/4 **Waterbury State Office Complex:** Testified, along with Wanda Minoli, Mike Stevens and Michael Clasen regarding the status and spending request for the WSOC.
- 2/5 **AG/ANR Lab Presentation, Joint Hearing:** Presented an update on the new AG/ANR Lab at a joint hearing (House Corrections & Institutions, Agriculture, Natural Resources & Energy and Fish, Wildlife and Water); along with Jolinda LaClair, Trey Martin and VTC. A moderate success.

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

#### Prevailing Wage

- Met with lobbyists Adam Necarson and David Mickenberg to discuss prevailing wage.
- Sec. Johnson, Commissioner Noonan, Wanda Minoli and I met to discuss administration's position on prevailing wage.

Gov - all good



## National Life Parking Challenges

Met with Michael Clasen, Ed Vonturkovich, Harmony Wilder and Bob Ferlazo to discuss parameter of amended lease agreement related to the lower parking lot.

## **FINANCE AND MANAGEMENT**

### **Issue Updates:**

The requirements gathering effort for the ERP expansion project is well underway. Several sessions have been conducted over the past 2 weeks. Although weather conditions have created several scheduling challenges this week, steps are being taken to get this 3.5 month project back on schedule.

The budget office has been following the budget adjustment and the big bill through the appropriations committees. The Senate Appropriations Committee passed the FY 2015 Budget Adjustment Bill on Thursday afternoon with no major changes from the House passed version.

The House Appropriations Committee heard testimony from the Agency of Human Services, the Veterans' Home and the Green Mountain Care Board this week on their FY2016 budget requests. The committee will continue to move through the big bill over the next few weeks.

In the coming weeks we will need to work on a strategy, with the legislature, for addressing the \$18.6M General fund down grade that occurred after the emergency board meeting on 1/20/15.

### **Recommendations:**

The federal LIHEAP Statute allows state grantees to transfer up to 15% of their annual block grant to the state's Weatherization program.

- We propose to transfer 15% of the federal LIHEAP funds to the Weatherization program.
- We would then transfer Weatherization state funds to the LIHEAP program to allow benefits to be provided for households up to 185/200% of FPL.
- This would allow current number of recipients to remain the same.
- This change may require language in the big bill to authorize the transfer of funds from Weatherization to LIHEAP. It's our understanding authorization for such a transfer has occurred in the past.

good.

## **HEALTH CARE REFORM**

### **Status of the Governor's health care reform priorities:**

All Payer Model: Robin and Michael have been working with AI's staff to create a staffing plan for the project and to get a contractor on board asap in order to move the work forward. Michael is working with Ena to facilitate project management. There are several issues that you should be aware of that are going to slow down the work and the timeline discussed with CMS. The GMCB has not yet approved a contractor from the bid process that concluded in December. Because they approve through a public process and it is not yet scheduled or noticed, it will be hard to get a contractor on board until March.

1/16/16

I will talk to Lawrence too.

The reason they haven't approved the contract yet is that they are reconsidering what they might need and, in an ideal world, would want to re-issue the RFP. A contributing problem is that they have not dedicated staff to the project, but prefer to include most of their staff on a part-time basis to ensure no one is left out. This approach will not likely allow for clear roles and authority and may also slow down the work, because resources are not used efficiently. We have offered to add staff from the executive branch side and/or dedicate staff to lead areas of the work, but they prefer to have their staff lead most areas (except legal). It's not our intention to micro-manage the project, of course, but wanted to ensure you understood these risks to the timeline.

SIM: The SIM team responded to a request for documents from the State Auditor's Office after a meeting this past Friday. The Auditor is performing a risk assessment. We expect additional communication from them after they have reviewed the documents we sent over. SIM submitted its Q4 2014 report to CMMI (found here, but kind of painful to read due to federal website requirements: [http://healthcareinnovation.vermont.gov/sites/hcinnovation/files/Reports/SOV\\_Q4\\_2014%20report.pdf](http://healthcareinnovation.vermont.gov/sites/hcinnovation/files/Reports/SOV_Q4_2014%20report.pdf)). The SIM team also submitted the Year One carryover request to ensure that we carry all remaining funds from year one into year two. This request is pending at CMMI along with all of our year two contracts. We expect approval of both of those next week.

### **Legislative issues/pending legislation:**

APM: Al and Lawrence have been in several committees on the all payer model.

Cost Shift/Medicaid reimbursement: Robin and Lawrence have been testifying on the cost shift and the budget proposals last week and this week.

Policy Bill: Rep. Lippert has not yet introduced the policy bill, but Robin followed up and has a commitment that he will (barring an objection from the Speaker). If the bill is not introduced this week, we should escalate with the Speaker and Lippert. The committee has had a preliminary walk through of the draft bill last week.


Insurance markets: Lawrence testified in SFinance about Ashe's committee bill establishing an outside market. Several committee members did not seem interested in creating an outside market (Sirotkin, Ayer, Lyons perhaps). Robin is scheduled on ACA background on insurance markets with Jen Carbee Thursday in HHC.

Miscellaneous: In addition, Robin has been in several committees on the physician practices report. It's unclear how this will develop. Our position has been to have the GMCB continue to analyze as part of the all payer waiver process. Michael testified to some of the issues raised in Franco's proposal to Ways and Means. Ancel seems interested in pushing the point of whether cost shift or \$ in the subsidies are the better investment, but otherwise, there is skepticism on Franco's proposal. Robin testified on her FY16 budget changes in HAC Wednesday and gave an overview of HCR. No issues.

### **Significant events/meetings**

CMMI – Robin, Lawrence & Al had the kickoff meeting with CMMI about the all payer waiver. They are willing to work with us on an aggressive timeframe with intent of beginning a "shadow year" in Jan 2016. This timeline does not seem realistic given the staffing & contractor status at GMCB.

Mayra Alvarez, Jan. 27 – Robin and Lawrence met with Mayra and her waiver team by phone in order to officially put the 1332 ACA waiver discussions on hold, pending further developments in direction.



Green Mountain Care Board on the Governor's proposal Jan. 29 and Feb. 5 – The GMCB has discussed the Governor's regulatory proposal in two public meetings. They are lukewarm and aren't thrilled about adding formality to their structure.

Lawrence and Michael met with National Life, Feb. 2

Met with Workers' Center, Feb. 2 – Robin, Michael, & Lawrence had a call with the VWC policy team to answer questions they had about data availability and policy considerations for GMC. We are scheduling a follow up meeting, because we did not finish their list. They are attempting to do their own financing plan and economic modeling (it's not clear they have an economist on board to do so, however.)

## **HUMAN RESOURCES**

### **Legislative Update:**

Testified before Senate Finance on the possibility of DHR running a pilot program with the unions to explore ways of using health care pricing differential information to incentivize plan members to utilize less expensive services. Discussed the difficulties inherent in such a pilot (no reliable data on pricing, nothing in the current health plan structure that would drive employees to pick the lower cost, setting baselines to measure savings, administratively not feasible). DHR testified that we would be willing to do a summer study with the unions and support from GMCB to explore control costs in the state employee plan. VSEA testified as well and was not supportive of the concept. They were fine with any initiative that lead to greater transparency in health care pricing, but were not interested in trying to influence plan member choices, for a fear of a limitation on choice and lower quality care. Senator Ashe was not pleased with VSEA, stating that the committee was looking for ways to find cost savings that would not be painful to state employees, and he would expect VSEA to support such measures as opposed to seeing employees laid off.

Testified before Senate Economic Development on grievance arbitration study. Articulated Administration position that we did not object to moving forward with amending the State Employee's Labor Relations Act to allow State & employee unions the ability to bargain binding arbitration as a means of resolving disputes. VSEA testified in support as well. The committee plans to take additional testimony but was indicating they planned to introduce a bill.



### **Media Contacts:**

Spoke with Nancy Remsen - she is writing a story for seven days - angle is the "irony" that some of the folks that work the health connect call centers (particularly those manned by outside contractors) do not receive health insurance from their employers. I was able to talk about the HAEU positions that were converted from temp to permanent under the position pilot (meaning they now have benefits) but I could not address the independent contractor issue and told her to talk with DVHA. She asked me if DHR reviewed the employment practices of outside contractors the state hires to perform services and I told her we do not.

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

DHR investigations staff is providing training to Agencies and conducted training for AOT which was very well received.

Responded to a request from VSEA for salary information for all exempt employees. Information was shared with Sarah London.

There are 1,183 employees registered for the first wellness challenge, and 1,268 have taken the personal health assessment. Additionally, LiveWell received a “Governor’s Excellence in Worksite Wellness” award, and will be attending the presentation on March 25<sup>th</sup> to receive the award.

Following a presentation to the benefits advisory committee (union group), the State has elected to take part in a bundled payment and coordination of care pilot program conducted by BCBS and UVMHC, “Episodes of Care”. The pilot will specifically target knee and hip replacement surgeries.

The Departmental Series Eligibility for RIF Vertical Displacement Rights (RIF VDL) – update for January 2015 has been forwarded to DHR employees, VSEA, and is posted on the web. This list is crucial for any potential RIF processes. We will update this list quarterly.

VCGI transfer to ACCD – Act 179, 2014 Session

Molly has been working with Doug and John B to complete all of the work necessary to transfer VCGI programs and employees to Agency of Commerce and Community Development (ACCD). The transfers are taking place, effective 2/8/15 per: 2014 Legislative Session - Act 179 Sec E.800.5(b)(2). VCGI is not a state entity, but will be once it is incorporated into the ACCD. There are six employees of VCGI, four will transfer to ACCD. The other two have declined to transfer. They will be new hires, however, under Act 179 they are entitled to transfer if the jobs in ACCD are similar to their jobs at VCGI. As such they will be non-competitive new hires.

Progress on workforce development initiative:

- **Hires:** Chris Cadorette has accepted HR Training and Engagement Specialist I in the system and will start 2/22. Marianne Mullen has accepted HR Training and Engagement Specialist II verbally and been sent a formal offer, with a start date of 2/25.
- **Recruiting:** Two more HR Training and Engagement Specialist positions are posted and will close 2/8.
- **Facilities:** Have initiated work with BGS Contracting to move forward on furnishings with the selected vendor and will follow next steps. Hoping to move to new facilities at Vt College of Fine Arts in May.

## INFORMATION AND INNOVATION

### Status of Governor’s Priorities:

#### *Healthcare*

- Many healthcare security elements are targeted for full capabilities (vulnerability scanning, penetration testing, logging and analysis, code scanning) by end of March/April 2015. Some of these services are operating now in reduced functionality to ensure a baseline level of security.

### Legislative Issues/Contacts:

- House Government Operations scheduled testimony from a few state Agencies and Departments in an effort to learn more about DII and charges for technology services. Darwin attended as well, and provided supporting testimony. Testimony was all very positive and included comments from BGS, Liquor Control, and the Agency of Education. The primary takeaway was we could do better around

clarity of internal service fund billings. We agree and will work with our business office and budget office to clean these up.

- On Wednesday, Richard joined Jim Reardon for testimony on the IT initiatives included in the capital bill for Senate Institutions. While Jim did most of the talking, there was some discussion of the lifecycle of these projects, I spoke of lifetimes of 15 years for VISION if appropriately maintained, and 20 years for healthcare if appropriately maintained. We used the analogy of a car with no maintenance would not last very long. For software, the rule of thumb is maintenance costs tend to be 20% of the original implementation costs, but that using the VISION example, those maintenance costs are already in the operational budget.
- On Thursday, Richard joined Mark Larson and Harry Chen in budget testimony for FY16 VHC to a joint session of House Approps and House Gov Ops. My component was the hosting cost reduction from the BAA where hosting transition from CGI represented more \$\$ in FY15 than FY16.
- I have been in regular communication with Rep. Fagan throughout the week as he continues to ask questions to get up to speed on DII. As our new point person for House Approps, he has had many question regarding DII's involvement with projects in other departments and our oversight process. He also asked specifically about DII's involvement with failed projects like the DMV.

### **Evolving Issues:**

- *Security Operations:*

- Federal partners have brought to our attention a security risk with the current Labor website. The website is running on a Microsoft Windows server that is 5 years past the point of Microsoft support. No patches or other critical items are being released and the server itself houses the majority of public facing Department of Labor content. The Department of Labor has been notified and is working with DII to resolve.

- *Web*

- The new Website for the Department of Libraries is now live at libraries.vermont.gov.
- Harry met with the Judiciary on 1/29 to begin the process of them using VIC to host their main Website. They showed great interest in using the new template and are now working on a plan for migration.
- ANR staff is scheduled to have training to begin work on their new site on 2/5.
- Dru Roessle invited Harry to address the Vermont Accountability Group on the subject of the Open Data Portal on 2/9.
- A meeting is scheduled 2/12 with VIC and Department of Liquor Control (DLC) to discuss a new service that would allow users to place Special Orders online.

## **LIBRARIES**

**Nothing to report this week.**

## **TAXES**

### **Legislative Update**

### **Miscellaneous Tax Bill**

### **Miscellaneous Issues**

### **Municipalities:**

*Homestead Declaration:* W&M has not considered yet.

*Municipal Garages:* W&M heard from Winooski, which did not advocate for broader language than we proposed. The committee did not appear as antagonistic to the proposal as last year.

*TIF Provision:* W&M heard from auditor's office on municipal service fees and potential impact on Ed Fund.

*Affordable Rental Housing Exemption:* Housing advocates testified to W&M, proposing alternative language to allow Housing Authority to issue exemption certificates for additional 10 year terms – the Commissioner testified that the Administration supported the alternative. Just a bit of pushback from Rep. Condon that legislature intended to sunset, and from Rep. Young that it was a cost to the Ed Fund.

### ***Other Miscellaneous Issues***

*Transmission Lines:* To avoid legislation, agreement will need to be sought from the municipalities on the valuation method and allocation.

*Vermont Yankee:* Commissioner Recchia has arranged a meeting with VY and Tax in February.

*Amazon:* The Department continues to hear from a handful of affected Amazon associates, and Rep. Sullivan has been inquiring of her colleagues about action on our proposal.

*Publicly Traded Partnerships:* The Chair asked the Commissioner to introduce the lobbyist proposal to exempt these limited purpose partnerships (real estate and natural resource investments) from non-resident withholding. We don't object to this proposal, which should be revenue neutral, but the committee really needs to hear from the industry for the details.

### ***Revenue Issues***

*Payroll Tax:* W&M postponed testimony on implementation of this tax into Dept operations. Stephanie Bartlett presented a great color coded chart to W&M showing the use of the revenue. The Speaker indicated little support, but also few viable alternatives.

*State & Local Deduction:* JFO and Tax staff agreed to lower the estimated savings by \$1M – tracing the delta to accounting fully for migration to the standard deduction. The Speaker mentioned that he has not heard much outcry on this proposal.

*Estate Tax:* Sen. Lyons has introduced the Administration proposal as a free standing bill, and we are arranging a meeting with her, the tax practitioners and JFO. Sara Teachout is now claiming that our proposal is not revenue neutral because she fears the use of gifts – which is illogical since taxpayers can gift their way out of estate tax now, nothing is changing on that score.

*Current Use:* Other agencies took lead in testifying on these provisions to various committees.

### ***Revenue Items From Other Bills***

*Water Quality:* As feared, Rep. Deen's committee is considering some pretty gnarly proposals that would quickly cost more to implement than they would be expected to generate in revenue.

### ***Cloud***

The Commissioner met with Sen. Ashe and we agreed that I would testify and signal to Finance that I was poised to announce that the Dept would no longer consider products on the cloud as potentially taxable software both because of legal developments and evolution of technology. Finance was very receptive, and in fact, went farther and discussed proposing a clarifying statute. We discussed the revenue impact. If the conclusion is that cloud products do not fall within our taxable definitions, there is no loss of revenue going forward – the money was not ours to collect. There may be some exposure to refund requests, but we believe a limited number of taxpayers have actually paid this tax, and refunds might be denied depending on the nature of their product or whether the vendor can demonstrate that it will return the money to its customers.

71. press?



### **Agricultural Equipment Exemption**

The Commissioner met with Sen. Ashe, Westman, Starr and MacDonald. After much discussion, it was agreed that the Department would propose clarifying regulations excepting occasional non-agricultural use from the 96% threshold.

9 90% ↗

### **Education Finance**

The Commissioner was asked to testify next week to Senate Finance on the House proposal. The Commissioner discussed with the Speaker some confusion over the yield proposal, what it does and what it accomplishes – but thus far there appears support. We also discussed the fact that tying income sensitivity to the current year tax bill would cost money – advancing payments by a year (which was fully recognized when the state deferred payments upon instituting the look back). What goes around comes around.

### **Operations**

#### **Tax Season**

Late breaking – Utah believes it has traced an exponential increase in fraudulent refund requests to TurboTax, but Intuit denies any breach or responsibility. Utah identified this problem through FAST software, and FAST quickly alerted other states (we will have the Utah capability when VTax is fully implemented). We have suspended all refunds temporarily – a step the Department apparently has taken before when we suspect that our filtering software is not catching the latest fraud scams. What makes this problem significant is the scope and nature – Utah suspects that almost a quarter of this year's TurboTax returns are fraudulent, and it believes that prior year returns had been hacked through TurboTax such that the new returns contain accurate dependent and wage information that would slip through fraud filters. Note, once the hucksters have prior year info, they could use any software to file fraudulent returns. Increasingly fraudulent refunds are routed to debit cards, and we are considering not issuing refunds to these cards – although this might be controversial, since stores such as Walmart are offering incentives for loading their debit cards with tax refunds. Utah has issued a press release, and the Department has prepared its own general release if we need to get ahead of the story.

### **Public Records Requests**

Hilary Niles is appealing the Department's assertion of confidentiality of data sets provided to Gruber. The sets did not contain identifying information, however they were based on federal taxable information, which the Dept can only disclose for limited use in tax administration (in this case, developing tax proposals – itself the most narrow of permissible uses). Meantime, Mike Donahue is appealing the Department's assertion of confidentiality at the state level of liens and judgments. Pursuant to statute, the Department need not produce records available elsewhere – here, in freely accessible town records. Should the Department lose on this appeal, it would require a sea change in operation – we would become the central repository for data mining, releasing tens of thousands of delinquent taxpayer names in one place. This is a particularly slippery slope since we have property tax adjustment information – the VT Supreme Court ruled this information was confidential since it can be linked to income, however the Legislature subsequently enacted a rather sloppy and broad exemption to facilitate real estate transactions. If we fulfilled public records requests under the exemptions to realtors and escrow agents, it could eviscerate income confidentiality once again.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
Date: February 6, 2015  
RE: Boards and Commissions Update

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**Appointments made February 3, 2015**

**Justice of the Peace, Town of St. George:**

APPOINTED: Debra Kobus

**Justice of the Peace, Town of Lowell:**

APPOINTED: Sadie Willey

**Justice of the Peace, Town of Dorset:**

APPOINTED: Linda Sullivan

**Vermont Municipal Bond Bank**

REAPPOINTED: Kathryn Boardman, Shelburne

**Liquor Control Board:**

REAPPOINTED: Stephanie O'Brien, So. Burlington (CHAIR)

**Vermont Lottery Commission:**

APPOINTED: Michel Consejo, Sheldon

**Vermont Housing Finance Agency:**

APPOINTED: Randolph Amis, Burlington (CHAIR)

**Vermont State Housing Authority:**

REAPPOINTED: Mary Miller, Waterbury

**Vermont Parole Board:**

REAPPOINTED: Patricia Boucher, Enosburg Falls

REAPPOINTED: Mary Stephens, Goshen (Alternate)

**Community High School of Vermont:**

REAPPOINTED: Sarah Flynn, Burlington

**Victims Compensation Board:**

APPOINTED: Richard Katzman, MD, Waterbury (Physician)

**Endangered Species Committee:**

APPOINTED: Elizabeth Thompson, Jericho (Flora)



**Board of Libraries:**

REAPPOINTED: Lucy Comstock-Gay, New Haven –

**Board of Allied Mental Health Practitioners:**

APPOINTED: Jane Dale, Montpelier (Public Member)

**Board of Nursing:**

APPOINTED: John “Jack” Welch, Jr., Rutland City (Public Member)

**Veterinary Board:**

APPOINTED: Jeannette Hogan, Plainfield (Public Member)

**Commission on Alzheimer’s Disease & Related Disorders:**

APPOINTED: Constance Moser, West Windsor (Clergy)

**Commission on Successful Aging:**

APPOINTED: Mathew Barewicz, Calais

APPOINTED: Thomas Torti, Essex

**Hearing Panels for Professional Public Educators**

APPOINTED: Raymond Pentkowski, Fair Haven ( Public Member)

APPOINTED: Dana Peterson, Rutland Town (Administrator)

**Standards Board for Professional Educators:**

APPOINTED: Thomas Young, Duxbury (Teacher)

**Vermont Humanities Council:**

APPOINTED: Sarah Dopp, So. Burlington

**Natural Resources Board:**

REAPPOINTED: Charles Haynes, East Montpelier (Alternate)

**District #1 Environmental Commission:**

REAPPOINTED: Amanda Beraldi, Rutland (Member)

REAPPOINTED: John Bloomer, Jr. Wallingford (Alternate Member)

REAPPOINTED: John Liccardi, Rutland Town (Chair)

REAPPOINTED: Herbert Ogden, Mt. Tabor (Alternate Member)

**District #2 Environmental Commission:**

REAPPOINTED: Stanley Borofsky, Brattleboro (Alternate Member)

REAPPOINTED: Christopher Callahan, West Windsor (Alternate Member)

REAPPOINTED: Leslie Hanafin, Brattleboro (Member)

REAPPOINTED: Julia Schmitz, Weathersfield (Alternate Member)

REAPPOINTED: Stephan Morse, Newfane (Chair)

**District #3 Environmental Commission:**

REAPPOINTED: Linda Gray, Norwich (Alternate Member)  
REAPPOINTED: Clotilde Hryshko, East Randolph (Alternate Member)  
REAPPOINTED: Roderick Maclay, Strafford (Member)  
REAPPOINTED: Anne Margolis, Corinth (Alternate Member)  
REAPPOINTED: Timothy Taylor, Thetford (CHAIR)

**District #4 Environmental Commission:**

REAPPOINTED: Monique Gilbert, Jericho (Alternate Member)  
REAPPOINTED: Marcy Harding, Richmond (Member)  
REAPPOINTED: Thomas Little, Shelburne (CHAIR)  
REAPPOINTED: James McNamara, Burlington (Alternate Member)  
REAPPOINTED: Parker Riehle, So. Burlington (MEMBER)

**District #5 Environmental Commission:**

REAPPOINTED: Ginny Callan, East Montpelier (Alternate Member)  
REAPPOINTED: Jito Coleman, Warren (CHAIR)

**District #6 Environmental Commission:**

REAPPOINTED: David Kimel, St. Albans (Member)  
REAPPOINTED: Daniel Luneau, St. Albans (CHAIR)

**District #7 Environmental Commission:**

REAPPOINTED: Clarke Atwell, Kriby (Alternate Member)  
REAPPOINTED: Dexter Randall, Newport Center (Alternate Member)  
REAPPOINTED: Eugene Reid, Canaan (CHAIR)  
REAPPOINTED: Patricia Sears, Lowell (Alternate Member)  
APPOINTED: Nicole Davignon, Hardwick (Member)  
APPOINTED: Laura Wilson, Guildhall (Alternate Member)

**District #8 Environmental Commission:**

REAPPOINTED: Ruth Botzow, Pownal (Member)  
REAPPOINTED: Joan Goodrich, Bennington (CHAIR)  
REAPPOINTED: Edward Weissman, Dorset (Alternate Member)

**District #9 Environmental Commission:**

REAPPOINTED: Katherine Manaras, Lincoln (Alternate Member)  
REAPPOINTED: Peter Norris, Monkton (Alternate Member)  
APPOINTED: Krista Reinhart, No. Ferrisburgh (Member)  
APPOINT: Jean Richardson, No. Ferrisburgh (Chair)

**Governor's Council on Energy & The Environment:**

APPOINTED: Katherine Manaras, Lincoln  
APPOINTED: Jacob Park, West Pawlet  
APPOINTED: Bob Barton, Moretown  
APPOINTED: Gus Speth, Strafford  
REAPPOINTED: Arthur Berndt, Sharon – CHAIR  
REAPPOINTED: Jan Blomstrann, Burlington  
REAPPOINTED: Paul Burns, Montpelier  
REAPPOINTED: Andrea Colnes, Montpelier  
REAPPOINTED: Elizabeth Courtney, Montpelier  
REAPPOINTED: Brian Dunkiel, Burlington  
REAPPOINTED: Thomas Dunn, Montpelier  
REAPPOINTED: Jon Erickson, Burlington  
REAPPOINTED: Scott Johnstone, Burlington  
REAPPOINTED: Charlie Kireker, Weybridge  
REAPPOINTED: Crea Linthilac, Shelburne  
REAPPOINTED: Gregory O'Brien, Middlebury  
REAPPOINTED: Ernie Pomerleau, Burlington  
REAPPOINTED: Mary Powell, South Hero  
REAPPOINTED: Brian Shupe, Waitsfield  
REAPPOINTED: Bill Stetson, Norwich  
REAPPOINTED: John Warshow, Marshfield  
REAPPOINTED: Dori Wolfe, Strafford

NOTE: Chris Killian has agreed to serve and will be on the next appointment list.

**Board of Education: **ON HOLD** PENDING CONTACT WITH MARGARET MACLEAN**

APPOINT: Peter Peltz, Woodbury  
REAPPOINT: William Mathis, Goshen  
REAPPOINT: Krista Huling, Cambridge

**Board of Medical Practice: **HOLD** PENDING INFO FROM SUE ALLEN**

APPOINTED: Christine Payne, Middlesex (MD)

**Interactive Technologies Coordinating Council: **HOLD** pending legislation**

HOLD-REAPPOINT: Barbara Grimes, Burlington (business)  
HOLD-REAPPOINT: John Sayles, Montpelier (Non-Profit)

**Liquor Control Board:** Looking for the right person to replace Thomas Gallagher who does not want to be reappointed.

Last name	first name	City	Board/Commission	Initial appt	ending date	Comments
Cassarino	John	Rutland	Liquor Control Board	2/1/2007	1/31/2017	
Gallagher No reappt	Thomas	St. Albans	Liquor Control Board	7/3/2012	1/31/2015	
Mazza	Melissa	Essex Junction	Liquor Control Board	6/14/2012	1/31/2017	
O'Brien	Stephanie	South Burlington	Liquor Control Board	9/7/2007	1/31/2020	Chair
Sbardella	Julian	Fair Haven	Liquor Control Board	7/3/2012	1/31/2018	

**Lottery Commission:** Lindsay Kurrle's store does not sell lottery tickets, too small. She is interested enough that I have asked Greg Smith to call her and fill her in on what the Commission does and how often it meets. Will keep you posted.

BC RECORD						
Last name	first name	City	Board/Commission	Initial appt	ending date	Comments
Consejo	Michel	Sheldon	Lottery Commission, Vermont	2/3/2015	2/28/2018	Democrat
Flanagan	Edward	Montpelier	Lottery Commission, Vermont	9/4/2013	2/29/2016	None
O'Connor	Martha	Brattleboro	Lottery Commission, Vermont	3/1/2011	2/28/2017	Chair/Independent
O'Hagan	Karen	Winooski	Lottery Commission, Vermont	3/24/2011	2/28/2017	Democrat
Vacancy			Lottery Commission, Vermont		2/28/2015	

## CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin  
From: Michael J. Hogan, Commissioner of Liquor Control  
Date: February 6, 2015  
Re: Weekly Report

### Status of Governor's Priorities:

- Recently spoke at the Canadian Alcohol Jurisdiction meeting in Toronto about Marijuana. All the provinces were very interested in the Rand Report and thanked Vermont for taking the lead with such a balanced approach. They also thanked the Governor and his Administration for this report as it is a blueprint for other states and countries to consider in their discussions on legalization.
- January sales finished at a +4.87% which is very good for an economy that is moving slow in some sectors.

### Legislative Issues/Contacts/Updates:

- Miscellaneous clean up language for Title 7. Working on some housekeeping changes.
- Spoke with House Gov. Ops on our IT Project and its status.
- Will speak to House General next Wednesday (2/11) on alcohol licensing. Will give them a Licensing 101 presentation as new committee members need a review of the overall process.

### Press Issues/Releases/Contacts:

Significant Events/Meetings: Next Board Meeting 02/04/2015 - Enforcement Hearings.

### Evolving Issues:

- ERP/POS Project underway. Excellent Progress! Recent meeting with vendors and staff working through the particular functions of the front end and back end systems.
- Preliminary review of department processes for potential licensing and enforcement system. Considering using VIC as they are very familiar with our business processes to help with a statement of work.
- Break open ticket reporting process is working. Live data is being entered. Should have some numbers by the end of the first quarter.
- Reviewing licensing system with the intent of consolidating some license types.

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### Summary of Key Department Activity:

- Reviewing internal controls with staff and department committee.
- Looking closely at more cross training for some of our divisions.
- Commissioner's Commentary: Have a great weekend.

Elizabeth H. Miller  
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elizabeth.miller@state.vt.us