

# WEEKLY REPORTS

## Checklist

1/17/2014

Elizabeth Miller/Aly Richards

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

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- Boards and Commissions (**no report this week**)
- Department of Liquor Control

State of Vermont  
Department of Financial Regulation  
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For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
[Banking] 888-568-4547  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: January 17, 2014**  
**Re: Weekly Report**

*Susan L. Donegan*

**Captive Insurance Division:**

Commissioner Susan Donegan and David Provost, deputy commissioner of the Captive Insurance Division, met with folks at the Agency of Commerce and Community Development on Tuesday to discuss issues relating to captive insurance. Lucy Leriche, deputy secretary of ACCD; Lisa Gosselin, commissioner of Economic Development, and Dan Towle, director of Financial Services for ACCD, agreed with DFR that an assessment of opportunities and challenges facing the Vermont captive market was timely. The group concluded that three things triggered a fresh look at our regulatory and economic development strategies: 1) competition – domestically and internationally; 2) expansion – targeting sectors like medical malpractice and international; and 3) regulatory leadership by DFR through the National Association of Insurance Commissioners (NAIC) and the Federal Insurance Office (FIO). The group will meet monthly to discuss additional marketing and outreach ideas for 2014.

**Insurance Division:**

On Wednesday, DFR licensed a newly-created insurance company that will be domiciled in Vermont. Housing Specialty Insurance Co. will sell surplus line insurance (alternative insurance coverage not offered by some insurance companies) and will be the fourth Vermont insurer in the Housing Authority Insurance Group (HAI), which is based in Connecticut. HAI writes policies for public and affordable housing communities nationwide. HSIC will enable HAI to broaden its offerings and respond to a growing market for non-traditional insurance.

The Insurance Division's Consumer Assistance Section has issued its annual statistics for 2013 showing the summary of inquiries, the nature of the inquiries, the amount of money recovered for Vermont consumers and the average number of days to close an issue. There were 3,702 inquiries in 2013, up 621 from 2012 and the average number of days to close an inquiry in 2013 was 31 compared with 39 in 2012. The change in these figures is attributed to the department's online



inquiry/complaint filing capability, which was introduced in April 2013. In 2013, more than \$660,000 was returned to Vermont consumers, while in 2012 only \$491,000 was repaid. The difference was due to a case involving a cancer patient that resulted in reprocessing claims totaling about \$300,000. According to the Insurance Division, the amount of money repaid to consumers varies greatly because of the vast range of possible repayments: Some complaints close with no recovery while others may close with a significant amount. Both the 2012 and 2013 charts follow this report.

**Division of Insurance  
Consumer Assistance Section  
Annual Statistics  
January 1, 2013 – December 31, 2013**

**Summary of Written Inquiries and Complaints**

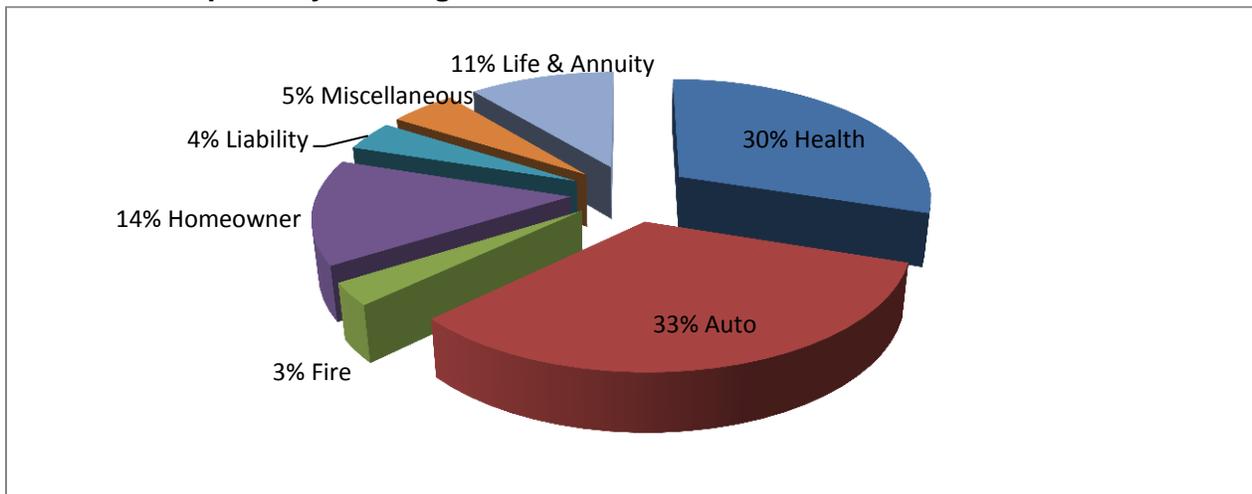
**Totals**

Inquiries Opened	3702
Written Complaints Opened	448
<b>Dollar Amount Recovered for Consumers</b>	<b>\$662,757.00</b>

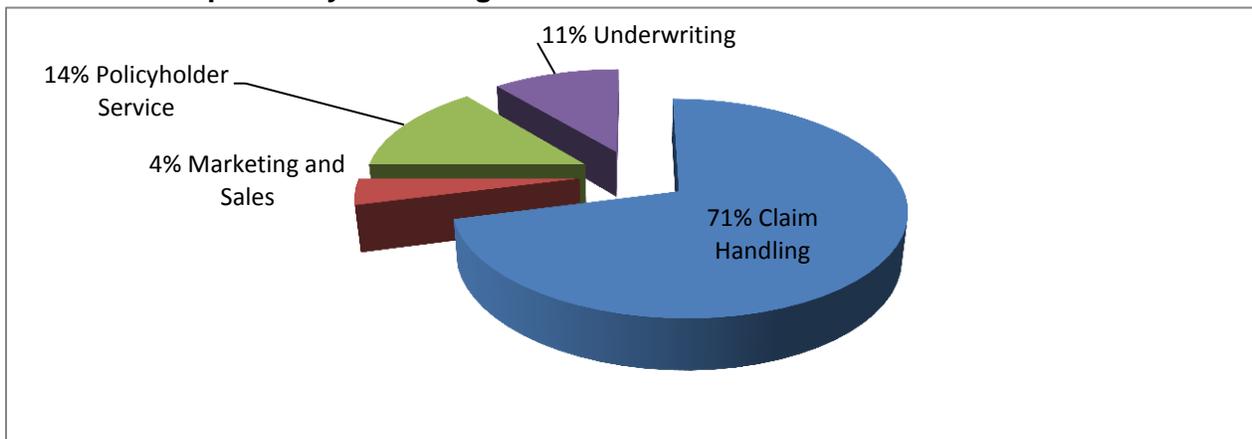
**Average Days to Close Complaint**

**31**

**Nature of Complaint by Coverage Level**



**Nature of Complaints by Percentage**



**Division of Insurance  
Consumer Assistance Section  
Annual Statistics  
January 1, 2012 – December 31, 2012**

**Summary of Written Inquiries and Complaints**

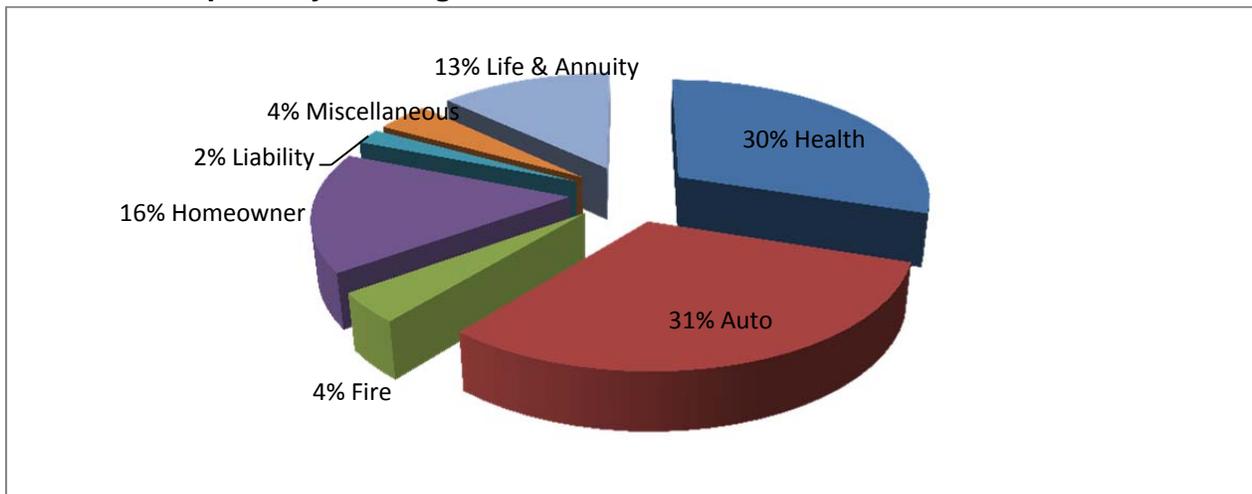
**Totals**

Inquiries Opened	3081
Written Complaints Opened	494
<b>Dollar Amount Recovered for Consumers</b>	<b>\$491,496.00</b>

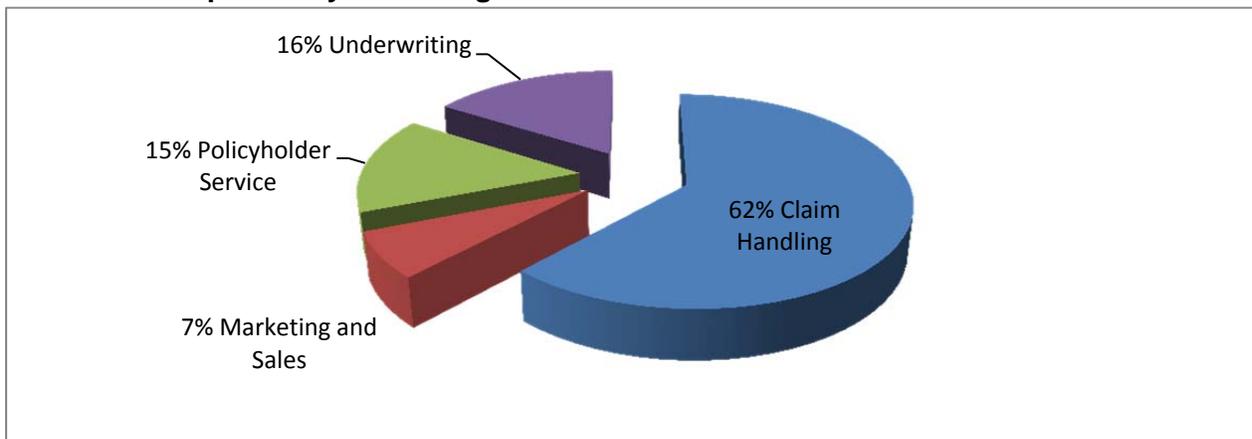
**Average Days to Close Complaint**

**39**

**Nature of Complaint by Coverage Level**



**Nature of Complaints by Percentage**





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## CONFIDENTIAL AND PRIVILEGED

# MEMORANDUM

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: January 17, 2014

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Thank you so much for your support in making the improvement of schools and the cost effectiveness of education a key component in your budget address this week.

### Legislative Issues/Contacts:

Vaughn Altemus, Education Finance Manager, is scheduled to testify before the House Education Committee on Thursday, January 23, providing an update on mergers, including the SU mergers that are mostly outside the Act 153 framework, and Act 153 and 156 activities. This task had been assigned to the Jeffords Center at UVM, but they are closing down and not making any reports.

### Significant Events/Meetings:

The State Board of Education will hold its monthly meeting on Tuesday, January 21. This will be my first meeting as a member of the Board. I look forward to working with them to advance our common goals and priorities. To that end, I will be leading a work session with them Tuesday morning on the emerging tenets of my vision for improving outcomes/opportunities for all learners. We will also be meeting as a Board with members of the House and Senate Education committees early Tuesday morning to discuss areas of common interest. Topics of interest include teacher quality, school accountability, and consolidation. The full agenda and additional information are posted on the AOE website at: <http://education.vermont.gov/state-board/schedule> .

## **Evolving Issues:**

### ***“Collaboration”, also known as Consolidation***

#### **Overview:**

One decision we will have to make relates to the practice of having any retirement of a superintendent automatically trigger a study of opportunities for consolidation. Based on the lack of success associated with this trigger, as well as the ill-will associated with this approach, I am inclined to recommend that no new studies be triggered by the retirement of superintendents. There are a number of districts with studies under way. Since the SBE requested these studies, it is up to the SBE to decide what to do with these studies. My inclination is to recommend that they let the SUs continue or halt ongoing studies based on their own preferences. I suspect that once we have developed and reviewed some of the analyses we are pursuing (see section on cost effectiveness below), that this will also influence the conversation on consolidation.

#### **Cost Effectiveness:**

This past week I convened a group across silos in the AOE to wrestle with the challenge of cost effectiveness. As you know, our data basically defies analysis because of our small schools and class sizes and the complexity of our governance system. That said, our goal was to figure out what stories we can tell about the real costs of education and the effectiveness of the investments different towns make in education. This work is still in its preliminary stages, but several possible lines of analysis are emerging, including:

- In 2014, it looks like about \$7,444,000 is not raised on the homestead tax rate due to 843 ghost equalized pupils in the system for FY2014 (about  $\frac{3}{4}$  of a penny on the tax rate). Or put another way, the Education Fund is paying for about 843 “phantom” students in schools that have experienced rapid declines in enrollment, and these “phantoms” are not evenly distributed. Thus, for example, I understand from Bill Talbott that we have one small school that receives funding for about 80 students, but only has 40 in attendance. Our next step will be to compare schools that have large numbers of “phantoms” with schools that receive small school grants. If these schools are correlated, then we know the true cost of maintaining these schools far exceeds what we would assume based on their budgets.
- Many SUs are in the process of moving certain functions from the school level to the SU level, as a way of increasing quality and reducing costs. However, in the initial year, this appears as a dramatic increase in the SU budget, as functions are shifted. We are aware from traffic on our Facebook page and comments at the two symposia this week, that many school board members and voters do not seem to understand that the cost increase at the SU level reflects a shifting of



expenditures from one level to another, not a net increase. Moreover, the increase at the SU level should have been accompanied by a decrease at the school level. However, as we looked at some of the SUs where this happened, we began to suspect that some local boards were then backfilling holes left when functions were pulled out by adding new initiatives. We have begun some analysis of these questions, and hope to have some examples soon.

- We are exploring the idea of writing mini case studies of prototypical schools that illustrate some of the key challenges and choices communities make, or finding some achievable way to present schools with their data in the context of a “competitive set” of similar schools that share demographic and geographical features. The focus will be on contrasting the investments that districts with similar situations make, as well as the breadth and depth of opportunities they can provide for that investment.
- Possibly, we will be able to look at data regarding turnover of teachers, principals and superintendents, including where turnover is concentrated, to highlight some of the costs associated with our current governance structure.

We will be limited in this work by the complexity of our governance system, the quality of our data, and realistically, by the limits of our capabilities in house for business analysis. The people with the skills to do this work are already working to capacity, so I need to find ways to build this capability in the Agency.

#### Proposed Actions:

Continue to experiment to see if we can come up with some concrete ways of illustrating some of the efficiencies in the system, so voters can make more informed decisions.

#### *Assessment and Accountability*

##### Overview:

We have been asked to present and facilitate a working session at the SBE on a new multiple measure accountability model that captures evidence with respect to the accountability of our schools for building the capabilities of our children.

Some themes behind this work:

- 1) We want to shift our focus from “measuring up” on standardized tests to focusing on “getting better at getting better”: e.g. continuously improving learning across a broad spectrum of critical VT outcomes for children.
- 2) This work brings together and provides focus to the tremendous work already under way around innovation, early education, college access, personalization and flexible pathways.



- 3) We know that improving learning depends on strengthening the relationship of schools with communities, engaging parents and children in schools, and supporting the continued growth, learning and experimentation and learning of our teachers as well.
- 4) All measures are fallible, so we will rely on a broad range of measures, including performance assessments, and ask professionals and board members to rely on a broad spectrum of data to make informed judgments about how to improve learning.

This model could be the basis of a request for flexibility from US ED as well. Without it, we do not have a leg to stand on. Signature features, if achievable, could include replacing our test based model with an inspectorate model, which creates a forum in which individuals review evidence and provide targeted, descriptive feedback to support school improvements.

Proposed domains addressed by the model:

What skills, knowledge and habits do we want all our students have in order to thrive as citizens and economic actors in the 21<sup>st</sup> century? (Measured in terms of the 7 goals outlined in the EQS, note that standardized tests only address parts of the first 3 of these 7 goals.)

- a. literacy
- b. mathematical content and practices
- c. scientific inquiry and content knowledge
- d. global citizenship
- e. physical education and health education
- f. artistic expression
- g. transferable skills (including communication, collaboration, creativity, innovation, inquiry, problem solving and the use of technology)

Quality and professional growth of our teachers:

1. Observe frequently, with feedback and support
2. Include multiple observers of practice
3. Focused on growth and learning
4. Include multiple measures of performance
  - multiple instances of observation by multiple observers
  - student and parent surveys,
  - evidence from external assessments, common school-based assessments, and teacher-created assessments
  - measures of teacher professional responsibilities



### Measures of cost effectiveness:

If we can develop some viable competitive sets within which we can present schools with data on their investments and the returns they are getting (breadth of offerings, school level growth measures, etc.) we would like to use this to address the issue of cost effectiveness. See conversation above about cost effectiveness.

### Proposed Action:

When I speak to the SBE, I would like to be able to say that I was asked by the Governor to explore the development of a new model of accountability for learning that better meets the goals we have for Vermont's children. We can ask them to help us develop the policy context that supports the work we propose.

### *Finance Formula/Sustainability*

Tuesday's forum on the finance formula was successful in demonstrating a willingness to look at this important issue. The fact that you sponsored it, suggests that the Governor is open to considering all propositions, then testing them through public scrutiny. I was concerned by a few comments from presenters that indicated they perhaps did not understand how the formula worked. A few key points, in no particular order, are:

- There are several kinds of equity. For example, our current finance formula takes a strong step towards equalizing purchasing power across districts. However, a reality is that a dollar does not buy the same amount of education and supports in different contexts, so spending equity does not necessarily mean education equity.
- People cannot talk about revenue without talking about spending. For this reason, it makes sense to push hard on the issue of cost effectiveness: e.g. what quality do we buy with education dollars?
- People across a broad spectrum of roles, including presenters, do not understand the formula, or the relationship between the decisions they make and their tax bill.

### Proposed Actions:

We would like to host an AOE sponsored symposium in the spring that will offer a structured perspective on several issues around revenue and costs.



*General Counsel*

We had been interviewing Michael Proto. He declined to come to Vermont and expressed that he was concerned about the challenge of trying to land in the midst of a legislative session, rebuild an office, and handle a move at the same time. We moved quickly to hire Greg Glennon, who lives in Burlington, and he has agreed to take the position. We had originally been a bit hesitant about Greg because he is somewhat young and we expected him to have difficulty managing one of our current attorneys. That attorney has since left the agency, so we are quite excited about Greg's arrival. We have put him in touch with Bill Reedy, and asked Bill to provide a little mentoring as Greg builds a new model for the General Counsel office. At the end of this month, we will lose another attorney, and we will likely be without an attorney for at least a week. We are developing a transition plan and hope that you will be patient with us throughout this period. We may need some support. Despite almost full turnover in our legal division, we actually feel in the long term, that this will be good for the Agency.

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Rebecca



**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Jan 17, 2014**  
**Re: Weekly Report**

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

n/a

**Legislative Issues/Contacts:**

Appeared in front of Hse Ways & Means regarding our agent application fee change in fee bill. Statute allows for annual fee of \$15 for all agents, and in our rules we use a one time application fee of \$15. We have asked to raise the statute to \$50, and still plan to manage it as a one time application fee, initially raising to \$30 to cover cost of background checks.

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

I was contacted by leg counsel regarding draft bill for lottery expired, unclaimed prize money. I have not seen this yet but expect it soon. We use these funds to reward players through promotions. The statutes state to not pay less than 50% in prizes, so by paying it to players we are satisfying that. Most of these draw game are set with 50% prize structures. Unclaimed instant ticket prizes are returned to the state each year. These games all payout more than 50%.

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**Summary of Key Agency Department Activity:**

Key work on our websites and gaming system lately and for the next 2-4 weeks.

**Executive Director's Commentary:**

I am working on my budget comments.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Deputy Secretary Sue Minter**

**DATE: Friday, January 17, 2014**

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

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**NOTES FOR GOVERNOR**

**Legislative Update**

**Budget presentation** started well this week with my overview to Committees, which was warmly received in both Hse & Sen. The position proposal did not seem to create a stir. Following last week's visit from our District folks, I think members have a good understanding of the value of these positions, as well as their ongoing need. Both Committees were pleased to see the historic investment in transportation, and I underscored the economic development theme you set out in your speech (which we sincerely thank you for including!) as well as performance (results), energy challenge (alt. modes) safety, and resilience.

There have been some questions (from public and legislators) regarding the spending increase, so please note that the \$32 Million increase from last year's budget is primarily due to increases in federal grants: FRA- for Western Corridor rail; FAA - for airports & FEMA (both Irene and more recent storms). Just want to make sure you understand (& can clarify if asked) the increase is not from any new state revenues (no new fees or bonds).

**BAA:** The revised forecast, with an uptick to TF, will seriously help with our Winter Maintenance budget, where we anticipate a deficit. We are recommending to appropriators that additional FY14 funds be targeted on Maintenance, with any leftover going to District Leveling / Spring paving.

**Projects:** The waters are relatively still regarding big projects this year, with the exception of delays to the Route 7 project (apparently due to right of way challenges) which have Potter and Flory unhappy. We are having special meetings with them next week.

**Policy:** Final drafting and review by stakeholders underway for the "Proportional Share" bill (formerly "Fair Share"). Based on feedback from the development community we have scaled the bill down substantially, to eliminate the RPC-derived Transportation Improvement District concept. Likely legislative sponsors: Clem Bissonnete (Trans) & Ellis (Nat. Res).

**TMDL:** Given the potential changes coming down the pike from EPA that will affect state and municipal roads, we believe we need to use this Session to educate our Committees on the water quality & storm water issues. D. Mears will give an overview next week, and VTrans will continue to take the position in any testimony that we are studying this issue, but have not taken any position on how we would approach (i.e. we are not, at this time, committing publicly to a TS-4).

### **Districts Highlights:**

Our District road warriors continue to fight the changing weather challenges. They are salting nearly daily (rain & freezing temps) and are now addressing pothole challenges due to the freeze-thaw cycle. Nearly all districts report patching work (not normal for Jan.), and continue to be busy with debris removal from ice storms in some areas, thawing culverts, and addressing small scale flooding with several road closures & bridge inspections from some bridges hit by ice jams. Already getting press call about potholes (!)

### **Owls & Sink holes:**

ALERT!: As I mentioned to Senate Trans, we are becoming ever more suspicious of involvement by legislators in activities affecting you: 1) A sink hole suspiciously appeared the morning of your speech, which delayed traffic for hours & kept visitors from your speech; 2) A rare flock of snowy owls have suspiciously appeared in our airports around the state in an apparent attempt to keep you from using the state airplane! Foul play by the General Assembly is under investigation!... [LOL ☺].

### **NOTES FOR STAFF**

**COOP Tabletop Exercise:** Key staff members participated in a day-long COOP table top this week, organized by DEMHS & consultants. Participants describe the process as very beneficial (unfortunately, I missed due to illness) & have follow-up activities underway as well as an after action report from DEMHS. We will address the various improvements to the COOP prior to the Catastrophic Exercise in June.

**White House Task Force on Preparedness.** As part of the team working on this for GPS I am initiating a meeting with our Congressional Delegation staffers, along with key state staff, to discuss post- Irene Lessons Learned. We have never pulled them together for their perspective on how to improve federal recovery programs and want to gain their insight and expertise as we make recommendations to improving federal policy for the Task Force.

**FEMA Culvert Appeal.** The Georgetown Climate Center,( associated with the Georgetown University Law School) recently published a case study, *Lessons Learned from Irene; Climate Change, Federal Disaster Relief, and Barriers to Adaptive Reconstruction*, on the challenges faced by Vermont municipalities when they sought federal disaster relief to rebuild more resilient transportation infrastructure post Irene (link below). The case study contains several references to the legal memoranda that VTrans AAG Dan Dutcher prepared as part of the State's support of the Town of Townshend's second & final appeal to FEMA. The authors of the Georgetown case study are guardedly optimistic that FEMA, based on the arguments made by Vermont, is starting

to see the light! <http://www.georgetownclimate.org/lessons-learned-from-irene-climate-change-federal-disaster-relief-and-barriers-to-adaptive-reconstru>

**Milton Sinkhole (details)** On Jan 15<sup>th</sup> a sinkhole was discovered on Interstate 89 in Milton, in the south bound lane just south of the Lamoille River bridge before exit 17. VSP & VTrans responded immediately with lane closure & then mobilized equipment and material, the statewide bridge crew to cut the pavement, and staff began filling the hole in lifts. The hole was filled by early afternoon, and they “paved” with cold patch since we can’t get hot mix. The interstate was re-opened by rush hour (3pm). The area will need to be repaved in the spring. Conducting investigation to assess a failed pipe 30 ft underground. Staff working on solution to get through winter.

**Owls:** Snowy owls are creating hazards in 4 of our airports. We are working with US Fish & Wildlife service to trap and relocate them. No plans for extermination (!)

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** January 17, 2014

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**Vermont Department of Health (VDH)**

Outbreak of Acute Gastrointestinal Illness:

The VDH is investigating an outbreak of acute gastrointestinal illness at a long term care facility in Chittenden County. The illnesses began in mid-December and have occurred among both the residents and the staff; some of these people were confirmed to have been infected with *Salmonella*. As of January 12<sup>th</sup>, thirty-four people have become ill. The illness has also been associated with the death of one resident. The cause of the illnesses remains under investigation.

Samosa Man Update:

Following a hearing the VDH is suspending Samosa Man's fair stand license for one year which would prohibit him from selling at farmers' markets. The hearing decision will be issued today and he will have 30 days to appeal.

**Department of Mental Health (DMH)**

Legislative Updates:

- Bill S.287 (an act relating to involuntary treatment and medication) – The first hearing was held on Wednesday during the Joint Senate Judiciary and Health & Welfare Committees.

DMH presented data relating to timelines from hospital admission to treatment determination. This data was the result of work between DMH legal, hospitals and Legal Aid, which resulted in a shared agreement on the data. The next joint hearing is scheduled for next Wednesday, January 22<sup>nd</sup>.

- Bill H.555 (An act relating to the commitment of a criminal defendant who is incompetent to stand trial because of a traumatic brain injury) – This bill provides the court authority to commit a criminal defendant who has been found to be incompetent to stand trial because of traumatic brain injury, to the DMH.

Commission Dupre and DMH Medical Director Jaskanwar Batra, were called to testify to the impact of bill on the mental health system.

Lengthy Stays:

Issues are ongoing with lengthy ER and Corrections stays for people waiting for Level I beds.

Mourning Fox, Director of Care Management, and Commissioner Dupre met with the emergency room directors. This was a good meeting and the ER directors were interested in the opening timelines and other information pertaining to the Vermont Psychiatric Care Hospital (VPCH).

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

### House Human Services raises question of overhauling Developmental Disabilities Act of 1996:

During Commissioner Wehry's testimony on Wednesday, Rep. Donahue revisited the question of need for more legislative involvement in decision-making pertaining to funding for Developmental Services. Citing fears that the rescission risked the stability of the entire program, Rep. Donahue suggested that the Developmental Disabilities Act might need to be amended. There was no discussion. Disability Rights VT (DRVT), Vermont Family Network, and green Mountain Self-Advocates are mounting a similar campaign but providers, families and service recipients are divided in their opinions. We will continue to keep an eye on this but expect no action this session.

### Advocates press for more spending in Choices for Care

Following Commissioner Wehry's testimony on Tuesday, lobbyist Dave Mickenberg urged lawmakers to reinvest the entire \$6M in available Choices for Care reinvestment dollars. Mr. Mickenberg, whose lobbying firm represents both COVE (Community of Vermont Elders) and AARP, testified that the statute requires us to do so and suggested the investments are needed to strengthen the home and community-based system. DAIL has proposed investing roughly \$4M to deal with gaps in care for persons with moderate needs and to reserve \$2M for the high needs group. Commissioner Wehry has been told that the committee voted favorably on DAIL's request, with the provision that we dedicate more funds to new initiatives if a large 'surplus' accrues in FY14.

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

### Springfield Rotary:

On Monday, Commissioner Pallito and Deputy Commissioner Menard travelled to Springfield to appear before the weekly Rotary meeting. The group was interested in general Corrections updates. The Time Argus and Eagle Times were in attendance.

### Hungry Heart Film

Bess O'Brien has offered to show the Hungry Heart film in all Vermont correctional facilities, as well as appear to speak about the film. Bess has asked for a grant of \$5,000 to offset her costs. In addition, Bess will leave copies of the DVD and other informational material with each facility superintendent.

### Recidivism Reduction Planning Grant Meeting:

The DOC held the first community meeting to plan for its submission for the full recidivism grant on Thursday, January 15<sup>th</sup>. The planning grant requires a Task Force that consists of diverse stakeholders who have a role in reducing recidivism. This week marked the first meeting of that group. Other meetings will be held between now and June.

### Superintendent – Newport Facility:

Over the past few years, we have had concerns around the culture of the Northern State Correctional Facility in Newport. On balance, the facility is run well in terms of security. However, we have seen signs of a culture that we do not wish to foster. Accordingly, we have moved through several superintendents over the past few years, all selected through recruitment processes. This position is exempt.

With a firm desire to start to move the culture in the Newport Facility, we have identified the current assistant superintendent of the St. Johnsbury facility to assume leadership in Newport.

Shannon Marcoux is someone with a strong track record of compliance with all State and Department requirements as well as someone who fosters a culture of respect. Shannon has twenty years of experience with the DOC.

DOC staff met with Shannon and agrees that he is a very good fit for this facility. Since this position is exempt, we are moving forward with a direct appointment of Shannon into this position. This includes salary consideration forms through DHR.

Population

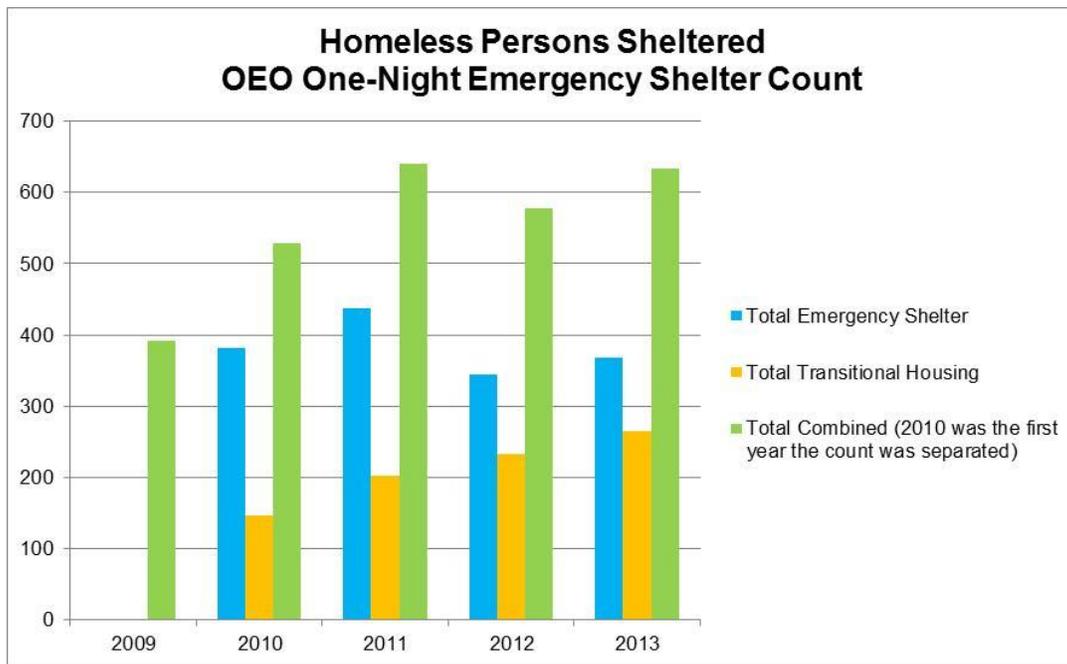
The department’s incarcerated population averaged 2,111 for the previous week. The male population averaged 1,954 for the previous week with 367 being presentenced inmates. The female population averaged 157 for the previous week with 50 being presentenced inmates.

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

2013 Emergency Shelter One-Night Count:

OEO conducts an annual survey of Vermont’s homeless shelters and services providers. Known as the one-night shelter count, the survey provides a snapshot of shelter utilization and the demographics of persons who are homeless in Vermont. The data is reported by all emergency shelters and transitional living programs receiving funding through the Emergency Solutions Grant (ESG) program.

On December 4, 2013, there were 368 persons staying in ESG-funded homeless shelters. This included 97 children (26% of the total), with approximately half of those being under the age of 6; about one in five shelter residents were identified as having a disability; about 25% of adults were employed; 7% (n=26) were Veterans; and gender was split almost evenly. In addition, the ESG grantees reported another 265 homeless persons, including 102 children, staying in their transitional programs.



Because this is a shelter count and not a homeless census, changes reflect both the demand for shelter and the capacity to provide shelter.

### Domestic Violence Driving Temp Housing:

Domestic Violence is one of the drivers escalating the temporary housing budget in General Assistance (GA). We grant anyone fleeing from domestic violence emergency assistance through GA. There were 1,925 more reported victims of domestic violence in Vermont last year than there were five years ago. Of the Vermonters who were housed through GA Temporary Housing from August to December of 2013, 65% were domestic violence cases.

### Department of Vermont Health Access (DVHA)

#### Vermont Health Connect (VHC) Call Center:

- Members submitting an application over the phone, choosing a plan, or linking a case were routed to Chicago starting Wednesday. The average wait time for these calls was 9 minutes, 47 seconds, cutting last week's average (18 minute wait time) in half.
- For members calling for other reasons, the average wait time in Vermont on Wednesday was 15 minutes, 39 seconds.
- Maximus is monitoring volumes and routing closely, and will be expanding the Chicago staff's training so they can handle additional levels of work.

#### Meeting with Brattleboro Retreat (Retreat):

On Thursday, Commissioner Larson, Deputy Commissioner Aaron French and DVHA Chief Medical Officer Tom Simpatico had a teleconference with the Brattleboro Retreat to develop a Standards of Care for inpatient opioid detoxification admission. Retreat staff agreed to develop a recommendation for discussion at a follow up meeting the week of February 3<sup>rd</sup>.

Also addressed was the issue of payment for the first day of inpatient stays. Options were discussed and DVHA will assess financial impacts and make a recommendation to the Retreat.

#### Vermont Health Connect Press Conference:

DVHA, MVP and Blue Cross Blue Shield (BC/BS) held a press conference on Tuesday morning regarding a delay with the small business web site sign up. Small businesses will need to sign up for exchange-approved coverage through BC/BS or MVP since the web site will not be fully tested by April.

#### VHAP Change in Services:

Members transferring enrollment from the VHAP program to the Medicaid program are now eligible for a broader array of covered services; however, they are now also required to pay a \$1- \$3 copay for those services. This is a change from the VHAP program, which did not require copays.

We have found that the notice which informed members of their enrollment in the Medicaid program did not include information about copay requirements and we are now receiving calls from confused individuals who are attempting to pick up prescriptions only to find that they need to make a copayment. It is important to note that pharmacies and other providers may not deny a service due to an individual's inability to make a copayment. Under section 1916(c) of the Social Security Act "no provider participating under the State (Medicaid) plan may deny care of services to an individual eligible for (Medicaid) . . . on account of such individual's inability to pay (the copayment)."

We estimate that this change affects approximately 23,000 individuals. We are currently working to determine the best way to reach these individuals and to make sure that services are not denied to those individuals unable to pay.

The Accountable Care Organization Shared Savings Program (ACO SSP):

The ACO SSP negotiations continue; DVHA is cautiously optimistic that we will sign contracts with the two ACOs within the next two weeks.

116 STATE STREET  
MONTPELIER, VERMONT 05620



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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** January 17, 2014

**Secretary's Top Issues**

**Barn Fire** - Maple Wind farm in Richmond (also in Huntington Center) lost a barn to fire. The farm also has an inspected poultry facility. The poultry facility seems to have only suffered minor damage and future meetings are planned to discuss options for the operation. The Barn did contain the office and restroom required for inspection services.

**Food Safety** - The Food Safety and Consumer Protection Division management team met with the VT Dept of Health's Food and Lodging program managers this week to continue discussions regarding their proposed amendments to the Food Manufacturing rules. These changes will help to close regulatory gaps between agencies and will have implications on FSMA requirements once they are implemented.

**H3 Swine Flu** - A spent hen subset of a VT commercial poultry flock that was prohibited from shipping into the NY/NJ Live Bird Marketing System due to positive results for H3 (swine flu) in one bird has been cleared for export following confirmatory testing performed at the University of Connecticut Diagnostic Lab. The producers have in the past raised several swine for personal consumption, and this likely was the source of the exposure of the commercial flock; they will discontinue this practice in the future. So as to avoid the expense of confirmatory testing and the negative impact it has on their business.

**100th Licensed Dairy Processor** - This week we issued a milk handler license for a cheese processing operation in Windsor. The significance is it makes 100 dairy processors that the Dairy Section is now inspecting and providing technical assistance. Congratulations to Dairy Section Team – agriculture means jobs!

**Water Quality Violation** - A Large Farm in Whiting has received Notice of Violation with Administrative penalty for violations of the Large Farm Operations Rule. The Farm does not have conservation practices in place to prevent the runoff of wastes from a laneway/holding area to waters of the state. In addition, the Farm is maintaining a livestock mortality composting pile within 100 feet of surface water and was found to have buffer violations on a number of fields (both the lack of the required vegetative buffer between water and row crops, and a lack of the appropriate manure spreading setback to water).

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TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: January 17, 2014

**Status of Governor’s Priorities:**  
**Legislative Activities and Issues**

**Apiary Fee** Agency proposed a fee for the registration of bee hives in 2013 session. Beekeepers Association disagreed with the fee in 2013 and House Ways & Means Committee requested that Ag work with Beekeepers to come up with a compromise.

Day one: House Ways & Means Committee Jan 14

- Proposal was agreed upon by Ag and Beekeepers association as follows:
  - Registration Fee of \$10/year per hive location. Estimated total fee \$20,000. \$9,500 to be used at Agency for travel costs to inspect hive locations. Remainder granted to qualified apiary organization (VT Beekeepers Association) for technical assistance and education to new and hobby beekeepers.
- Mike Palmer – VT Beekeepers Association and commercial beekeeper (selling honey and bee set ups for new beekeepers) provided input on how dissatisfied he was on the use of the funds generated by the fee. He makes his living from his bees and feels VAAFMT is not doing enough inspection for disease that could adversely affect his business.
- Ways and Means Committee referred proposal to House Ag and requested that Ag work again with Beekeeper Association on a solution.

Day two – House Agriculture Jan 15

- Met with representatives of Beekeepers Association
- Addressed issues with responsiveness of VAAFMT to concerns of inspection frequency and response to complaints.
- Agency Consumer Protection Specialist Steve Parise (only employee currently doing bee hive inspection) testified to Senate Ag and House Ag on health of bees in VT
- At House Ag committee – Deputy Secretary Diane Bothfeld explained the issue with the Apiary fee and the discussions with the Beekeepers Association
- House Ag would like to discuss further
- House Ways & Means committee has been alerted that VT Beekeepers Association and Ag are prepared to come testify again. No changes are being made to the proposed fee.

**Health of the bee industry in VT to House and Senate Ag Committees on January 15, 2014, -Consumer Protection Agricultural Production Specialist Steve Parise testified**

Overall the bee population is in good shape with no evidence of Colony Collapse as seen in other states.

Other statistics presented:

- Approximate number of Registered Beekeepers .....2,200
- Approximate number of Registered Hives .....12,200
- Approximate number of Registered Locations .....2,800

- Of the 12,200 hives, 16 beekeepers own 5,000 or 41% (average 313 hives/owner)
- 2,184 of the remaining number of registered beekeepers own 7,200 (average 3.3 hives/owner)
- Approximate number of hives rented for pollination(mostly apples) ..... 1,500
- Historical annual Honey production/hive .....70 lbs

**H 448 – ACT 250 Criteria 9(b) – House Ag Committee Jan 15**

Aaron Adler, Legislative Counsel testified to the contents of H.448. H.449 was not discussed.

- Diane Bothfeld mentioned to House Ag that Chamber of Commerce, NRB and VAAFMM had been working to bring both bills together.
- Mike Zahner, VT Chamber of Commerce reiterated and supported that H.448 and H.449 are being consolidated.

**H 448 – ACT 250 Criteria 9(b) – House Ag Committee Jan 16**

Ron Shems, Chair of the Natural Resources Board testified. He reviewed the intent of the bill which includes:

- Providing more flexibility to District Commissions on whether on and off site mitigation is appropriate.
- Provide guidance on “appropriate circumstances”

Mr. Shems mentioned again, that Chamber of Commerce, the NRB and VAAFMM continue to work together on issues concerning the requirement for clustering, determinations of what are primary agricultural soils (PAS), and standards for this determination.

**H. 112- GE Labeling- Senate Ag, January 14**

- Section 3043: Consumer Affairs Act clause, VT AG office has authority to investigate and enforce the labelling requirement of the bill, discussion of ‘label’ vs. ‘labelling’ (whether the information required in H.112 is actually on the package or placed prominently in immediate vicinity of the regulated material (in bulk bins, produce displays, etc.)
  - mention of specific label requirements (font size, color of text, etc.) and whether that should be included.
  - Why can’t a retailer simply have a sign at the entrance to the store stating products in the store may contain GE?
    - Came up in House last year (Paul Ralston), not used because such a solution would be too broad based and not product specific information on individual products
  - Subsection (c) prohibition clause – use of ‘natural’ and related terms is not allowed on GE containing products
  - Subsection (d) construction clause – FDA has already addressed labeling of foods with regard to information on nutritional content or ingredients, so the Vermont law can address processes and production, but not ingredients and/or nutritional content.
  - Section 3044: Exemptions section
    - Subsection 1) intended to mitigate potential claims for infringement on existing Federal laws
    - Meat is already regulated at the Food Safety Inspection act (FSIS)
    - Dairy is already covered at FFDCA
  - Allowance for producers who inadvertently provide cross-contaminated material thinking it is GE free is covered under affidavit exemption
  - FDA rules already address enzymes and medical foods
  - Alcohol is already covered in existing BATF/FDA rules
- VT has to find the spaces between existing federal rules and laws for this labeling bill

Senator McAlister – isn’t this bill potentially prejudicial?

- Yes, but that has already been determined as acceptable in courts, and double standards for other industries already exist.

**H.112- GE labeling - Senate Ag, January 15, 2014**

Gary Hirschberg:

- Speaking on behalf of the “Just Label It” coalition. Does not contend that GE foods are unsafe – they contend that it should be required as part of a consumer “right to know”
- States have had to pre-empt federal action in many cases (suffrage, menu labeling, etc.)
- GE crops allow for increased pesticide/herbicide resistance (26 species of weeds now resistant to glyphosate) – Resistance has led to increased use in 2-4-D (carcinogen)
- spraying fewer insecticides, but studies have shown that insecticides have been detected in umbilical cord blood – has significantly increased herbicide use
- It is not costly change labels or to segregate products with different labels
- New Hampshire vote is coming up– requires 4 other states to pass

## **H.112- GE labeling - Senate Ag, January 16, 2014**

### **Mike Tatro, Vermont Feed Dealers Association**

- -the impact the bill would have on his business
- the impact the bill might have on feed dealers generally
- -the impact the bill would have on consumers of feed

In all three cases, the impacts are likely to be negative.

- the bill would upset the equilibrium of commerce across state lines, and would place VT at a competitive disadvantage
- sees the bill as a smaller part of a larger anti GE agenda
- no discernable difference between GE and non-ge food
- Would rather see a national rule

Feed dealers feel their products are safe, and affordable, the law is unnecessary

- the science is not adequate to enact such a law yet, even if precautionary measures are the primary motive

### **Bridgit Asay, VT Attorney General**

- The bill is applicable to human foods
- the bill is defensible, but that does not mean it is going to stand a challenge automatically
- labelling language/commercial speech is protected by 1<sup>st</sup> amendment
- discussion of rBST labelling law case (VT lost), and Mercury containing appliances (VT Won)
- Central-Hudson Test or Zauderer test applicability. CHT is a higher bar, addresses mandated restrictions on speech, Zauderer addresses required disclosure of facts (lower bar for legitimacy).
- no way to know ahead of time which test would be applied in court, especially since this bill is much more broad in scope than the mercury case (where the Zauderer test was employed and the law upheld).
- the bill is non-discriminatory, so the commerce clause issue is unlikely to be brought up, but it might be if the requirements are seen as burdensome
- the restrictions on use of the word ‘natural’ or the like is likely to be upheld, as no reasonable person would consider GE ‘natural’ in the commonly held sense.
- concerns about Federal pre-emption, this bill addresses these in the exemptions section
- be aware that defense of this law might be expensive, and if VT loses we will be on the hook for plaintiffs fees under fee-shifting statute (estimated 5 million \$)

### **Dr. Val Giddings, Information Technology and Innovation Foundation**

- GE technology is beneficial, and the products are safe
- FDA has rules in place to cover many of the problems cited by the bill’s supporters (Allergenicity), and those areas where FDA does not cover labeling are areas where the food is safe anyway (Materially Different or substantially equivalent arguments)
- cited studies and research demonstrating safety of ge products
- concerned that this is part of anti-ge groups larger agenda to ban ge, and labelling would prejudice consumers against otherwise safe products

### **Martin Donohoe, MD, Oregon Physicians for Social Responsibility**

- this is a consumer choice/informed consumer issue, consumers have the right to know and the labelling law is a good start
- consequences of ge technology in ag are widespread (superweeds, increased herbicide use, contamination of non-ge crops, impacts to soils, etc.)
- admits science is incomplete, but the precautionary principle should be paramount as these products are produced under such secrecy, and there is very little independent research being done at the FDA or other governmental levels.

#### **H. 586 Improving the Quality of State Waters - House Fish Wildlife & Water Resources, January 15**

Laura DiPetro, was on the schedule to testify about very general water quality programming. Topics covered included:

1. Agricultural Working Group
  - a. Their key recommendations, How they were formed and What role they want to play in the future
2. Evolution of water quality in the farm community
  - a. Explained the educational shift that the MFO/LFO farms have come through and that we hope to see SFOs get there in the future
  - b. Explained why SFOs have been off the radar due to resource limitations
3. Staffing resources
  - a. Kate Webb asked if we could reshuffle the deck at VAAFAM and find staff, I referenced our long list of statutory requirements and explained that we don't have the staff capacity to full implement what we are already charged so there are no positions that I am aware of that are "hanging around" as she described.
  - b. Bob Krebbs asked if we could use volunteers to do this SFO work, I explained the challenges in that and that we've been doing that work for nearly 20 years and now we really need enforcement to back it up.
  - c. Training was also questioned and I explained how we hold these big trainings (one coming up next month on rivers, floodplains and ditches) with all the MOU partners, technical service providers and watershed organizations.
4. Edge of Field Monitoring
  - a. Jim MCCullough wanted me to share the North Williston Cattle project with folks
5. Partner Database
  - a. Bob Krebs encouraged me to have a plan and some sense of what phosphorus reductions the efforts gain, explained the goal of the database and the APEX model that will be integrated into it which will accomplish most of this goal.
6. Soil Phosphorus & tile drains
  - a. Gave some information about how VT soils need phosphorus for crop growth
  - b. Explained our efforts to study tile drainage in VT
7. TMDL
  - a. Brief mention of TMDL and how we need to create strategies for incentives to address watersheds where our proposed new baseline goals are not going to meet the targets.

#### **S. 119 Amending Perpetual Conservation Easements- House Ag, January 16, 2014**

Darby Bradly briefed the Committee on the Bill that passed the Senate last year and provide a general overview. Here are some highlights from his testimony

- There are a variety of types of easements, holders, and methods of acquisitions
- The proposed statutory approval process will attempt to protect and balance public interests and conservation interests
- He discussed problems other states encountered that had no amendment approval process; to date Vermont has not experienced any issues with amending conservations easements, but he said it is urgent

that Vermont address this by creating a process for amending conservation easements, before there is an issue.

- The committee asked a couple questions
  - Will this process affect decisions to conserve land? Not sure.
  - Does this provide more flexibility to the property owner that has land conserved? It will provide less flexibility.

#### **H. 526 Shoreland- Senate Natural Resources, January 15, 2014**

Jim Leland, Director Ag Resource Management Division testified w/Sen. Nat'l regarding potential impacts of shorelands bill H.526 on state mosquito control efforts. Also received questions regarding pesticide use in general and impacts on water. I offered to return in order to provide a more in depth view of how pesticides are managed in Vermont relative to water quality. No questions were asked regarding S.224; the other shorelands bill.

**On-Farm Slaughter Law ACT 83-** Randy Quenneville, Meat Inspection Section Chief - received request from legislative counsel for information regarding any enforcement actions for activities related to Act 83 and section 3311(a) for on-farm slaughter. Copy of Notice of Violation sent but no other documents supplied since case is not yet closed

**Livestock Care Advisory Committee Annual Report** - Dr. Haas, State Veterinarian, submitted the Livestock Care Standards Advisory Council's legislative report to the legislative committees of jurisdiction, Secretary Ross and leg council on January 16<sup>th</sup> as required by statute.

#### **Press and Communication**

##### Marketing & Communications

- Using funding from the Vermont Dairy Promotion Council, the Agency is working with ACCD to conduct an economic impact study for Vermont's dairy industry. Diane Bothfeld and Alison Kosakowski met with ACCD's Ken Jones to discuss the study goals, timeline, and approach this week. Results from the study should be ready in July. Bothfeld and Kosakowski also met with the new executive director, Tom Bivins, of the Vermont Cheese Council, to discuss 2014 marketing activities.
- State entomologist Alan Graham will be on VPR on Monday to discuss the impact of the weather on Vermont's insect population.
- Secretary Ross presented the Agency's annual report to House and Senate Ag this week. The report is attached.
- The Agency is preparing for the 2014 Farm Show, Jan. 28, 29, 30. The Agency manages media relations for the show, including writing and distributing press releases, promoting via social media, and coordinating on-site interviews (WDEV, VPR, and WCAX are all committed to broadcasting live).
- WCAX, Burlington: Interviewed as to the impacts of FSMA (Food Safety Modernization Act) on Vermont farmers.

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

**Food Safety** - The Food Safety and Consumer Protection Division management team met with the VT Dept of Health's Food and Lodging program managers this week to continue discussions regarding their proposed amendments to the Food Manufacturing rules. These changes will help to close regulatory gaps between agencies and will have implications on FSMA requirements once they are implemented.

**Licensing Requirements** - The Food Safety and Consumer Protection management team met with legal counsel this week to discuss VAAFm licensing requirements that overlap with the Secretary of State's office and techniques for regulating out of state companies that the Division licenses. The Division management team will be hosting a follow-up meeting with the Secretary of State's Corporations Division in order to gain a better

understanding of our authorities and instances when we should be working in concert with that office on licensing enforcement issues.

**100th Licensed Dairy Processor** - This week VAAFM issued a milk handler license for a cheese processing operation in Windsor which makes 100 dairy processors that the Dairy Section is now inspecting and providing technical assistance to. This represents a net gain of 20 plants over the last two years. This is a tribute to the tremendous collaboration of the entire Dairy Section staff, each doing their part to help make this happen. This increase in processing plant numbers is not without challenges. An inspector has a full load at around 25-30 plants to perform the regulatory duties and provide technical assistance. VAAFM has 3 full time plant inspectors so other Dairy Section staff are helping shoulder the burden. At this point we are getting the work done but at the expense of other work we would like to do on frozen dessert (creamie) stands and plants are not getting as much oversight as they have been.

**Milk Weight Calibrations** - Dan Scruton, Sue James, Marc Paquette and Mike Larose met with representatives from Agrimark to go over the challenges to calibrating milk meters to facility farmers milking directly into a tank truck instead of storing the milk and having it removed by a hauling company. This saves farmers and hauling companies money but requires a different type of calibration. The process is more complex than a tank calibration process with the need to account for start and end of milking issues. The basic protocol that Vermont has developed has attracted New York's (and national) attention and they are now collaborating in the work. The protocol we are developing will likely be used across the country. As members of the Dairy Practices Council (DPC) we will be incorporating the protocol into a guideline for publication to the US dairy industry. There are a number of guidelines that DPC publishes that started as Vermont documents on topics ranging from mastitis control to milking system design. Vermont has also been the leader in the development of a series of guidelines for sheep and goat dairy operations.

#### **Evolving Issues:**

**H3 Swine Flu** - A spent hen subset of a VT commercial poultry flock that was prohibited from shipping into the NY/NJ Live Bird Marketing System due to positive results for H3 (swine flu) in one bird has been cleared for export following confirmatory testing performed at the University of Connecticut Diagnostic Lab. The producers have in the past raised several swine for personal consumption, and this likely was the source of the exposure of the commercial flock; they will discontinue this practice in the future. So as to avoid the expense of confirmatory testing and the negative impact it has on their business.

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

##### **Administration**

**ACT 250 Criteria 9 (b)** -Deputy Secretary Bothfeld, Chief Policy Enforcement Officer Smith and Assistant Attorney General Zamos met with Ron Shems and Lou Borie of NRB to discuss H.448 and H.449. Meeting continued with Michael Zahner Chamber of Commerce and Kate from VNRC on H.448 and H.449. Group is moving toward common language that will meet the needs of the agriculture and development community.

##### **Agricultural Development**

**VT Food Export Program** - Ag Policy Administrator Chelsea Bardot Lewis gave a presentation on the Vermont Food Export Program to the Vermont International Trade Alliance on Tuesday. VAAFM is working closely with the Vermont Global Trade Partnership and other state and federal partners to connect small Vermont businesses with international markets.

**FY2014 VT Fairs Capital Grant Awards** - The VT Agricultural Fairs Capital Grant Committee met on December 30, 2013 to consider the applications submitted for fiscal year 2014. The announcement of the awards occurred last week, and the committee awarded to date over \$241,000.00. In making their decision, the committee considered the long-term benefits of a fair's proposed improvements. We look forward to working with the Grantees and seeing their projects come to fruition.

## **Vermont Agricultural & Forest Products Development Board (VAFPDB)**

The VAFPDB met on January 8, 2014 at the Berlin UVM Extension office. The Board welcomed their newly appointed member Beth Kennett, of Liberty Hill Farm in Rochester, VT to fill the seat of “a person familiar with the agricultural or forest tourism industry”.

- The Board approved the annual report drafted by Chair Lynn Coale, to be presented to the VT Senate and House Agriculture & Forest Products and Commerce/Economic Development Committees.
- The Board compiled and approved a report on “Composting Research and Recommendations” in response to a request by the House Agriculture & Forest Products Committee to investigate issues relating to compost. The report included support for the Agency of Agriculture’s proposed enhanced laboratory for the analysis of herbicides and to create a consumer assurance program.

## **Working Lands Enterprise Board (WLEB)**

The WLEB review committee will be meeting on Friday, January 17, 2014 to review Letters of Intent for Service Provider and Capital & Infrastructure grant applications. The Board will make final recommendations at their January 21 Board meeting on which applicants will be invited to submit a full application for funding consideration. The Board will be reviewing a draft “Request for Proposal” (RFP) to conduct a “Forestry Systems Analysis” which would inform the Board of where to place strategic investments in the forestry sector. The committee designing the RFP is a cross section of WLEB and VAFPDB members.

## **Comprehensive Economic Development Strategy (CEDS)**

VAAFAM has been engaged in the ACCD led CEDS process and submitted six initiatives and one project for the development of strategies within the “Working Lands” bucket. ACCD identified Working Lands as one of six cluster areas to solicit initiatives around. VAAFAM, WLEB and VAFPDB representatives will be participating in the all day CEDS meeting designed to flesh out key initiatives that will address the strategic goals of the State Economic Development Plan. Initiatives submitted by VAAFAM and partners:

- Food Safety
- Dairy Infrastructure
- Renewable Energy on Farms
- Strengthening Vermont’s Technical Assistance Continuum
- Working Lands Infrastructure
- Ag and Forest Products Market Access Program Initiative Project
- Act 148 Implementation (submitted jointly by the Composting Association of VT and ANR)
- Water Quality (submitted by DEC with input from VAAFAM)

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

The Dairy Section held one hearing and has reached agreement for an AOD with a second farm. Both were for repeat inspection violations that had not been addressed after multiple inspections.

## **Meat Inspection**

- One federal slaughter facility notified the State that they received two non-compliances for non-egregious humane handling issues, which have been corrected.
- Maple Wind farm in Richmond (also in Huntington Center) lost a barn to fire. The farm also has an inspected poultry facility. The poultry facility seems to have only suffered minor damage and future meetings are planned to discuss options for the operation. The Barn did contain the office and restroom required for inspection services.
- Have received multiple inquiries concerning the production of dry curing of meat products and the associated facility and production requirements
- One inquiry from a duck raising operation in Shelburne interested in setting up a slaughter operation in either Chittenden or Addison counties
- One inspector in a fleet vehicle was rear ended while waiting to make a left turn. Vehicle is at fleet services for evaluation. Inspector is ok but may experience post-concussion syndrome effects. Situation is being monitored and documented

- One inquiry concerning expansion of a commercial kitchen for the processing of beef jerky products, another operator also inquired about requirements to make jerky treats for dogs
- One new custom processing operation being constructed in West Fairlee
- Inquiries from individual connected with the Lyndonville slaughter project concerning construction requirements. Even though the project is to be under federal inspection the individual is contacting VT Meat inspection for guidance due to inability to get in touch with federal officials for questions during construction
- Met with AG representatives to discuss the required licensing of out of state businesses such as dairy processors and meat and poultry wholesalers and the role that Ag officials play and to try to determine role of Secretary of State's office in the process, follow up meeting to be set up with Secretary of State's office

## **Agricultural Resource Management**

### **Plant Industry**

Alex Canepa (Forest Pest Outreach and Survey Program Coordinator) and Emilie Inoue (State Survey Coordinator) are collaborating with UVM-extension, Urban and Community Forestry Program and Department of Forests, Parks and Recreation to help mobilize Vermont's statewide network of over 450 volunteer Forest Pest First Detectors, tree stewards and urban and community forest managers to organize ash tree awareness events in their own communities during the week leading up to Arbor Day. Sponsored activities will include ash tree tagging with media coverage in priority communities, EAB ID card distribution as part of Green Up Day and an online 'Ash Tree' photo contest. Vermont Ash Tree Awareness Week-Celebrating our community ASHets Sunday, April 27<sup>th</sup>-Saturday, May 3<sup>rd</sup> 2014.

**Exhibit at Yankee Sportsman Classic** - Emilie and Alex will also be staffing a Forest Pest Outreach Exhibit at the 22<sup>nd</sup> annual Yankee Sportsman's Classic at the Champlain Valley Exposition January 17-19. ANR's Department of Forests, Parks and Recreation, APHIS-PPQ and First Detector Volunteers are providing staffing support for this event. This event provides us with the opportunity to focus our education outreach efforts on the outdoor sports target group (primarily hunters).

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

- Staff conducted two MFO farm visits in Essex County. The visits were also part of a training effort coordinated with the newly hired Ag Resource Specialist (ARS) for the North Lake Champlain watersheds.
  - One visit was a technical assistance visit related to water quality Best Management Practices (BMPs). NRCS was also present at that farm.
  - One visit was a follow-up compliance check on a farm to evaluate waste storage capacity. In the past, the farm has not properly managed their manure structure to assure a proper storage volume during the winter spreading ban.
- Staff attended a Champlain Valley Farm Coalition meeting at a farm in Richmond to discuss SFO ag water quality and how the TMDL would impact SFOs in the Winooski River watershed. UVM Extension and a farm Technical Service Provider were also at the meeting.
- Staff is gathering information to respond to a complaint about a MFO stockpiling manure in Orleans County. A field evaluation will be conducted in the very near future.
- Staff is continuing to work on an enforcement case with the Attorney General's Office.
- One staff member attended the emergency preparedness ICS 200 level training in Barre.
- Two staff members are assisting with the Working Lands grant application review process.
- Staff is wrapping up fall 2013 payments for the Farm Agronomic Practices (FAP) grant program.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on

becoming LFOs. This will be a major focus of the team for the coming months. Farm visits will be set up as part of this permitting effort.

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

- Staff conducted a visit to an SFO in Fairfax to provide technical assistance/CREP planning
- General CREP related paperwork and grant processing.
- Staff is developing succession agreements for CREP projects on land that will change ownership. This will allow the CREP projects to continue when under new ownership.
- Staff met with US Fish and Wildlife to develop planting plans for spring projects.
- Desktop planning for CREP and EQIP projects.

#### **ARM - Water Quality Enforcement**

- A Small Farm in Ferrisburgh will receive a corrective action letter for violations of the AAPs. The Farm was found to be spreading during the manure spreading ban without an Agency-issued spreading exemption.
- A Medium Farm in Whiting will receive a corrective action letter for violations of the Medium Farm Operations General Permit and the AAPs. The farm does not have conservation practices in place to prevent the discharge of wastes (silage leachate and barnyard runoff) across property boundaries and to waters of the state. In addition, the farm was found to be spreading during the manure spreading ban without an Agency-issued spreading exemption.
- A Large Farm in Sheldon will receive a Notice of Violation with Administrative penalty for violations of the Large Farm Operations Rule and the Farm's LFO permit. The farm applied manure to a field immediately prior to the temperature rising into the 40's. Snowmelt resulted in the runoff of manure from the field for at least three consecutive days. In addition, the Farm did not maintain the required records for the application of manure, which includes documentation of weather conditions at the time of application and for 24 hours prior to, and following, an application of manure.
- A Large Farm in Whiting has received Notice of Violation with Administrative penalty for violations of the Large Farm Operations Rule. The Farm does not have conservation practices in place to prevent the runoff of wastes from a laneway/holding area to waters of the state. In addition, the Farm is maintaining a livestock mortality composting pile within 100 feet of surface water and was found to have buffer violations on a number of fields (both the lack of the required vegetative buffer between water and row crops, and a lack of the appropriate manure spreading setback to water).

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

##### **Press:**

WCAX, Burlington: Interviewed as to the impacts of FSMA (Food Safety Modernization Act) on Vermont farmers.

##### **Legislature:**

- Farm to Plate, Testified, House and Senate Ag: Reviewed Farm to Plate with Ellen Kahler, emphasis on jobs and economic development.
- Annual Review, Testified, House and Senate Ag: Presented update on 2013 and agenda for 2014. Conversations focused on water quality, conservation district relationships, regulation of farms and wide range of other issues.
- GMO Labeling, Monitored Joint House and Senate Ag Hearing: listened to witness testimony both pro and con. Discussed legislative path to passage with Senator Starr and possible influential role of Senate Judiciary Committee.

##### **Meetings:**

- Food Safety Modernization Act, Burlington: Met with Deputy Commissioner Mike Taylor and Assistant Deputy Commissioner Melody Plazier from the FDA. They traveled to VT to do one on one meeting with Sec Ross in his role as Secretary and NASDA President and to meet with other leaders including legislative and Congressional staff. Meeting re-emphasized need for second draft of rules and

articulation of relationship with states, funding, adjudication of disagreements and regulatory culture....  
Same message of the last 6 months.

- VAAF and DEC Lab, Montpelier: met with BGS to discuss pending report and plan for replacing the AG and DEC lab. Discussed recommendation for collaborative effort between DEC and AG and presentation to Legislature.
- Vermont Compost Association, Montpelier: Met with Compost Association and ANR staff to discuss how to move forward in the wake of persistent herbicides and Act 148 that calls for removal of organics. Agreed to establish work group to develop action plans on education, outreach, research, regulation, legislation and economic development.
- VHCB Board Meeting, Montpelier: will attend meeting Friday.

**Events:**

Farm To School Ceremony, State House: Spoke at ceremony celebrating the 7<sup>th</sup> Annual FTS Awareness day and grant program. Very well attended by over 100 people.

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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:** January 17, 2014  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Budget Address:** We have heard very positive responses to your budget address this week, both in the legislature and on the “street”; in particular, the commitment to changing the cap on net metered projects and the 1.1 million in additional dollars for water quality. The additional investment in water quality funds is seen as a good down payment, and as a practical matter it will help us in the legislature as we argue that it is premature to discuss how we will fund, in the long term, the water quality investments that will be required as part of the new TMDL until after we know what those requirements are. Thanks!

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**EVERYTHING ELSE:**

**Legislative Issues/Contacts:**

**Shorelands Protection:** Commissioner Mears testified before the Senate Natural Resources and Energy Committee to present ANR’s proposal for revisions to the House shorelands bill (H.526) along with DEC staff. Our proposal would add more specific standards, similar to Maine’s, for protecting natural vegetation in the near-shore area around our lakes and ponds. We also propose a framework in which activities in the shorelands zone would fall into several categories: exempt, not requiring any approval; low-impact projects requiring only a registration; and more significant projects requiring a permit. The proposal was generally well-received with questions focused on specific technical aspects of the bill. Two Senators (Snelling and Rodgers) expressed concern with the proposal to include a fee on permit applicants to pay for the staff resources necessary to implement the bill and indicated an interest in using other

revenue for this purpose. Environmental advocacy organizations (CLF and VNRC) testified in support of the bill with requests that it be strengthened in some areas.

**Littering into Waters of the State:** DEC Compliance and Enforcement Director Gary Kessler provided testimony before the House Fish, Wildlife and Water Resources Committee on this bill (H.356) which would allow a larger group of officers to enforce the prohibition of disposing into waters of the state. Specifically, the bill would authorize State Police and Game Wardens to enforce this provision in addition to DEC's environmental enforcement officers. Though generally supportive of this effort which would likely result in better compliance with laws precluding the disposal of waste into state waters, we have not yet taken a formal position on this bill and are coordinating with DFW to develop a blue sheet.

**Dam Safety Inspections:** Steve Bushman provided background testimony on a draft "Dams Bill" (no number yet assigned) before the House Committee on Fish, Wildlife and Water Resources. The testimony included an overview of the current Dam Safety Program. One of the key provisions in this bill includes establishment of a new annual dam registration fee modeled after New Hampshire's fees to support increased dam inspections.

**Stormwater Manual:** Padraic Monks testified before Senate Natural Resources and Energy Committee regarding the Stormwater Manual update. Most questions received pertained to the monitoring of sites once they have received a permit, and to what extent the current process will consider practices applicable to wind energy projects. We testified that no existing portions of the Stormwater Manual were off the table as part of the update.

**Other Testimony:** Staff also provided testimony on,

- a bill that would authorize DEC to collect funds from participating municipalities to pay for flow monitoring required under municipal stormwater permits; and
- a "resource determination bill" relating to the legal process the Department uses to approve changes to the way that certain high quality wetlands and surface waters are classified.

**Act 165:** Staff reviewed and commented on a draft report to the legislature, prepared by DPS as required by Act 165: Report to the Vermont General Assembly on Progress Toward an MOU Program for Expediting Development of Small and Micro Hydroelectric Projects. Personnel from DPS, DHP, DFW and DEC worked on the implementation of Act 165. This effort resulted in improved inter-agency coordination on hydro proposals as well as ongoing efforts to provide more informational resources that should be helpful to those not familiar with the licensing process.

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

**Cryoesims:** The State Geologist was interviewed by the New England Cable Network and WCAX TV about "Frost Quakes" also known as Cryoseisms. When a cold snap freezes shallow

groundwater, it expands and can break rock or soil releasing energy as booming sounds and/or ground shaking.

**Investigation Leads to Double Arrest for Poaching:** Wardens acted on an anonymous tip that led to the arrest of two Vermont men for poaching on November 8, 2013. Cody Thompson, 20, and Gordon Bills, 23, both of Wardsboro, were charged with possessing illegal deer. Thompson was additionally charged with taking big game by illegal means and Bills with taking a deer using a firearm during archery season.

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

**CONEG Environmental Commissioners Meeting:** Secretary Markowitz, Commissioner Mears and Deputy Commissioner Schuren attended a meeting of the Environment Committee of CONEG in Lowell, MA. Topics included regional collaboration on a range of issues including climate adaptation, materials management, and comments on a federal wetlands regulatory proposal. This was David's last meeting as chair of the committee. After two years, he is handing the job as chair over to Rhode Island Department of Environmental Management Commissioner Janet Coit.

**Lake Champlain Cleanup Plan ("TMDL"):** Outreach on our draft water quality plan continued this week with presentations to road commissioners, town administrators/managers, and other regional groups at the Central Vermont Chamber of Commerce, the Southern Windsor County Regional Planning Commission, the Two Rivers-Ottawaquechee Regional Commission, the Rutland Regional Planning Commission, and the Chittenden County Regional Planning Commission. So far, we have found a significant level of understanding and support for our proposals among these groups. More meetings are scheduled around the state, sponsored by the regional planning commissions, through next week (county-wide meetings in Chittenden, Franklin, Windham, Bennington, Orleans, Lamoille, Addison, and Bennington). The one underlying theme is the concern about funding to support compliance with a proposed state permit pertaining to roads.

**Aquatic Species Rapid Response Workgroup Meeting:** Watershed Management staff conducted an intra-agency Aquatic Species Rapid Response (RRGP) Workgroup Meeting to evaluate the permit application process and identify specific issues that warrant attention. The goal of this workgroup is, and will continue to be, to maximize the efficiency of the permitting process. The meeting was highly productive and involved technical staff from DFW (both Wildlife Diversity and Fisheries Program).

**Fluorescent Lamp Recycling:** Environmental Assistance staff met with the National Electrical Manufacturers Association to review and discuss the first annual report of the manufacturer-funded and operated collection program. There are about 150 retail and municipal collection locations for fluorescent lamps that collected about 125,000 lamps. Program enhancements for year two were discussed, including adding additional collection sites and enhanced marketing of the program.

**St. Albans Public Works:** Environmental Assistance helped St. Albans Public Works on compliance issues related to hazardous waste management and oil storage at the town garage. Several town garages have requested compliance assistance following a series of workshop that were presented in conjunction with Vermont Local Roads last fall.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Residential Wood Heaters:** The U.S. Environmental Protection Agency (EPA) proposed to make new residential wood heaters significantly cleaner than currently required, through updates to its Clean Air Act standards for residential wood heaters. The proposed updates would strengthen the emissions standards for new wood stoves, while establishing federal air standards for other new wood heaters, including outdoor and indoor wood-fired boilers (also known as hydronic heaters). The proposed rule would not affect existing woodstoves and other wood-burning heaters currently in use in people's homes.

**Records and SharePoint 2013:** The ANR SharePoint team continues to work toward developing the foundation system for the Agency. Development work continues to create and populate the actual SharePoint Records Site. A "*Records Management 101*" training module has been created that includes an overview of DEC records management requirements as well as an emphasis on Transitory Records and the new SharePoint 2013 system deployment project. Scanning work continues on the Stormwater program files.

**Solid Waste Certifications for Closed Landfills:** Waste Management issued post-closure certifications for four unlined landfills in Williston, Hartford, Barton and Sunderland. All are likely to require further monitoring and evaluation of the need for future remediation under the custodial care procedure.

**Earth Manufacturing, LLC:** Air Quality & Climate Division staff are reviewing an application from Earth Manufacturing, LLC for its Klear Sky 400 model outdoor wood boiler. This model has already been recognized by the EPA as a cleaner burning hydronic heater with an annual average emission rate of 5.1 grams/hr.

**Charles Mulcahy and Joann Mulcahy:** Compliance & Enforcement Division entered into an agreement that has been entered as a court order under which the Mulcahy's will retire their outdoor wood boiler and pay a penalty of \$3,000. Their residence is served by an uncertified outdoor wood boiler (OWB). In response to a citizen complaint regarding smoke, we determined that the OWB had been installed without an appropriate stack height. The Mulcahy's also agreed to not install any certified or uncertified OWB on the property unless it complies with applicable OWB rules and State law.

**Naylor & Breen Builders, Inc.:** This general contracting business agreed to pay a \$2,250 penalty and to remove illegal fill from a protected wetlands. The company had placed approximately 178 dump truck loads of fill on two properties in Pittsford.

**South Village Owners Association:** The association operates a condominium development in Warren subject to an Indirect Discharge Permit for the discharge of treated domestic sewage from the development. They violated conditions of the permit relating to submission of a yearly inspection and repair/maintenance report and daily water meter readings and the permit expired in December 2012. To resolve the matter, the association agreed to pay an \$8,000 penalty and comply with applicable law and its permit in the operation of its indirect discharge system.

**Lake Carmi State Park wastewater system:** Drinking Water & Groundwater Protection Division staff are working with FPR to evaluate options for disposing of sewage that would be less expensive than the current system. Lake Carmi State Park is served by a sewage treatment and sprayfield disposal system. In 2003 additional treatment was provided in order for the system to reliably meet the permit's sprayfield effluent limits. That upgrade was successful. However, because the current sprayfield disposal system is costly to operate (over \$20,000 per year), FPR has proposed an alternative disposal system using a constructed wetland.

### **Fish and Wildlife**

**Proposed Changed to Flood Control Ramping Rates:** Staff reviewed a letter from the Army Corps which proposes to change flood control ramping rates, seasonal aquatic base flows, white water ramping rates, time shift releases, and overnight flows at several dams, including Ball Mountain Dam on the West River. Staff will be working with DEC to ensure that aquatic resources are protected if changes to the flow regime at the Corp's facilities change. Staff also reviewed and edited a draft letter to the Corps regarding the operation of the Townshend Dam fish trap. All adult salmon returning to the Connecticut River Basin may be released up-river in 2014 if the state of Connecticut is not able to hold these fish for propagation. As such, we may be asking the Corps to pass these adults above Townshend Dam, pursuant to the Water Resources Development Act of 1986.

**Water Quality on Logging Sites:** Staff reviewed the latest draft of the Acceptable Management Practices (AMPs) for Maintaining Water Quality on Logging Jobs in Vermont. The revision of this document has been underway for four years and is nearing completion. Forestry practices can have a profound influence on riparian and aquatic habitats. Staff involvement to protect these interests directly support the Department's mission.

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

**Land Transactions:** We expect to submit a proposed Joint Resolution to the legislature in the near future that would authorize the FPR Commissioner to carry out two Right-of-Way

exchanges (at Mt. Mansfield State Forest, and at Victory State Forest). Both exchanges would provide improved access to state land. Work continues on a number of priority ANR land transactions. We are working closely with the Vermont Land Trust on acquiring the Fitzpatrick inholding at Coolidge State Forest in Killington and hope to close on this donation in the near future. We are working closely with the Town of Grand Isle and will soon be meeting with the town's DRB to obtain subdivision approval to convey a portion of Grand Isle State Park to the Town to be used as a community recreation park. We have nearly finalized the details and hope to close soon on a land exchange at Alburgh Dunes State Park. We will be working with the Bolton DRB to reconfigure the proposed Lafreniere sale parcel and expect to begin marketing this parcel to prospective buyers later this spring. We are working with the Trust for Public Land and the Vermont Land Trust on several Forest Legacy easements as part of the Northern Green Mountains connector project. Other ongoing projects include sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation and transfer of Woodchuck Mt. parcel to the Town of Newbury.

**Licenses:** We have executed a new master license agreement with Vermont Public Television (VPT) for its telecommunications facility at Burke Mt. (Darling State Park). The new agreement increases the Department's annual license fee at this site from approximately \$12,000 to nearly \$40,000. This fee increase will be phased in over a 4-year period and is more reflective of the market value associated with this telecommunication site. Similar new license agreements are being developed for VPT's electronic communication site at Mt. Ascutney and its telecommunication facilities at Killington Peak.

**Meetings:** State Lands Administration Section Chief Kate Willard participated in the USDA Forest Service's national Forest Legacy ranking panel in Washington, DC last week. FFY'15 Forest Legacy proposals from a number of states, including several from Vermont, were ranked as a part of this process. Commissioner Snyder, ANR Lands Director Mike Fraysier, and District FPR staff will be meeting with Okemo ski area officials this Friday to discuss their upcoming work plan for the mountain and other related matters. The ANR Lands Stewardship Team met last week and finalized draft ATV Connector Trail Review Criteria. These criteria may be used to evaluate existing ATV connector trail proposals for ANR lands.

**Survey:** Survey staff met on site at Les Newell WMA last week to review ongoing encroachments at this site. We have received a letter from a landowner in opposition of a proposed survey of the West Shore ROW at Lake Groton. This survey was developed under contract by Dubois and King. The Department is currently considering its response to this letter. Survey work continues at Camel's Hump State Park, Roy Mt. WMA, and Blueberry Hill WMA.

**Other:** We have learned that the financiers of Timber Creek's development proposal at Okemo Mountain have pulled out due to Timber Creek's failure to obtain several permits before the end of the year. While Timber Creek is optimistic that it will soon receive its permits for this project and can secure necessary financing later this year, this will delay their mitigation payment to the Agency until later this summer. These funds will be used by the Agency to acquire other wildlife habitat lands. Preliminary draft long-range management plan for West Mt. WMA and the updated public access plan for the Plum Creek Timberlands are being developed and will soon

undergo internal review by the Agency. We expect to finalize these draft plans and release them to the public for review later this winter.

**State Parks 2014 Season:** Regional Parks staff are ramping up to begin recruitment for 2014 key seasonal park operating staff. This important process is critical to the continued success of the State Parks program. About 30% of key positions turn over each year and it is essential that the right people be found and encouraged to join the team.

**Parks Promotional Plan:** The annual parks promotional plan is being formulated with assistance from the Chief Marketing Officer and private consultants.

**Backcountry Skiing:** Discussions continue internally and with partners to develop a program to better manage the intense interest in backcountry skiing on FPR lands. The program will include such things as policy statements, vegetative management guidelines and user messages for safety, access and resource protection.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: January 17, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**Regional Transmission:** Thanks for your time yesterday discussing transmission. We did avoid the crisis of cost allocation that CT and MA were trying to push be included in the ISO letter. We agreed to not include that, and the letter will be released next Tuesday. I'm working with Sue Allen on a quote for you as part of a joint press release. I'll be meeting with the other states next Friday to begin the discussion of load allocation and how it needs to be based on specific project benefits that can only be determined after responses to an RFP are received. The two merchant underground options that have been proposed (Anbaric and TDI) would provide a substantial amount of power and capacity without too much down-side for Vermont, but ee'd need to expand on the Vermont benefits if we were to consider hosting these lines.

**S.25:** The Senate concurred on S.25 yesterday with no fuss, so we are done with that. AARP asked about a "signing ceremony" and I politely demurred. Seriously, we of course recommend you sign the bill, it will avoid a considerable amount of fighting about my

Department over in the statehouse at least for the rest of the session, and I can make the bill work for our Department. Positive aspects of the bill are that it enables electronic filings at the Board and aligns our planning dates for the CEP, Electric Plan and Biennial reports.

**Net Metering:** House Natural Resources and Energy Committee has taken testimony on the PSD proposal, and has marked it up as of 1/16. No major changes were made to the PSD proposal, and the coalition of stakeholder supporters remains intact. The Committee is set to vote the bill out today, 1/17.

**VY:** I am scheduled to have my deposition on VY on Wednesday. I have also had follow-up conversations about the MOU and SA this week with Paul Burns and CLF and it looks like these parties will continue with their current positions of officially opposing a CPG for Energy while hoping the Board actually adopts the MOU nonetheless. They seem genuinely appreciate Vermont's work on the settlement, but the "fair partner" issue with Energy is too big of a 180 degree change for them to manage. WRC is not planning to support or oppose the MOU or the CPG in the proceedings. At the PSB hearing via VIT on Tuesday, most people spoke in opposition to a CPG based on the "trust" issue, opposed the MOU due to its lack of clarity on Spent Fuel and Decommissioning issues, or asked the Board to condition a CPG on getting those things done. Most do believe SNF management is the most important thing to be done, but do not understand the limits of the Board's authority in that area.

**Legislature:** We have completed/are completing bill reviews on bills that we are now or will be soon testifying on. There are some we'll need to check with Louis on early next week about our positions, including aspects of the siting bills in Hartwell's SNRE committee identified below.

**January 15:** Staff covered hearing in Senate Finance - walk-through of bills S.203, S.206 (Hartwell) and S.238 (Bray)

**January 16:** Staff covered hearing in Ways and Means on Secs. 31-34 of Miscellaneous Tax Bill (affects solar tax credits)

**January 17:** Staff covers hearing in Senate Natural Resources and Energy on siting bills S.201, S.292 (Hartwell) and S.191 (Mullin) – setbacks for solar generation plants. Chris asked to testify on these; Asa Hopkins testifies in Senate Transportation on Act 12, Sec. 28 report

**Next Week:**

**January 21:** Chris testifies in Senate Natural Resources and Energy on siting bills S.201 and S.292 (Hartwell); Asa testifies in House Natural Resources and Energy on TES

**New Bills affecting the PSD:**

- **H.576 (Pugh)** - proposes to allow applications for the Lifeline program to be submitted directly to the Department for Children and Families instead of to the Department of Taxes for eligibility determination

- **H.557 (Klein)** – requires setting greenhouse gas emissions limits (versus goals) and implementing them
- **H.612 (Botzow)** – increases gas pipeline safety violation penalties to comply with federal requirements (PSD requested bill)
- **H.613 (Canfield)** – prohibits PSB from funding low-income electric and gas assistance programs from ineligible ratepayers, other than those who voluntarily choose to do so

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

**January 13:** Chris meets with Gary Sachs; Chris and Darren meet with Paul Burns; Chris and Darren attend Extended Cabinet Meeting

**January 14:** Chris meets with Sandy Levine; Darren begins full-week in HNRE; Chris participates of NE Regional Energy call with Synapse; Chris attends VY Public hearing in Randolph

**January 15:** Governor’s Budget Address

**January 16:** Chris and Darren attend Land Use Meeting; Chris meets with GPS and Liz Miller on Transmission; Chris and Liz meet with Daniel Whyte of Brookfield Renewable Energy; Chris and Darren meet with Reps Ralston and Scheuermann who pitch “never again” merger legislative amendment, yet again, along with some other ideas they are formulating and which we’ll keep a close eye on.

**Dan Esty Leaving CT DEEP:** Dan has resigned effective February 3<sup>rd</sup> and will be returning to teach at Yale. He was on a three-year leave from Yale U. that is expiring.

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

**January 21:** Chris and Darren meet with Sen Hartwell; Chris attends NU Transmission meeting

**January 22:** Chris is deposed by Jim Dumont, representing VPIRG, re MOU

**January 23:** Darren is on Vermont Edition discussing large scale solar; Chris participates on Electric Transmission Panel in Boston

**January 24:** Chris attends NE Governors Regional Energy Infrastructure meeting in Boston

**Media:** Chris spoke to John Herrick Digger and Susan Keese of VPR about VY hearing. Chris worked to correct VT digger story on Thursday, and eventually ended up posting a comment when correction was not adequate. Darren spoke with Joel Banner Baird at Burlington Free Press who wrote net metering article, and may do a follow-up as well.

### **Everything Else:**

#### ***PERD***

#### **Legislative Activities**

- Started legislative bill reviews for two bills that could affect CEDF.
- Reviewing legislative siting bills, including S. 198, S. 201, S. 203, S. 207, and S.292.

- Met with ANR staff and leadership re: H.557 (state GHG reduction limits). We agreed to support with reservations, with the idea of amending the bill to require annual reporting on State actions to reduce GHG emissions and potentially the regular publication of plans to reduce emissions.

#### Clean Energy Development Fund

- Vermont Clean Energy Industry Report – Developed working definition of “clean energy” with core team; set plans for convening a project advisory group scheduled for January 24 from 10 am to noon at PSD. The purpose of this meeting will be to describe the purpose of the report, review the industry census methodology, gather input into potential questions that would yield valuable information via the survey, and build support for widespread participation in the census by businesses. A group of about 20 stakeholders has been identified and invited by the Commissioner.
- FY13 Annual Report
  - Recomputed estimates of GHG reductions for the CEDF FY13 funded projects 1) added line losses to renewable electric installations annual generation (this is consistent with EVT methods for avoid costs) and 2) based solar hot water annual production on a BTU conversion of installer provided estimated annual kWh generation rather than on the kBTU/day capacity because data on VT average annual solar days is not reliable in this equation.
  - Completed a final draft of the report. Sent to the CEDF Board for comments.
- Prepared documents, financials, program updates, for CED Board meeting on 1/15/14
- Had discussions with Tax Dept. about their finding that the CEDF has transferred approx. \$900K more to the General Fund than tax payers have claimed in solar tax credits.
- Continued to develop protocol with the Business Office for the payment of SSREIP incentives. Protocol to date has involved a considerable amount of CEDF staff time dealing with the incoming W-9s from the participating companies. Many of the W-9s sent in do not meet State standards and need to be sent back to the companies with explanations. CEDF approved \$199,652 of SSREIP incentives to be paid mid-week, but due to issues with the w-9s and time needed to get vendor #s from the state less than half of the incentives were cleared for payment by the end of the week

#### Total Energy Study

- Met with consultant Dunsky Energy to finalize a revised work plan for the remainder of the project. They have accepted our contract amendment proposal to increase the scope and commensurate budget (\$20k).
- Continued review of data inputs into energy model, provided clarifying questions and updates to the Dunsky team.
- Sent e-mail announcement to TES stakeholders about the Legislative Report open comment period.
- Forecasting - Began studying VELCO’s baseline forecast (unadjusted for DSM) to vet for discrepancies with Dunsky’s modeling inputs for the TES. This required some

background reading of EIA's Technology Forecast methodology (equipment intensity and efficiency, etc.), which is also used in Dunsky's projections.

## ***Engineering***

### VY Licensee Event Report for the Missing Conduit Flood Seal

VY submitted to the NRC a Licensee Event Report (LER) dated December 31, 2013, titled Potential to Flood Switchgear Rooms Due to Missing Conduit Flood Seal. This event took place on November 6, 2013. The LER identified five causes of the event (including ineffective corrective action after two previous similar events) and listed five corrective actions (four of which have already been implemented, and one that is planned). VY's analysis indicates that the probability of the switchgear rooms flooding is low because the maximum river level that has occurred to date at the site is 17.1 feet below the elevation of concern. If the Maximum Postulated Flood Conditions were to occur while the seal was compromised, the plant would have been shut down per procedure before the switchgear rooms flooded. One of the identified causes of the event was that there was no specific owner of the flood seal program or procedure. In my opinion, the most significant corrective action is that VY has now designated a responsible owner for the flood seal program, and this should significantly reduce the likelihood of this happening again.

### NRC Exit Meeting

NRC conducted a year-end exit meeting with VY. The NRC mentioned two issues: 1) a non-cited (green = very low safety significance) violation for failure to evaluate risk due to isolating nitrogen for drywell entry per the maintenance rule (10 CFR 50.65) during the down-power to fix an oil leak in September, and 2) notice of self-revealing violation (green) for the potential to flood the switchgear rooms due to ineffective corrective actions for missing conduit seal (see above item). NRC made a positive observation that corrective action appears to be effective for component mispositioning (i.e., operator isolates the wrong diesel fuel rack).

### Nuclear Engineer Position

Engineering has interviewed two of the 15 applicants, and is prepared to make an offer to the top candidate.

### VGS Transmission Pipeline Reinforcement Project

Completion of the Vermont Gas Systems Inc. construction project, which received a Certificate of Public Good in PSB Docket 7929, is experiencing further delay. The company began using 2 miles of the project on Dec. 23 to ensure gas service is maintained to existing customers during January and February. The balance of the project is 3 miles long and includes several directional bores, under streams, roads and wetlands where each required multiple attempts of horizontal drilling to allow proper pipe installation. The new pipe installation at Mill Creek in Georgia currently has inadequate depth of cover below the creek. The Agency of Natural Resources permit for the project does not allow for further excavation to remedy the condition (i.e., lower the pipeline segment) until June 2014.

### Omya LNG operations

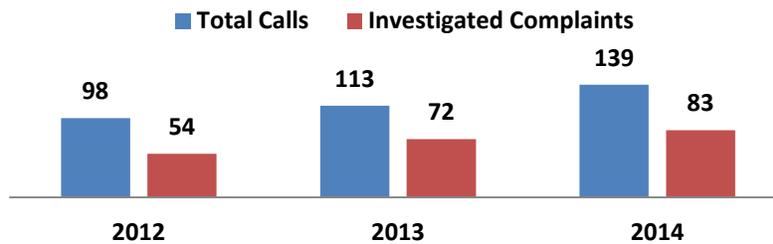
Omya has secured an alternate supply of Liquefied Natural Gas (LNG). The original supply, described in PSB Docket 7869, required a trucking route from Massachusetts by way of a northwest trajectory through Vermont. The company is currently receiving LNG from Pennsylvania and will retain the original supply as an alternate. The new supply route passes through Vermont from New York. The Gas Engineer has requested the company to revise its outreach and emergency training program to include adequate interaction with the communities and emergency responders along the new route.

### Department Sound Consultants

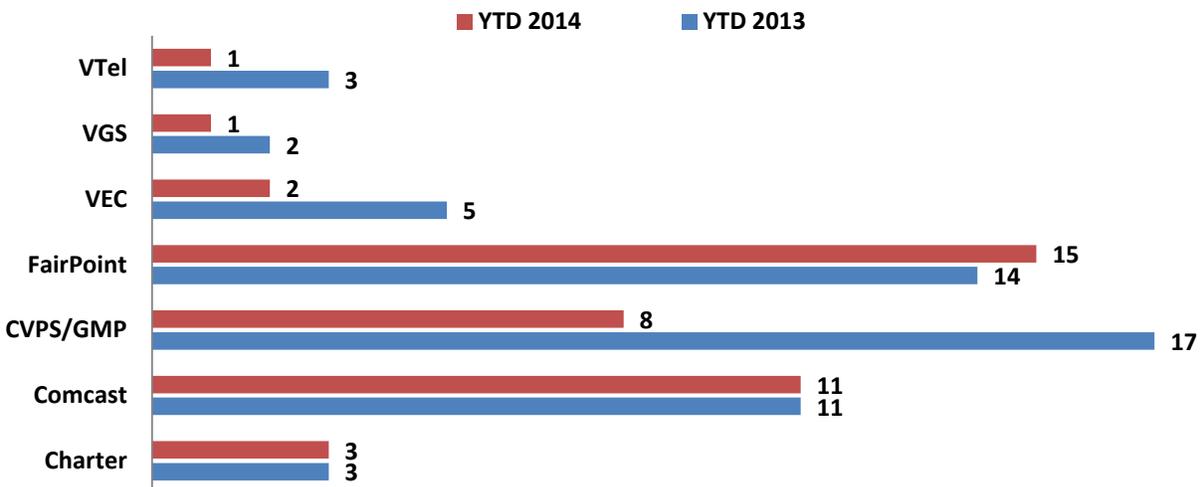
The Engineering and PA divisions, along with the Department of Health (VDH), have been interviewing the respondents to the Department's RFQ. PSD and VDH have narrowed the field of consultants to three companies. Two companies submitted a joint proposal in order to cover all of our concerns of noise, its measurement, and any possible effects on the health of the neighbors of the projects in question – particularly wind turbines. It's possible that PSD will contract with more than one consultant to get a well-rounded perspective on all aspects sound.

### **CAPI**

**Calls to CAPI for period January 5 to January 11  
Same 7 Days Each Year**



**Complaints Investigated, by Company  
Year to date**



### Post CPG Wind Complaints

- Lowell Mountain (2), both for noise and health
- GMP net-metered in Vergennes (1), for noise and “spinning out of control”
- Sheffield Wind (1), CAPI was copied on complaint response that went to company.
- Green Mountain Community Wind (1), request for information from a consumer

### ***Public Advocacy***

Entergy CPG – Docket 7862 – The PSB held a public hearing via VIT on 1/14. The hearing was lightly attended compared to other VY public hearings, though it did include some memorable references by Gary Sachs to the Board members’ reproductive organs (and asserted lack thereof). A majority of speakers opposed issuance of a CPG, with many expressing concern about Entergy’s trustworthiness, and about SNF. Jim Dumont for VPIRG served 30(b)(6) deposition notices on the PSD and Entergy, with lengthy questions related to Entergy’s recent SEC filing and largely seeking legal interpretations. PSD counsel is considering how to respond, and may object to the notice. The depositions are scheduled for 1/22.

Addison Expansion—Docket 7970—In addition to the Motions for Reconsideration filed by the Department and the Palmers, the town of New Haven has filed seeking clarification of the noise monitoring protocol for the gate stations. Parties have until January 24 to provide the Board with responses to the New Haven motion, and the Department and VGS are reviewing. Parties are to respond to the Department’s and the Palmers’ Motions by January 21; the Department is drafting its response to the Palmers.

Addison Expansion Phase 2—Docket 8180- Prehearing conference has been scheduled for Wednesday, January 22. In advance of this, the Board has requested that VGS, DPS and ANR file comments on the timing and scope of Board process given the necessity of obtaining the requisite FERC authorizations/exemptions. VGS is preparing a draft response for review. The Board also requested a proposed schedule from the parties, a VGS draft of which is being circulated for comment. VGS continues to meet with representatives of Cornwall and the Department is a participant in that process.

Mammoliti Wind Complaint – CPG #NM-1646 – The Board held a technical hearing to explore issues of flicker and glare emitted from a 100KW turbine in relation to the § 248(b)(5) aesthetics and public health and safety criteria. Vermonters for a Clean Environment moved to intervene on the eve of the hearing and represent the pro se Mammolitis. VCE’s motion was denied. The parties agreed to a long briefing schedule to better accommodate the Mammolitis. Initial briefs are due February 28, 2014, and reply briefs are due March 21, 2014.

Technology Drive (Brattleboro) Solar – Docket 8111 – The Department, ANR and AAFM have approved a PFD to be submitted by the petitioner to the Board. Petitioner has also executed an MOU with ANR to resolve the environmental concerns raised by the Project. The Board is now in a position to issue an order in the Docket.

Stowe Rate Investigation – Docket 8074 – The Board is in the process of securing a date for a technical hearing in late January or early February to review the MOU executed by the Department and SED. The Department also continues to refine a draft RFP for potential business process review experts.

Georgia Mountain Community Wind – Docket 7508 – The Board issued an order requiring GMCW to respond to resident complaints regarding turbine operation during icy conditions in late December. GMCW's response is due January 17, 2014. The Department intends to file a motion requesting that the Board 1) open an investigation into the icing operation complaint; 2) hold a show cause hearing to discuss GMCW's conceded violation of its own noise monitoring protocol, and 3) reopen a resident complaint regarding tonal noise emitted from the Project that was previously not acted upon by the Board.

TracFone Wireless for Designation as an ETC – Docket 7817 – TracFone filed supplemental prefiled testimony with the Board on January 14<sup>th</sup>.

VEC § 248 to Replace Madonna Substation in Cambridge – Docket 8171 – The Department's first discovery requests are due on January 17<sup>th</sup>, and a site visit and public hearing will be held on January 27<sup>th</sup>.

Johnson/Morrisville § 108 Petition for Transfer & Financing for a Subtransmission Line – Docket 8186 – A prehearing conference is scheduled for February 6<sup>th</sup>.

Regulation of Voice over Internet Protocol – Docket 7316 – A technical hearing was held on January 15<sup>th</sup> to decide the issue remanded by the Vermont Supreme Court: whether Comcast's fixed VoIP service is a telecommunications service or information service under federal law. Direct briefs are due on March 14<sup>th</sup>.

Willoughby Water – Docket 8117 – At this juncture, it does not appear as though the customers are interested in purchasing the water system from Mr. Collette. However, Mr. Collette would like some additional time to speak with an attorney and perhaps to engage the customers in further negotiations. In a status report, the Department recommended that the most prudent way to proceed is for the Department to file another status report by February 13<sup>th</sup>.

Barton Solar – Docket 8148 – The petitioner responded to the Hearing Officer's first set of information requests. The petitioner has also provided the Department with its plantings maintenance plan for review.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – This docket was originally filed as a Section 248(j). The Board informed the petitioner that the project was not of limited size and scope and that the petition had to be re-filed to conform to the procedural requirements of Section 248, which the petitioner has done. The Hearing Officer has scheduled a prehearing conference for January 23<sup>rd</sup>. Additionally, the petitioner's attorney has responded to a letter the Department wrote to GMP requesting additional information regarding the PPA

that is financing this project; PSD is expecting a response from GMP as well. The PSD is concerned that the PPA price significantly exceeds recent standard-offer bids for similar projects in Rutland and elsewhere. PSD has agreed to meet with GMP on 1/28 to discuss the Stafford Hill project as well as this one.

Red Pines Development Water System Rate Increase – Tariff 8478 – The petitioner has requested the Board grant another schedule extension, to allow rates to go into effect on March 1<sup>st</sup>. Despite the Department’s efforts to settle this case, the petitioner has not provided the requested documentation. The Department’s recommendation is now due to the Board by February 14<sup>th</sup>.

Appointment of Natural Gas Energy Efficiency Utility - Docket 7676 – Department staff met with VGS to discuss issue of whether there should be a separately stated Natural Gas Energy Efficiency Charge shown on VGS bills. Currently VGS does not state such a charge on bills. VGS is not opposed to this, but is not in favor of segregating those funds and nor of utilizing the existing EEU fiscal agent process for invoicing and disbursement (as used by EVT and BED). VGS cites the increased staff costs that would be required to do so. We have asked them to provide us an estimate of those costs and then we will discuss PSD position in-house. We anticipate a Board status conference in this matter to be scheduled the week of 1/21.

National Life 500kW Net Metering Project - Docket 8110 – The Board issued a request to the Petitioners seeking information on the height of proposed mitigation plantings and details about a proposed new pole, as well as whether it would be feasible to design the project without the new pole, or to move the pole to a different location.

Demand Resource Plan Proceeding - EEU 2013-01 – PSD Staff have been preparing for a workshop in this matter to be held on 1/16 at 1:30 where parties will discuss the results of modeling a variety of different budget scenarios for Efficiency Vermont and Burlington Electric Department. A big topic of discussion is likely to be whether and to what extent EVT should spend money during the next three year performance period to achieve increased energy efficiency through so-called “behavioral measures.” They have already signed a one year contract for 2014 with O-Power, a company which asserts it can achieve significant savings from behavioral measures. The Department is concerned that such measures may not be cost effective and thus not in the best interests of ratepayers. As the O-Power model uses AMI data, there are also concerns from DU’s about protecting the confidentiality of such data.

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

#### Legislative Issues/Contacts:

Report on Smart Grid Costs and Savings–Per Dockets 7612 and 7704 and 30 VSA § 2811 the division drafted a report for the Legislature on the costs and savings from the implementation of smart grid infrastructure. For the reporting period through September 30, 2013, Vermont utilities spent \$97.5 million or 82% of the planned \$118.5 million to build out the Smart Grid infrastructure and have realized \$11.4 million or 5% of the planned \$228.3 million of planned

savings.

TF 8484 VEC Revises Solar energy Credit Rate - Vermont Electric Cooperative (VEC) seeks Public Service Board approval of a revision to its net metering tariff to amend and adjust the Solar Energy Credit Rate to reflect VEC's approved rate increase (2.93%) as per TF 8476. The credit is calculated by subtracting VEC's residential rate per kWh from the net meter standard of \$0.20 per kWh and will accrue to the applicant for not less than 10 years after the date of installation. VEC seeks to establish a two-tiered tariff for existing and new net metered installations. Existing solar net metering systems (Acceptance Period 1) will receive a credit rate of \$0.02882 per kWh, while new, Acceptance Period 2, net meter installations will receive a credit of 0.02380 per kWh. Staff recommendation is due by 1/21/14.

### ***Telecommunications***

U.S. Court of Appeals for the DC Circuit Overturns Anti-Blocking and Anti-Discrimination Open Internet Rules – On January 14, 2014, the U.S. Court of Appeals for the DC Circuit upheld the FCC's authority to regulate broadband Internet access providers' network management, but it struck down the FCC's open Internet anti-discrimination and anti-blocking rules on those providers as an impermissible application of per se common carrier obligations. While consumer advocates are hopeful that the FCC will reclassify broadband Internet access services as telecommunications services subject to common carrier regulation under Title II of the Communications Act, DPS staff believes it is unlikely.

Telecom Plan Public Hearing: Staff established a hearing location and date for a public hearing in anticipation of the Telecom Plan. The purpose of the hearing is to collect input from the public on matters pertinent to the plan. The hearing will be through Vermont Interactive Television and the Department will be utilizing all 13 sites located around the state. This will give the entire state equal opportunity to participate in the hearing. Unfortunately, the best available hearing date was Friday February 21. However, staff anticipates a Friday night date will not negatively affect attendance due to the importance of hearing's subject matter to the public and the general lack of competing cultural activities occurring in Vermont on 2/21/14.

### ***Regional Policy***

#### Forward Capacity Market Complaint

In the fall of 2013, the Brayton Point, a coal-fired generator, filed a non-price retirement request with ISO-NE, asking that it be allowed to withdraw from the Forward Capacity Market. On December 20, 2013, ISO-NE rejected Brayton Point's request, based upon ISO-NE's determination that the resource is required for reliability purposes. The result of ISO-NE's determination is that Brayton Point will be counted towards the Installed Capacity Requirement (ICR). ISO-NE's rejection of the non-price retirement request does not prevent Brayton Point from retiring, however ISO-NE could provide out-of-market payments to Brayton Point to ensure it continues to provide necessary reliability.

The New England Power Generators Association (NEPGA) filed a complaint at FERC stating that

the inclusion of Brayton Point as capacity in the next Forward Capacity Auction results in suppression of capacity prices. NEPGA requests that ISO-NE be ordered to revise its rules so that units filing non-price retirement requests would not be counted towards the ICR. NEPGA contends that the price suppression effect could be \$500 million. NESCOE and NECPUC will likely file protests to the NEPGA complaint at FERC.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: January 17, 2014**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- Stable – enjoyed the Budget Address (my hands hurt)

**Legislative Issues/Contacts:**

- Met with Rep Emmons and Senator Flory to review the Budget Adjustment
- Testifying before Senate Institutions re: Budget adjustment, WSOC and new State Hospital
- Testifying before Senate Appropriations re: St. Albans, along with Lawrence Miller & Emily Montgomery
- Set up weekly meetings with The Speaker: Thursdays at 8:00am AND Rep. Emmons/Sen. Flory: Friday mornings at 8:30am.

**Significant Events/Meetings:**

- Met with the Employee Service Memorial committee including Tom Ball and Shelly Martin to review Eric Ober's design. Members of the Capitol Complex Commission joined the meeting to weigh in on the project.
- Met with Doug Hoffer to discuss space issues

## **Evolving Issues:**

Waterbury Divestiture: Met with Mike Stevens & Bill Laferriere to discuss Bill Shelpeluk's request for more space

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

Staff is spending time at the Legislature assisting members with the new expense system and filing expense reports. Progress is being made as over 90% of members have completed and been paid for expenses from the first week of the session (169 expense reports paid to 166 Legislators). Preliminary VISION upgrade work is underway.

Commissioner Reardon and Deputy Commissioner Clark will testify on the FY 2014 Budget Adjustment Act on Wednesday, January 22 in the Senate Appropriations Committee. This was postponed from last week's original date.

## **HEALTH CARE REFORM**

No report.

## **HUMAN RESOURCES**

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

Commissioner Duffy testified before House Government Operations on whistleblower issues and retaliation complaints in response to VSEA's testimony that retaliation is "rampant" in state government.

Commissioner Duffy attended a hearing before Senate Government Operations on S. 225, which would extend early retirement rights to dispatchers at the State Police and caregivers at the Vermont Veterans' Home. Commissioner Duffy deferred testifying until the Treasurers' Office can provide information on the financial impact of such a change. This will permit time to determine whether VVH caregivers can be distinguished from caregivers at the Vermont State Hospital, who are allowed to retire with 20 years.

At Commissioner Duffy's request, Representative Sweeney will sponsor a bill that will allow DHR to implement the Employer Group Waiver Program, which has already been implemented for retired teachers.

At Commissioner Duffy's request, Representative Mook will sponsor a bill on the Vermont Veterans' Home that would exempt certain positions from the classified service and would add an employee member to the Board.

DHR has filed its Annual and Workforce Report with the Legislature. DHR included information gleaned from an employee engagement survey in the Report.

The Social Media Legislative Study Committee has filed its report. The report makes no recommendation because the parties disagreed on almost all of the relevant issues.

**Press/Media Notes:**

DHR provided information to Fox News identifying 87 former classified employees who retired and are now employed as temporary employees. DHR will assess the length of service for these temporary employees and follow up with agencies and departments as necessary.

**Significant Events/Meetings:**

Commissioner Duffy and General Counsel Collier attended the Supreme Court hearing on the appeal of the Labor Board's decision denying double pay to state employees who were required to work during Irene. The argument went well, and DHR is optimistic the Board's decision will be affirmed.

Commissioner Duffy is scheduled to meet with VSEA President Shelley Martin to discuss release time for her to perform her functions as president.

**Evolving Issues:**

On behalf of the Governor's Workforce Equity and Diversity Council, DHR filed GWEDC's annual report with the Governor. The report will be posted on the Governor's website and DHR's website.

DHR will be publishing the results of an employee engagement survey on its website, beginning next week. Prior to publication, DHR will distribute the results to Secretaries and Commissioners. DHR will reach out to Agencies and Departments to help them assess the results for their organization and any steps that should be taken to improve employee engagement in their Agency or Department.

DHR is working with the Department of Mental Health to discuss recruitment of staff for the Berlin facility. Job fairs are now tentatively scheduled for February 24<sup>th</sup> and 27<sup>th</sup>.

**INFORMATION AND INNOVATION**

**Status of Governor's Priorities:**

**Healthcare:**

- IE: Comments on RFP received back from Gartner and incorporated into the RFP. This is now ready for CMS and we will talk with the ESC tomorrow to understand when we want to formally notify CGI that we are abandoning the previous bid process.
- ERP: W2 testing is being finalized in preparation for production processing. BlueCross BlueShield transition work continues on target to support SOV medical change from Cigna.

## **Significant Events/Meetings:**

Several meetings have occurred this week with Oracle Quality Assurance and Services organizations. The focus has been how Oracle can focus on Vermont more like a strategic partner and not just a strategic account for Oracle. There was much emphasis placed on Oracle products being the focus in Healthcare and how could Oracle assist CGI and the State better. By focusing the discussion as an Oracle brand issue, some traction was made in reducing our current staff rates and hopefully and more important Oracle may engage CGI with resources to help.

We delivered the 5 year IT strategic plan to the legislature on January 15<sup>th</sup>. The plan updates last year's plan and five major goals are outlined in the document: 1) to modernize critical technologies, 2) to ensure sustainability of the state's information services, 3) to operate IT effectively and efficiently, 4) to use IT to improve the productivity of all state services, and 5) Create new solutions partnering with State Agencies. Our plan for 2014-2019 identifies recent progress as well as priorities for the future. In producing this plan, we sought to maximize the value of information technology for the Shumlin Administration's vision and goals for Vermont. Link to the plan:

<http://www.leg.state.vt.us/reports/2014ExternalReports/296061.pdf>

Independent review (IR) report was finalized and accepted for the VDT Integrated Tax System (ITS). Even with the full cost of the project, the IR cost benefit showed a net benefit to the state of over \$36 million over a 10 year period. Break even for this project is only 5 years.

## **Evolving**

### **Security:**

- Weekly Incidents:
  - 1 potential privacy related incident. Identification by the VHC privacy officer is in progress.
- Security Items:
  - We continue to make very slow progress on a full site penetration test/vulnerability assessment with CGI. This requires CGI to identify a partner that is agreeable to the state and sign a contract. The state reviewed what looks like an acceptable partner this week.
  - CGI continues to falter with the execution of technical components. A meeting last week related to web application filters demonstrated extremely poor planning, coordination, and execution.

## **LIBRARIES**

No report.

## **TAXES**

### **Legislative Update:**

Miscellaneous Tax Bill: The Commissioner walked through the bill with W&M the morning after the budget speech. The bill is relatively thin as these go, and the Committee had relatively little comment – with probably the most discussion about the use tax conundrum.

Cloud: Since the Department internally could not come to consensus on Cloud regulations, we presented two alternative drafts to our Working Group, after discussing the alternative approaches in general with W&M. We will land on one of the alternatives, and take it out to wider groups for comment.

Education Symposium: The symposium started off promising, with the panel of experts offering different perspectives and some provocative observations – such as Daphne Kenyon, who stated that VT has to be concerned about backlash from being an outlier in high spending, and Patrick Walsh, who stated that Economics 101 says if you want people to buy less, you raise the price, and that education data suggests that at a certain level, more spending does not get results except when focused on low achievers. Each of the experts initially suggested some specifics, such as trying to achieve optimum unit size, decision making/taxation at the supervisory union or county level, employing technology in place of personnel, base level funding (modified adequacy), incentives/disincentives, changing the revenue mix. There was much discussion of the differential “skin in the game” and about tax avoidance behavior when a volatile measure such as income (which does not always correlate well to wealth) is used.

Unfortunately, when we split the large crowd into 4 groups for discussion with 2 of the experts, the experts left the script, and instead of continuing to pursue their own new ideas (despite prodding), facilitated discussions that covered a lot of old ground. Still constructive to have a group including such divergent voices as Paul Cillo, Jeff Francis and Steve Jeffrey talk to each other. From the discussions the Commissioner heard, of quality, equity and local control this crowd was most willing to give up local control, with many observations that local school boards are dysfunctional on budgets. Larry Picus acknowledged that he has a monumental task to produce a report.

The Commissioner was present when Rep. Greshin and Sharpe reported back to W&M, and they were very positive. They talked about the “tragedy of the commons”. The only specifics they discussed were differing classification of properties (an expert suggested this as a way to shift more cost to second home owners, others grabbed the idea for business property – some with the aim to charge more, some less), as well as anchoring the spending penalty to a fixed amount rather than an average. The committee apparently intends to keep pursuing Rep. Condon’s idea of a base property rate, supplemented with income tax. The Chair spoke of trying to achieve a 60/40 mix income to property, describing it as a national norm.

### **Operations:**

FAST Contract for Integrated Tax System: The Department hired an internal candidate for the Project Director, and FAST’s project manager will be in Vermont on Tuesday. The Department will quickly be setting up its internal project team (business analysts from each division), and a steering committee. We will be exploring the formation of an inter-agency oversight committee, including AOA, F&M and DII.

In the meantime, although House Approps had been fine with the proposed BAA language expanding the computer modernization fund to accommodate the FAST Contract, they consulted with W&M, which re-wrote the section (Martha had fun explaining that to her committee). Rep. Ancel cleverly got the details of the FAST contract into session law, in the guise of having the Department report back to the JFC in July. It was an opportunity for the Commissioner to explain the contract to both W&M and Approps, which generally went well – Approps was downright enthusiastic. The committees were able to grasp that it is a 6 year implementation period, paid out over 10 years if, and only if, a lift of revenue over baselines is demonstrated. The price is \$29M for implementation, and \$38M. total over the ten years if all options are exercised, including the fixed price for the highest level of ongoing maintenance and support that would always keep us on the latest project version. That price also includes the Chainbridge modeling software that JFO wanted. Both committees appreciated that we are contracting with a small closely held company that has been very successful specializing in tax work; the software has been in full production for over a decade, successfully operated in 16 states, with 3 other states also under contract. FAST has never blown a budget or deadline. Terri Hallenbeck interviewed the Commissioner; Hilary Niles also has asked questions.

DII also accepted the Indpt. Review of the project this week. The IR includes a Cost Benefit Analysis that shows the project generating over 30M. in revenue for the state over and above the contract payments. The Commissioner complained to DII about the extremely conservative assumptions that the IR consultant was directed to adopt – including a very large cost attributed to augmenting the Tax IT staff with IT consultants. The original CBA was more like \$100M positive, and more reasonable assumptions easily approached \$70M. However, it is not a bad line that even with extremely conservative assumptions, worst case scenario, the project is a win for the state. The Commissioner is meeting with Commissioner Boes to discuss DII's role in the project, since the contract was rewritten to have DII supply the hardware.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: January 17, 2014**  
**Re: Weekly Report**

**Status of Governor's Priorities:** Final budget numbers submitted along with performance measures.

**Legislative Issues/Contacts/Updates:**

- ICAR review complete. Sent to Sec State and getting public comment.
- Spoke to Senate Econ Dev Committee Wednesday on a few bills:
- S181-S289: would allow for licensees to serve flights of various products for comparison purposes. Current law does not allow that. I took the introduced bill and made some suggestions after speaking to the committee. They will most likely use S289 because that was Sen. Fox's bill. Our Board supports the concept and it is a common practice throughout the country.
- S226 would allow libraries to serve alcohol for fund raising activities. The bill is filled with problems of which I addressed. No license or permit required, liability issues for the library or town/city that allows it. Notjh. Licensed caterers could do this and all the concerns would be eliminated. Told the committee I would look at it further as will our Board.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business. It's kind of like a half of a license! We are going to look further at this. Our Board does not support the bill as introduced.
- Spoke to House Gen this morning: Went over tobacco report and gave committee an overview of department issues and priorities.
- I will keep your staff aware of any new issues.

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

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

**Evolving Issues:**

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

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**Summary of Key Department Activity:**

- January is starting out good with strong sales.

**Commissioner's Commentary:** Have a great weekend. Great Budget speech!