

# WEEKLY REPORTS

## Checklist

9/6/2013

Elizabeth Miller/Aly Richards

- Agency of Commerce and Community Development – Lawrence Miller
- Department of Labor – Annie Noonan
- Department of Financial Regulation – Susan Donegan
- Agency of Education – Armando Vilaseca
- VT Commission on Lottery – Greg Smith

Louis Porter

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

Sue Allen/Leigh Appleby

- 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
- Department of Liquor Control

**To: Governor Peter Shumlin**  
**From: Lawrence Miller, Secretary - Agency of Commerce and Community Development**  
**Date: September 6, 2013**  
**Re: Weekly Report**

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**Lisa Gosselin** started on Tuesday and will take leadership of the statewide economic development strategy process.

**Shelburne Plastics:** Based on a referral from VEDA, Beth Demers spoke to John Mayer, CFO, at Shelburne Plastics. The company has closed its Maryland facility and moved equipment to their VT and NH facilities. As a result of this consolidation the VT facility is looking to train existing employees on new equipment and hire more equipment operators.

**Vermont Home Energy Rating Guide:** Act 89 requires the Public Service Department (PSD) to convene a working group to develop a home energy rating guide (much like energy star appliance ratings or MPG ratings on vehicles) to help consumers understand and compare the energy efficiency of residential buildings. While we applaud the effort, we were disappointed that the proposed rating scheme did not include the energy cost of transportation that comes along with owning a particular house. We therefore sent written comments asking the PSD to consider the larger policy implications of an energy label that rates a new, tightly-constructed 4,000 SF McMansion, 25 miles away from a town center more highly than a 1,500 SF historic building with old windows, located in a downtown that's within walking/biking distance to jobs, goods and services. Comment letters from VTtrans and VNRC echoed our concerns and we look forward to meeting with the PSD's working group to discuss simple ways to include the cost of transportation into the guide.

**Ethan Allen Firing Range Site Discovery-** A fairly large Native American site has been documented at the Ethan Allen Firing Range during a Phase I investigation of a proposed road widening project. The site is located at about 1000 ft. in elevation, which is somewhat unusual, but appears to be associated with the divide between the Lee and Browns Rivers. The site is eligible for the National Register of Historic Places and will likely be subject to data recovery excavation within the proposed area of impact. Only a small portion of the site will be affected by the proposed road construction.

**CDBG-DR II Action Plan:** After a week of public comment the final Action Plan was submitted to HUD on September 3<sup>rd</sup>. HUD will have up to 45 days to a review and approve our Action Plan. All public comments received were in support of the plan and DHCD's method of distribution for the \$17.9Million.

Linda Pervier and **Ernie Pomerleau** have reached out to Megan on behalf of the *Alliance francais (AF)* for funding from the state. Their request for \$35,000 to help fund a fulltime staffer stated, "I know the state is besieged with requests . . . although I do not ask this lightly, it is a relatively small amount and believe it to be self-funding - from additional tourism/business from Canada, sales tax (revenue) covers this in spades. *AF* has generated an unbelievable amount of positive PR/Marketing/Press for Vermont in Quebec."

The *AF* is the "welcome mat" for our French speaking friends from the north – from organizing Francophone week events with flag raisings/plays/translations, to the extensive Canadian press they received for the simple gesture last month of putting French language stickers on parking meters in Burlington. WCAX/WPTZ beamed this into Montreal and generated a great response. Ernie also had a recent op-ed in the *Burlington Free Press*.

Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report - Weeks Ending August 30 and September 6, 2013

**Most Current:** VY: Our regional manager, Morgan Sailer-Carlisle, attended a meeting at VY on August 29<sup>th</sup> to discuss services available from VDOL. Yesterday, we held a three-state DOL and USDOL-Boston conference call, organized by VDOL, to discuss collaborative efforts on Rapid Response and the NEG application. The 3 states' local staff (Keene, Brattleboro and Northampton) will be meeting for a 'meet and greet' to facilitate the collaborative work and each Commissioner will appoint a staff member(s) to the NEG grant writing group, to start the application this month. I have a meeting on Tuesday with IBEW Local 300 staff, and other state DOL staff will join by conference call.

Dynapower, Williston: 21 layoffs between now and Monday; 14 in December. They are required to file with VDOL under the ESB mass separation notice. I have been in touch with their HR in Virginia and Williston (Ray Steen) who has set VDOL up for Rapid Response this Thursday and Friday, Sept. 12<sup>th</sup> and 13<sup>th</sup>. He stated that the slowdown in federal dollars was the cause of the layoff.

IBM: VDOL is working with HiTec, SBD and UVM to help create computer work for the IBMers. We will also be hosting job fairs for engineering and computer companies in October. The issue today with IBM was their advertisement for Engineers that stated they "must have a graduation date of January 2010 or later". VDOL got the first email relating to this and Dirk Anderson (VDOL GC) contacted Julio Thompson at the AG's Office. IBM has subsequently pulled the ad off the internet. I understand there will be news stories this evening.

Energizer: They still have about 80 employees and 40 contractors on staff, with the majority of layoffs wrapping up the end of September (although they will have a small staff on until the end of December). Energizer held a job fair onsite on 8/27 with 15 Employers. VDOL has a staff person on site for 2 hours on Thursday and 3 hours on Friday mornings. VDOL's Trade Adjustment petition to USDOL has been certified, which means that many of these employees will have enhanced funding for retraining.

FCI Federal - contractor for INS visa processing in St. Albans reported to us today a planned layoff of 45 employees. Week of September 2<sup>nd</sup>, 14 employees; mid-September: 6; October-November: 25 employees. The HR manager states that the reductions are due to a government decision to move one part of their form process to another location.

Randolph National Bank: We have heard a rumor that they are laying off 10 employees.

**Veterans:** USDOL is pushing all the states to convert their Local Veterans Employment Reps (LVERS) to Disabled Veterans Reps (DVOPS). This will actually hurt Vermont, as we do not have as many disabled veterans, and a DVOP cannot serve a non-disabled Veteran looking for job help (!). We have argued with the federal reps, but they have threatened to stall our program funding if we don't concede to their direction, even though they technically have no policy or rule actually requiring what they are pushing the states to do. Senator Sanders' office is looking into this.

**Unemployment Comp & Wage:** We are finalizing some ICAR paperwork on the Employment Security Board rules relating to Debarment.

**Claims Center Stats:** UI claims are down. For the week ending 08/31/13 we took 2091 calls. This is a decrease of 64 calls from the week ending 08/24/13. We processed 319 initial and 310 additional claims. This is an increase of 23 initial claims and a decrease of 95 add claims from the week ending 08/24/13. 2 claimants exhausted all tiers of benefits with the week ending 08/31/13 compared to 2 claimants who exhausted all tiers of benefits during the week ending 08/24/13. 0 claimants exhausted Tier 1 benefits with the week ending 08/31/13 compared to 3 claimants who exhausted with the week ending 08/24/13. We paid 4,957 claimants during the week ending 8/31/13 compared to 5,379 for the week ending 08/24/13. We processed 7 Mass claims for week ending 8/31/13.

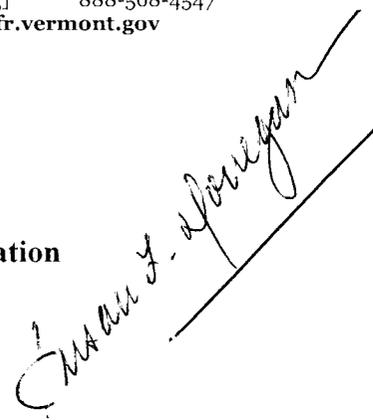
**Workers Comp:** Attorney Phillips will be conducting the internal review of the WC rules for my office.

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[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: September 6, 2013**  
**Re: Weekly Report**



**Securities Division:**

Commissioner Susan Donegan met Wednesday with representatives from the Financial Industry Regulatory Authority. FINRA is the successor to the National Association of Securities Dealers and the enforcement and arbitration operations of the New York Stock Exchange. It is a self-regulatory organization authorized by Congress (and funded by the securities industry) to take action to ensure that investors are protected through its own rule-making and enforcement. It performs front-line work for the Securities & Exchange Commission and is under that agency's oversight. If securities brokers and dealers break the rules, FINRA can fine, suspend or terminate them from the securities industry. In addition to its own enforcement actions, FINRA refers fraud cases to other agencies including state securities offices. The discussion DFR had with FINRA concentrated on examinations of broker dealers and investigations for misconduct by securities sales people that FINRA is conducting in Vermont. Several matters that have been pending over the past year are coming to conclusion with various penalties being levied by FINRA to its members in Vermont. Some of these actions will be reviewed by the Securities Division to see if parallel state proceedings are warranted.

**Banking Division:**

On Friday, the commissioner will attend the New Hampshire and Vermont Bankers Associations' Annual Conference at Jay Peak Resort. Presentations will focus on changes in bank capital regulation under Basel III, federal legislation and community banking among other things. The commissioner has met with New Hampshire bank regulators previously and discussed the possibility of both agencies meeting on a regular basis to discuss common issues across borders. The Banking Division has also responded to a request from the Rhode Island banking division for technical assistance related to the NMLS system. Our banking division has particular expertise in this area.



**Captive Division:**

The commissioner and David Provost, deputy commissioner of the Captive Insurance Division, continue to work diligently to explain Vermont's position concerning the proper use of Special Purpose Insurers for life insurance companies. At the National Association of Insurance Commissioners recent meeting, she met with media representatives and reiterated Vermont's stance on SPIs . A sample of the media coverage, which was published in "Captive International" on September 2, 2013, follows.



## **Vermont will welcome SPIs even after New York troubles**

02-09-2013

Speaking at the NAIC Summer National Meeting, Vermont Insurance Commissioner Susan Donegan said that New York's concerns about special purpose insurers (SPI) did not apply to her state and that Vermont had no interest in any moratorium efforts.

She said: "we feel that if special purpose vehicles are properly regulated that they are a valuable tool for life insurance companies. We have standards in Vermont that are very high and we feel that's a safety net for carriers."

Donegan concluded: "those states which want to continue can with proper regulation. Those that need some assistance in coming around can learn about how you want to regulate these types of entities. We're just going to continue to do what we do best, and that is adequate and sufficient regulation that promotes the kind of regulatory response that we require to earn that Vermont captive emblem, but also to allow companies to decide whether we're the right jurisdiction for them."



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**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: September 6, 2013

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**School Visits:** This week I visited students at Essex High School, particularly three students who are involved with the Vermont Interscholastic Council (VIC). They reached out to me, as Secretary of Education, in an effort to bring their student voice to local and state government and local school boards. They will also be reaching out to the Vermont School Boards Association.

**Deputy Commissioner's Office:** Deputy John Fischer met with the Lamoille North Supervisory Union Board, Hyde Park, on Tuesday evening this week regarding development and implementation of flexible pathways resulting from Act 77. On Wednesday he and Assessment Director Michael Hock traveled to North Hero to meet with the North Hero School Board to answer questions on the Common Core State Standards and Smarter Balanced (SBAC). Today, Deputy Fischer and eight AOE staff members met with the statewide Vermont Curriculum leaders Association to provide information on a number of topics, including: Common Core and Next Generation Science standards, SBAC development and implementation, EQS process, Act 77 (flexible pathways, dual enrollment, personal learning plans, etc.), the statewide Professional Learning Networks (PLNs), etc.

**Act 1:** In collaboration with Secretary Racine, a memo was sent to all principals, superintendents and school administrators reminding them of the importance for all schools to, "ensure that adults employed in the schools maintained by the district receive orientation, information or instruction on the prevention, identification, and reporting of child sexual abuse as defined in subdivision 4912 (8) of title 33, and sexual violence..." AOE and AHS worked closely on the development of resources for the implementation of Act 1 which went into effect July 1, 2011 in an effort to best serve the interests of Vermont students to help ensure their safety so that they can reach their full potential.

**Public Access Television:** Senator Doyle invited me to participate in today's episode of, "Bill Doyle on Vermont Issues." We discussed Common Core State Standards, SBAC, and supervisory union consolidation /mergers.

**Next Week:** I will be out of state part of next week, attending the Smarter Balanced Collaboration Conference - Chiefs Meeting. This conference will bring together Chiefs and State Leads to review progress on the new assessment and will also be an opportunity for the Governing State Chiefs to vote on several policy questions.

**Youths and Adults Transforming Schools Together (YATST):** I invite you to attend YATST's statewide conference titled, "Bridges to Partnership - Youth and Adults Learning New Skills to Redesign Schools." This conference is for high school youth and adult teams and will be held on October 9, 2013 at the Capitol Plaza. More information can be found here: <http://www.yatst.com/images/bridgesconfoct2013-webFINAL.pdf>.

Sponsors: The Vermont Agency of Education and UP for Learning/Youth & Adults Transforming Schools Together

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Sept 6, 2013**  
**Re: Weekly Report**

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

n/a

**Legislative Issues/Contacts:**

n/a

**Press Issues/Releases/Contacts:**

About game changes, \$1M Powerball winner. We talk with various legislators at the Fair last week – all positive.

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

n/a

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**Summary of Key Agency Department Activity:**

The review of Instant ticket printing proposals is underway, with a recommendation due in two weeks. Lucky For Life game change has completed the rule change process. Mega Millions game is the LCAR agenda for later in Sept for its Oct game change.

**Executive Director's Commentary:**

A new commissioner was appointed this week. Ed Flanagan from The Point radio station starts this month, filling the opening from the departure of Art Ristau. We completed ten days at the CV Fair with very positive face-to-face customer interaction with new and current players. Events like these are a challenge for a small staff like ours because we are required to operate at the fair for 12 hours and still run our office. It does take overtime, and we rented two cars to limit our travel costs (both of which I know are items of attention). Our total costs for doing this event just about equal the expense to produce one TV ad (and we still have to pay to place it on the air). The one-on-one impact we have with thousands of people in our booth, and the huge growth we had on social media from our contests, has me relating the cost to marketing and not solely to payroll and travel. Let me know if you need to know what the OT and travel expenses were. We will know that next week.

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Brian R. Searles**  
**DATE: Friday, September 6, 2013**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR & STAFF (Short Report)**

**Taftsville Covered Bridge Opening – Quechee-Woodstock**

I'll be standing in for you on Saturday. I know you've been there already so if there are any impressions of the project you want me to share I'll be glad to do that; otherwise I have some project-related talking points and will bring your best wishes.

**State Airport News**

Newport – FAA has accepted and formally approved our forecast data for the 1,000 foot runway extension and FAA officials including the Regional Manager, Senior Engineer and Financial Officer are meeting with our Aeronautics staff at Newport this week.

Middlebury – Guy Rouelle reports that a potential investor has shown great interest in the Middlebury State Airport and wants two medium-sized hangars, one for personal use and one for aircraft storage. She also wants a helicopter flight school to be based there. Her name is Martine Rothblatt and she is the founder of XM Satellite Radio.

**Jay Peak Access Road**

As you know we are currently doing an engineered reclamation paving project on the entire length of Rt. 242 from Montgomery to the Town of Jay; over this year and next we will spend close to \$10 million on this job. In addition, at the request of Bill Stenger, we are facilitating the paving of the town road that goes from Rt. 242 to the resort entrance. This has involved encouraging the town to formally designate the road as a Class 2 town highway for the purpose of qualifying it for a grant next year which the town of Jay will request. We have assigned Dale Perron, the DTA for District 9, to work with Bill's team and the Jay town officials to be sure this goes smoothly.

**I-89 Exit 16 Improvements (Circ Alternative Project)**

Because this project (Double Crossover Diamond) is less than 10 acres it won't independently trigger Act 250 jurisdiction, however it will trigger "amendment jurisdiction" as it touches or affects several pre-existing developments which already have their own Act 250 permits. We will have an application ready to submit in the next couple of weeks.

It would appear that the owners of two nearby gas stations, R. L. Vallee, Inc., and Timberlake Associates (Simendinger/Champlain Farms) will oppose this project as it facilitates competition from proposed Costco expansion and gasoline sales.

**Irene Situational Report**

We continue to make progress on our Irene repairs, on top of our regular work, although a significant portion of work remains. To date \$188 million has been spent on state road and bridge repair (\$165 million FHWA-ER funds; \$22 million state T-funds; \$1 million towns/local funds). This includes completing 10 bridges, with 5 more expected to be done by winter, and another 5 under development. The Operations team is about 60% done their work per below.

**Operations Division**

<b>All District Irene-Related FHWA ER Sites</b>	<b>This Week</b>
Total sites	667
Total sites complete	493
Total sites under construction	52
Total sites awarded not completed	60
Total sites ready for bid	49
Total sites scoping/design complete	58
Total sites no activity	21
Total sites given to PDD	52
Total sites on hold ROW/ENV	25

**Motor Vehicle Crash Facts: 2013 Fatal/Fatality data received to date**

Fatal Crashes **August 27 – September 2, 2013:**

- 8/30/13: Westmore – VT 5A. Three vehicle crash involving motorcycle. MTC driver fatality, helmet use unknown.
- 9/1/13: Winooski. Two vehicle crash involving a motorcycle. MTC driver fatality, helmet use unknown.

-2013 Fatalities: **46 Total** - **32** vehicle operators (1 snowmobile, 6 motorcycle, 2 ATV), **12** passengers (1 motorcycle & 1 ATV), and **2** pedestrians.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** September 6, 2013

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**Vermont Department of Health (VDH)**

**Chittenden Hub:**

HowardCenter (HC) has received US Drug Enforcement Administration (DEA) and Substance Abuse and Mental Health Services Administration (SAMHSA) certificates of approval to operate their new Hub location on Dorset & San Remo in South Burlington. They will begin transferring clients slowly from the Twin Oaks location on Friday. Long-term stable clients will be the first to transfer to ensure a smooth start-up. All new clients will start services at the current University Health Center (methadone program) location. HC will be working with South Burlington High School to ensure security in their parking lot. There will be no press conference, but a media advisory about the opening will be sent out on Friday afternoon. The directors will be available for press questions or an onsite tour.

**Free My Ride (Smoke-free Cars) Campaign:**

Commissioner Chen is scheduled to be on WCAX “The 30” program on September 5<sup>th</sup> at 5:30 pm along with two of the students – Hannah Crowley and Mai Linh – who appeared in the ‘Free My Ride’ YouTube video created by the VDH. A press release on the campaign was issued September 4<sup>th</sup>.

**Department of Mental Health (DMH)**

**Brattleboro Retreat (Retreat):**

On September 4<sup>th</sup>, the Retreat notified both the Administration and the DMH that an individual in their intensive outpatient program died earlier in the day which may be a completed suicide. Notification to the Chair of the Mental Health Oversight Committee (MHOC) as well as the Chair of the House Committee on Human Services was made. An investigation is underway.

**Mental Health Oversight Committee (MHOC)**

Per Act 50, the MHOC wants more information about Level 1 in all hospitals, emergency rooms and corrections, in order to help them determine the number of beds needed at the Vermont Psychiatric Care Hospital in Berlin. A letter from Sen. Fox and Rep. Pugh was submitted to Commissioner Dupre indicating that “The members of the MHOC have not yet received this data, and in light of the approaching meeting respectfully request that the monthly updates be forthcoming”. Commissioner Dupre and staff have given them this information, as well as testimony at the MHOC meetings, but will try to determine exactly what additional information is needed.

Therapeutic Care Residential (TCR) Regulations postponed:

The TCR regulations were postponed again. This is the result of a clause which was added to the regulations (requested by advocates), that the secure residential facility follow the Emergency Involuntary Procedures Rules which do not presently exist.

Emergency Involuntary Procedures (EIP) Rules postponed:

The EIP Rules were also postponed. Rutland Hospital's Psychiatrist and Psychologist said the rule in general is fine. Their only objection is to the requirement that a Licensed Independent Practitioner (LIP) complete a face to face assessment within an hour. An LIP is defined as psychiatrists, physicians, advanced nurse practitioners, and physician assistants. The one hour rule for face-to-face assessment is a Centers for Medicare and Medicaid Services (CMS) rule. The difference is that CMS allows a specially trained Registered Nurse (RN) to perform the assessment within one hour. The hospital supports this same standard being used in the EIP Rules. One reason given by the hospital for not promulgating higher standards than those required of hospitals by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and CMS was that it would be nearly impossible to hire and maintain 24/7 LIP coverage. In addition, it would add tremendous cost to the system for the less frequently occurring emergency involuntary procedures.

The Advocates spoke against the rule because they believe it is not as restrictive as the Vermont State Hospital (VSH) rules where only physicians were employed. They argued that the rule did not comply with Act 79 with regard to statutory language requiring patients have the same rights and protections as at the VSH.

DMH was asked to go back and try to resolve the differences between the two parties. This may be unlikely given it is a highly polarized issue between the interested parties.

Press (Brattleboro Reformer) shows up at LCAR to hear about the Governor's comments on court ordered involuntary medication:

On Thursday, press showed up at LCAR because the Vermont Public Radio (VPR) mistakenly stated that this issue was going to be addressed at their committee meeting. Most left when they found that this was not the case; however, we should be prepared for questions. Commissioner Dupre expects this topic will now become a focus of the Summer Study Workgroup, which is exploring involuntary treatment law changes, as well as at the Transformation Council and Adult State Standing Committee.

WCAX:

WCAX is currently running segments on suicide prevention. DMH staff have been interviewed and will be speaking to youth suicide prevention efforts in Vermont.

Emergency Room (ER) Waits:

The wait time in ERs and Corrections for level 1 hospital beds is a continuing problem.

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

### **APS (Adult Protective Services) Settlement:**

E-mails to Commissioner Wehry have been congratulatory and appreciative of the resolution of the litigation. Press has largely adopted the conciliatory tone of the parties to the agreement.

### **Joint Fiscal committee counters recommendation by Health Care Oversight to spend Choices for Care (CFC) savings on moderate needs group:**

Commissioner Wehry received a letter from the Health Care Oversight Committee recommending spending the CFC reinvestment dollars to address a waiting list for homemaker services. A follow-up letter from Joint Fiscal advised that it would be inappropriate to do so. Michael Sirotkin (COVE), John Shullenberger (AAA), Peter Cobb (Home Health), and perhaps others are lobbying heavily that the money be released in advance of the Budget Adjustment Act (BAA), as called for in the Budget Bill.

### **Testimony before Joint Fiscal to address Developmental Services budget and Choices for Care reinvestment savings:**

On September 11<sup>th</sup>, DAIL will report the lack of success by the legislative work group in identifying \$2.5M in savings in FY14 through delivery system reform. The work group did identify some ideas that could save money in the longer term. Merely talking about trying to curtail spending in developmental services has energized a small but vocal group of families who fear the loss of programs. You could be hit with this on Friday at a public appearance in Brandon. Regarding Choices for Care, DAIL does not recommend trying to mitigate all the effects of the sequestration but would like to seek spending authority to fund senior nutrition programs hardest hit by the federal sequestration. We consider these core to better health and maintenance of independence at home.

### **Therapeutic Community Residence Regulations blocked at 11<sup>th</sup> hour: (See DMH report above)**

The Final Rules remain in limbo. DMH and DAIL attorneys requested and received an extension. Failure to pass will jeopardize the secure residential facilities put in place by DMH.

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

### **Untimely Inmate Death:**

On August 30<sup>th</sup>, staff found Robert Mossey hanging in a closet used to store cleaning supplies. Mr. Mossey was taken to the hospital where he was pronounced dead. As this was an untimely death Vermont State Police are investigating. As per recommendations of the Marks and McLaughlin report all materials have also been turned over to the Department of Human Resources Investigation Unit. An investigation by the Vermont State Police (VSP) will focus on manner of death; DHR should focus on whether any staff misconduct occurred. The DOC, with an outside party, will also be reviewing the incident from a policy perspective.

### **State Auditor Contact:**

The DOC has received notice from the State Auditor's Office (SAO) that they will initiate re-audits of the state's sex offender registry and DOC sex offender caseloads at the end of this month.

### Vermont DOC on New England Cable News (NECN):

NECN did a very positive story last night called: “Cellblock to workforce: Job training for Vt. prison inmates” which was about a DOC Vermont Works for Women partnership.

### Population:

The incarcerated population remains high with the presentenced population averaging 448. The male population averaged 1,958 and the female population averaged 160. The DOC maintained an out of state population of 471 inmates.

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

### Income Requirement Changes in General Assistance:

The General Assistance Emergency Housing Program’s emergency rules stipulate that applicants spend 50% of their gross income toward their own housing costs. Some legislators have asked how DCF’s Economic Services Division arrived at this figure.

The current emergency rules replaced a long-standing requirement that applicants spend 100% of their net income – after paying basic needs (receipts were required) – toward their housing before GA would kick in. Both aspects of this policy, producing receipts and the 100% threshold, were onerous and time consuming for applicants and staff.

The temporary guidelines instituted in 2009 reduced the spending requirement to 80%; the new rules have further reduced that amount to 50%, with one nuance. The new rule requires expenditures of 50% of the household’s *gross income*. This policy eliminates the need for applicants to track down receipts and relieves valuable staff time documenting applicants’ expenses. While allowing families to retain a portion of their income so they move into more secure and permanent housing, this new policy strikes the right balance between our obligation to support Vermont’s most vulnerable and asking Vermonters to fully use their resources to support their families.

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

### Vermont Health Connect (VHC) Update

VHC Customer Support Center Update – VHC opened its Vermont-based Customer Support Hotline on September 3rd, which is available to anyone with questions about getting health coverage through the new insurance marketplace. Through the hotline, Vermonters can learn more about what VHC means to them, their families and their businesses.

VHC Command Center/Contingency Planning – VHC is working with CGI to develop a “Command Center” to complete all readiness activities prior to “go live” and respond to and address any issues that arise in the two weeks thereafter. Additionally, staff are actively engaging in a contingency planning process to minimize risk and ensure an optimal customer experience for Vermonters.

### State Innovation Model (SIM) Update:

Comments from State Innovation Model (SIM) Steering Committee related to the draft Medicaid Accountable Care Organization (ACO) Shared Savings Program (SSP) were received on

September 4<sup>th</sup>. A revised proposal is being produced and will be shared by the Chair to the SIM Steering Committee and SIM Core Team in the next week. The release of the Request for Proposal (RFP) is expected in late September and launch of the program slated for January 1, 2014. DVHA will continue to update on the progress of the program and any adjustments to the timeline in future reports.

All legislators VHC briefing:

Commissioner Larson, Robin Lunge and Deputy Commissioner Lindsey Tucker participated in a conference call for legislators hosted by JFO, the Speaker's office and the Pro Tem's offices.

Seven Days:

Commissioner Larson will be meeting with Ken Picard of Seven Days. Ken is planning a front page story for the September 18<sup>th</sup> issue.

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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:** September 6, 2013

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**Secretary's Top Issues:**

**Growth in Meat Processing Industry** - Increased meat inspection needs continue to require supervisory personnel to cover line duties and the program continues to ask USDA to provide some coverage at the cross-utilization plants. The need for another inspector is becoming more and more evident. Determining funding for position – federal, special and general funds.

**Mosquitoes/EEE** – Initial efficacy analysis of the aerial applications made in late August (August 22 and 27) indicate efficacy rates of approximately 69% overall in the treatment block, and 92% efficacy when only the secondary EEE vector species, *Coquillettidia peturbans*, was examined. This result is based on samples obtained both prior to and post treatment, and suggests the treatments were effective.

**EEE in Highgate** - As a result of the EEE positive equine case in the Highgate area (A horse was euthanized when diagnosed with EEE on August 30), we will be increasing our trapping efforts in the Swanton/ Highgate/ Alburgh area.

**Chlorpyrifos Misuse Update - Bedbugs.**

The Agency received conformation today that Region 1 EPA staff will be arriving next week to begin to assist our efforts with scheduling appointments for sampling on the next set of properties. 51 properties are to be sampled for chlorpyrifos.

**Hemp Registration** - The hemp registration form is now available online, and can be accessed through the agency homepage.

**Dairy Recall** - A dairy plant in Vermont is undergoing a voluntary recall on their pasteurized soft cheeses due to potentially inadequate pasteurization. The plant is Blythedale farm, the principle owners are Becky and Tom Loftus, in Corinth, VT

**Maple Industry Concern:** Two large (200,000 taps and 1 million taps) maple operations are proposed for VT with Canadian ownership. There is nothing illegal about these two operations but may raise the ire of local maple producers.

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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:** September 6, 2013

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**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

State veterinarians offered input on the EEE press release issued by the Dept. of Health, indicating that one horse has died as a result of the disease.

**Significant Events/Meetings:**

A dairy plant in Vermont is undergoing a voluntary recall on their pasteurized soft cheeses due to potentially inadequate pasteurization.

- Pasteurization regulations on vat pasteurizers have required temperatures for both the product and the air-space above the product.
- The air-space temperatures were over 5 degrees lower than required presenting a risk of product on the surface of the vat not reaching the required temperatures.
- FDA has been notified and the Agency is overseeing the tracking of all product as it returns and is disposed of.

**Evolving Issues:**

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Dr. Haas is working with Dr. Fredric Cantor, USDA Area Emergency Coordinator, to develop a meeting agenda for the New England Veterinary Medical Association Leadership meeting scheduled for September 27<sup>th</sup>.

- AH is following up with the Vermont Fair Association regarding a country fair who requested drug testing for their horse pull but cancelled the drug testing at the last minute and after the Agency already expended a significant amount of resources.
- AH is conducting three tissue residue inspections on dairy farms, bringing the total for the federal fiscal year to approximately 15.

**Summary of Key Agency Department Activity:**

**Administration**

- Berlin Lab location now has wireless and it may work better than the hard wires.
- NOFA and the Agency have been working together to map the organic farms in the State. It has been working great and the first maps were created to add buffers for the EEE spraying.
- Final Statement of Work and pricing for the new Dairy project is almost complete. Should have more news late next week.

- IT section currently working to clean up the phone tree on 2430 and cleaning up the State directory.

### **Agricultural Development**

**Rural Enterprises** – continued discussion in house on how to regulate land use regarding ag related rural enterprises. Current exemption for agriculture from local zoning is being expanded to fit valued added ag related rural enterprises. There are no specific statute or rules governing these enterprises and the Ag Agency is looking at methods to involve towns and farmers to clarify zoning affects on this burgeoning sector in Vermont.

**GMP Cow Power Next Generation** – Alex DePillis, Sr. Ag Development Coordinator and Deputy Secretary Bothfeld met with representatives from GMP to continue to move the project forward. Ag Agency is responsible for a farmer survey, GIS mapping and setting up a meeting with stakeholders to brainstorm all the possibilities surrounding methane digestors and related add on ag activities like green houses, algae etc.

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

- A Food Safety and Consumer Protection Division Section Chief meeting was held this week to follow up on topics discussed at the Directors' retreat.
- Dr. Haas and Consumer Protection Chief, Henry Marckres, met this week with the business office to discuss ways in which the processing of weights and measures and retail licenses could be further streamlined.
- The Food Safety and Consumer Protection annual Division retreat was held this week; among other things, the Division strategic plan was reviewed and the group brainstormed on ideas for field staff cross training.

Animal Health (AH) is issuing an NOV to a cervid producer who shipped three cervids to slaughter without obtain a movement permit.

AH is issuing a LOW to a cervid producer who is non-compliant with Vermont's Rules Governing Captive Cervidae

The dairy section is overseeing four new plants that are currently under construction.

- The plant inspectors already have a full work load and we are in need of an additional plant inspector.
- To manage the boom in plants we have already:
  - Stop sampling water in plants that are supplied with municipal water supplies unless the plant exports product and then USDA requires the water to be sampled.
    - This has minimal public health risk where the overall municipal supply is sampled through ANR but that testing does not cover internal plumbing of the facility
  - Creamee stands are only being inspected on a complaint basis
    - The downside is there are problems out there and consumers are finding them so we are in reaction mode. A proactive program would be safe and better for the industry
- Next steps will include
  - Reduce inspection intervals on non-grade A plants from quarterly to semi-annual.
    - State statutes only require semi-annual inspection on plants
  - Grade –A regulations require quarterly inspection so that will have to continue
    - Had this reduction in interval been in place the recall noted above would have exposed the public to the potential risk for 3 months longer

Maple Industry Concern:

- Henry Marckres, Consumer Protection Chief expects reported changes in new maple operations in a couple areas in the state. New maple operation going into the Rutland area by a Quebec contractor. The

report is that a very large sugar house is being built now, and a plan of up to 200,000 taps in total. The report said that there would be Canadian workers coming down to tap, run lines, etc. exact location of this operation is unknown.

- Town of Island Pond, reports that Bernard's Maple of St. Victor, Quebec, was going to be leasing to buy the REM building from the town and was actively pursuing leasing taps from area land owners. The plan is to produce syrup in the building from up to 1,000,000 taps. Report included that Bernard's had reached an agreement with Plum Creek, a large land owner in that area. These two operations may change the face of maple production in VT but are legal.

While the addition of new businesses is wonderful, especially in the Northeast Kingdom, I have a couple of concerns.

First, will these businesses utilize a Vermont work force, or will they bring current employees down from Quebec.

Second, I am concerned about our signature product becoming a commodity, and not a specialty product as it is now. This could, and probably will, affect the bulk price of Vermont syrup.

Last, the President of IMSI, Yvon Poitras, sent a message to IMSI members that several Quebec operations are buying up maple businesses in New Brunswick as well. His concern is that the operations will "launder" Quebec syrup through these businesses, skirting the quotas and charges that Quebec syrup is supposed to follow.

I wanted you to be aware of the situation, and possible issues.

#### Meat Inspection

- Compliance is investigating two cases in which on-farm slaughter took place under H515, but the requirements of H515 were not met by the farmer. Associated with H515, meat inspection section has received no reports of on-farm slaughter taking place in the state to date. This is a monthly reporting requirement of the law for farmers slaughtering under H515.
- The State inspected poultry plants continue to add slaughter inspection days to their schedules due to increased demand for the products that they produce
- Increased meat inspection needs continue to require supervisory personnel to cover line duties and the program continues to ask USDA to provide some coverage at the cross-utilization plants. The need for another inspector is becoming more and more evident. It should be noted that any positions within meat inspection section receives 50/50 funded by the federal government for state inspection work and 100% funded when the state inspectors are used to cover federally inspected plants. The lack of Food Safety Specialist not only restricts the growth of the industry but also will result in less funds coming into the state from the federal government. So far this year, Jan 2013 through Aug 2013, the program has generated over \$150,000.00 in cross utilization funds being reimbursed to the state. Without more inspection staff the program will have to give up covering the federal plants in order to cover the state plants resulting in a 50% loss in revenue to the general fund
- Due to supervisory staff covering line duties, review of a new slaughterhouse project proposed for Williston had to be rescheduled

## **Agricultural Resource Management**

### **MFO and LFO Programs:**

- Staff conducted two technical assistance visits to assist Medium Farm and Large Farm Operations (MFOs and LFOs) with Best Management Practice (BMP) solutions as well as MFO and LFO Program rules.
- Staff conducted an additional compliance evaluation at the Four Hills Farm in Bristol, which is a permitted LFO, due to concerns that the farm is installing multiple satellite manure pits in New Haven and that they have an uncertified structure at their main facility. It appears that the farm was receiving unpermitted wastes into their waste storage structure at their main facility. Staff are communicating with ANR and the waste generator to decide appropriate next steps for VAARM regarding the situation. We are also working with NRCS so that the farm can get certified waste storage structures.
- Staff responded to one complaint about odor from manure spreading. The applications were made to the fields associated with a LFO and the fields in question appeared to have appropriate application rates and setbacks. The farm owner was not available to discuss the evaluation during the visit and this is an annual complaint from a neighboring property owner who feels that farms should not be allowed to spread manure.
- Staff are continuing to work with the Assistant Attorney General regarding the Nelson Farms. This includes gathering and reviewing information regarding our investigations of the Nelson's farms over the last several months.
- Staff processed applications and sent out 22 grant agreements for winter cover cropping and other practices as part of the FY2014 Farm Agronomic Practices (FAP) program. Total grant funds obligated thus far in FY2014 is \$72,451.00 and is for 3,112 acres of anticipated practice implementation outside of the Lake Champlain Basin. UVM Extension is administering the FAP program through a grant with VAAFM for the Lake Champlain Basin.
- To assist in the workload demands brought on by the current pesticide investigation, MFO/LFO staff are continuing to respond to all AAP complaints on small farms until further notice.
- Staff are working on a water sampling initiative with ANR and MRBA (Missisquoi River Basin Association) in Godin Brook which is a tributary to the Missisquoi River. Water sampling starts this week.

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

- Staff attended farm tours conducted by the Franklin Watershed Committee of two MFOs near Lake Carmi to discuss and look at silage leachate collection and treatment systems. Many of the participants on the tour were camp owners on Lake Carmi. This was an education tour for the public to learn about how farms manage wastes and to view some of the infrastructure that needs to be installed for successful management.
- Staff is continuing to work on a potential invasive plant issue within CREP plantings and where funding may come from to help remove potential invasive species planted in CREP projects. Sites have been surveyed as part of this effort and conversations have been with NRCS and FSA.
- Staff is continuously working on project develop, processing paperwork and management of CREP projects.
- Staff is working with the NRCS state engineer about an EQIP project in Swanton that includes a bridge and a CREP planting.

### **Plant Industry Weekly, September 6, 2013**

- **Mosquitoes/EEE** – Initial efficacy analysis of the aerial applications made in late August (August 22 and 27) indicate efficacy rates of approximately 69% overall in the treatment block, and 92% efficacy

when only the secondary EEE vector species, *Coquillettidia peturbans*, was examined. This result is based on samples obtained both prior to and post treatment, and suggests the treatments were effective.

- **EEE in Highgate** - As a result of the EEE positive equine case in the Highgate area (A horse was euthanized when diagnosed with EEE on August 30), we will be increasing our trapping efforts in the Swanton/Highgate/Alburgh area. On the bright side, cooler temperatures forecast for the next week or so should help reduce the numbers of mosquitoes flying at night, and consequently the chances EEE will show up in more horses, or in humans.
- **HEMP Interest** - The recent Department of Justice announcement that the DOJ will not interfere in jurisdictions where marijuana has been decriminalized and appropriate state and/or local regulatory mechanisms regarding cannabis production, use and distribution have been enacted has attracted considerable attention in the pro-hemp community. Whether the DOJ will allow unimpeded hemp cultivation in Vermont remains to be seen, but the expectation in that community is that DOJ will leave registered Vermont hemp farmers alone.
- **Hemp Registration** - The hemp registration form is now available online, and can be accessed through the agency homepage.

### **Chlorpyrifos Misuse Update - Bedbugs.**

- The Agency Received conformation today that Region 1 EPA Staff will be arriving next week to begin to assist our efforts with scheduling appointments for sampling on the next set of properties to be sampled. 51 properties are to be sampled for chlorpyrifos. The EPA will assist with setting up the appointments as well as sampling of the residences. Teams will be deployed in Rutland and in Burlington. The Burlington teams will be managing the data and assisting with the creation of a database to support sampling and clean-up efforts. We will be supporting their efforts with field staff training the EPA contractors as well as continuing to run some of the samples at our laboratories. EPA Region 1 staff has suggested that we may know as early as tomorrow if they have been given approval from EPA Head Quarters to assist with the clean-up efforts as well.
- Last week the Agency's efforts involved working with a hired contractor to test detergents and solvents to be used in cleaning residences. Clean up procedures and methods will be developed and provided to homeowners and contractors as soon as results from our lab are finalized. We tested 4 different cleaning agents on multiple surfaces and are awaiting results to determine efficacy of the cleaners.

**EPA TMDL:** VAAF and DEC met to discuss progress on the Lake Champlain TMDL. EPA is using an approach to model the lake's capacity and the load reductions needed, and then modeling the implementation effect of conservation practices to see if the water quality targets can be met. There are some real limitations with models including the inability to model everything that is actually done and an alternative logic used to make the model run scenarios that create a similar expected response without actually modeling the reality. The next step is to rethink some of the modeling inputs to see if we can get a more accurate scenario. However, it is clear there is some heavy lifting to do to meet water quality standards.

**Certainty:** VAAF and DEC are meeting with environmental groups tomorrow to discuss a draft framework for a Certainty plan per a USDA grant agreement that VAAF has secured. The Certainty Framework draft should be finalized for NRCS by the end of this month. Currently the VAAF draft is more focused on creating incentives rather than regulatory certainty.

**NRCC:** The Natural Resource Conservation Council is in the process of reviewing their statutory language. VAAF is providing input into this process as a member of the council. There is no clear indication whether this will be something that NRCC will seek changes this legislative session, next session or if ever.

**AG's Office:** VAAFM and DEC are in the process of building a case with the Attorney General's office for several farms owned by Nelson Inc. in Orleans County. This is a new and separate case from the current "Coventry Farm" case that the AG's office is currently in the process of resolving.

**CREP:** VAAFM is in the process of trying to reclaim funding from CREP agreements where the terms were breached by the farm. We have been seeking assistance from our legal staff and will be requesting interim assistance from the AG's office while our attorney is on medical leave.

Pesticide Program

### **Compliance**

The ARM Division responded to a request for records associated with the AAA Accredited Pest Control pesticide misapplication (bed bug) investigation. The records were hand delivered to the requesting party on Tuesday.

### **Land Use/ Zoning**

- A variance has been requested by a resident in Westford to allow an existing maple sap collection shed to remain within the town's Water Resources Overlay District (WROD). The WROD establishes a 100 foot setback to wetlands – which is an additional 50 feet beyond what is required under the State Wetland Rules. Unfortunately, the sap shed may be located within the State-mandated 50 foot buffer to wetlands. We are working with DEC wetlands staff to ensure that the structure location does not violate DEC Rules.
- A variance was issued to a farmer in Westford to allow for the construction of a maple sap collection shed within Westford's Water Resources Overlay District (WROD). This structure is outside of the state-mandated 50 foot buffer to wetlands, but within the Town's 100 foot buffer.
- A variance was issued to a farmer in Westford to allow for the re-location of two structures used to house maple sap collection equipment within the town's setback to road centerline. The structures were re-located in order to facilitate collection of sap from a newly acquired sugarbush.
- A variance was issued to farmers in Cabot to allow for the construction of a greenhouse within the town's setback to road centerline.
- An Agency "ag exemption" opinion was provided for a custom slaughter goat facility in Colchester. The facility will allow customers to select the goat of their choice and have it slaughtered on-site. At least 51% of the animals slaughtered at the facility will be raise on the farm, so the facility meets the AAP definition of "farm structure" and is exempt from local zoning requirements.

### **Secretary's Comments**

Meetings/Events:

**VAAFM Directors Retreat, Hinesburg:** Spent day with VAAFM leadership reviewing work and planning for year ahead. Budget, staffing demands for growing meat and dairy economy were central concerns as were legislative issues, particularly GMOs, water quality and FSMA. Strategic plan was reviewed and will be further reviewed at staff Division level for further input.

**TMDL with EPA and ANR, Montpelier:** met with EPA and ANR officials to review the status of the TMDL being developed for Lake Champlain to replace the previous TMDL that was vacated a few years ago. Expressed concern for the need to improve the lake while not damaging economic health of the state. Green Mountain Federation: met with this group of VT dairy leaders who employ Jane Clifford as their spokesperson and staff. Discussed range of issues of concern now and in the upcoming legislature. Current Use, FSMA and GMOs were of concern as was the relationship between dairy and other agriculture in the state. Forest Roundtable, VTC Randolph: will participate in Friday morning roundtable discussion of forestry to draw upon the lessons learned by agriculture that may be instructive to growing the forest economy in VT.

NASDA Annual Meeting, North Carolina: leave at end of Friday for Annual meeting. Will return on Thursday. Expect to discuss FSMA , Farm Bill, invasive species and other national policy issues. Anticipate being elected President of NASDA.

**Executive Assistant Interviews, Montpelier:** interviewed applicants for position. Narrowed field and may have one or two more to interview before moving to second round.

**PRESS:**

Fielded a few questions from press on FSMA. Response will be call for comments by Vermonters and for second draft by FDA prior to Draft Final Rule issuance

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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:** September 6, 2013  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Waterbury State Office Complex:** Staff received the permit application for the new heat plant at the Waterbury State Office Complex. We've noted some technical deficiencies, requested corrections, and are waiting on State Buildings to provide a tentative construction schedule. We do not anticipate any significant issues with issuance of a permit since the new wood boilers will be equipped with a device to control particulates.

**Troy-Jay Sewer Line to Jay Peak:** Troy-Jay consultants and staff have come to final agreement on the project design. All agreed to operational conditions that would mitigate the deviations from the design standards.

**Labor Day Attendance** The parks were FULL! We haven't seen attendance data from the weekend yet, but the call center posted weekend camping availability every day during the week leading up to the holiday, and most of the parks had every single site booked. Only a handful of parks had one or two campsites available.

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**EVERYTHING ELSE:**

**Legislative Issues/Testimony:**

**Shorelands:** Another public meeting was held on Shorelands in Rutland this week. Legislators and DEC staff led the meeting, facilitated by the Regional Planning Commission Director. Well over 100 people attended. Concerns included whether or not the bill will be sufficient to protect water quality, property rights, and specific questions related to individual properties. We are looking into a more participatory public meeting model for future meetings.

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

**State Parks In The News:** Craig Whipple, Director of Parks, was featured on Fox 44 News Sunday talking about park attendance. Gifford Woods State Park was featured in an article in the Concord Monitor. Burton Island is being featured on NESN's "New England Boating" show.

**Fall Foliage Preview:** Commissioner Snyder participated in a fall foliage promotional video shoot at Seyon Lodge with Jen Butson from Vermont Travel & Tourism for their upcoming, "Seeing Is BeLeafing" series.

**Outdoor Wood-Fired Boiler Enforcement:** The Stowe Reporter released an article concerning the Morin OWB enforcement case, which is available at:  
[http://www.stowetoday.com/stowe\\_reporter/news/article\\_089494fe-10b7-11e3-9e48-001a4bcf887a.html](http://www.stowetoday.com/stowe_reporter/news/article_089494fe-10b7-11e3-9e48-001a4bcf887a.html)

**Bennington Wants to Sell Water to Bottlers:** The Town of Bennington released a press statement announcing its interest in selling municipal water to bottlers. Staff spoke to two media outlets about the issue (AP, VTDigger). Water would be bottled from an overflowing spring, and Bennington would need a permit for these withdrawals.

**Vermont Moose Hunt Auction Nets Over \$23,000 for Wildlife Education:** Vermont's seventh annual auction of five moose hunting permits closed on August 21, with \$23,704 taken in from the five winning bids. The auction helps fund Fish & Wildlife Department educational programs, such as the Green Mountain Conservation Camps for youths. Bids do not include the cost of a hunting license (\$22 for residents and \$100 for nonresidents) and a moose hunting permit fee (\$100 for residents and \$350 for nonresidents). Winning bidders can choose to hunt in any one of Vermont's Wildlife Management Units open for moose hunting. Auction winners were as follows: Marian Jusko, Connecticut, \$5150; Donald Davis, New Hampshire, \$4901; James Stinson, New Hampshire, \$4650; Colin Haas, Vermont, \$4502; Jeffrey Daignault, Massachusetts, \$4501.

**Agency of Natural Resources to Hold Public Hearings on Whipstock Hill WMA:** The Vermont Agency of Natural Resources is creating a new management plan for Whipstock Hill Wildlife Management Area (WMA) in Bennington County. The agency will hold public hearings to allow stakeholders to provide input on the plan. The Agency uses a rigorous public input process for developing long-range management plans to ensure all ideas and interests are properly considered. Located in Bennington, the 425-acre Whipstock Hill WMA is dominated by Whipstock Hill. It contains large deer winter areas and state significant wetlands. General information about these lands is available at <http://tinyurl.com/Whipstock13>.

**Controlled Waterfowl Hunt Application Deadline is Sept. 16:** Applications are available for controlled waterfowl hunting permits to be used at two Vermont Fish & Wildlife Department wildlife management areas. Hunting under controlled conditions for ducks at Mud Creek in Alburgh and geese at Dead Creek in Addison has been popular since the early 1970's. Permit applications for these two areas are available on Fish & Wildlife's website ([www.vtfishandwildlife.com](http://www.vtfishandwildlife.com)). Printed applications are available at Vermont Fish and Wildlife offices in Montpelier, Essex Junction, Addison, Barre, St. Johnsbury, Springfield and Rutland. Applications must be filled out correctly and postmarked no later than September 16. There is no fee to apply.

**Fish & Wildlife Dept. Unveils New Online Hunter Education Registration:** The Vermont Fish and Wildlife Department is encouraging new hunters to sign up now for a hunter education course through its new online registration system. The new system allows hunters to search for courses in their area and to enroll online. All new hunters, trappers, and bow-hunters in Vermont must pass the required hunter education course before purchasing a license. Courses are offered in either a classroom environment or through a home study program. Both classroom and home study course options include a field component with an instructor.

**Vermont Has Two Bear Hunting Seasons Bear hunting starts Sept. 1:** Vermont now has two bear hunting seasons. The early bear hunting season, which requires a special bear tag, starts September 1 and continues through November 15. The late bear season begins November 16 and continues through November 24. The bear tag that comes with a hunting license is for use during this late season. This season has been extended four additional days during the November deer season. The early season bear tag costs \$5 for residents and \$15 for nonresidents. A hunter may only take one bear during the year.

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

**Governors Will Sign Zero Emission Vehicle MOU:** Governors from seven states (California, Connecticut, Maryland, Massachusetts, Oregon, Rhode Island and Vermont,) have agreed to sign an MOU promoting Zero Emission Vehicles (ZEVs). The MOU identifies a number of actions states will take individually, and collectively, to help promote a robust national market for ZEVs. The signatory states are drafting a joint press release and planning to announce the MOU on September 26<sup>th</sup>, just before national plug-in day.

**Vernon Dam Relicensing Studies Impacted by Vermont Yankee Closure:** In light of Entergy's announcement that Vermont Yankee will shut down in late 2014, TransCanada has requested from FERC additional time to revise its proposed licensing studies for the Vernon Hydroelectric Project. The studies are intended to determine a baseline, which now includes VY's use of the Vernon pool as a source of cooling water. That baseline will change next year, which could have a bearing on the scope, methods and timing of the studies. We have filed a letter supporting TransCanada's request.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

#### **Air Quality & Climate Division:**

**EPA Site Inspections:** EPA Region 1 is performing several site inspections in Vermont: All Metals Recycling in Hardwick; Shelburne Limestone Corporation in Wallingford, Shelburne, Swanton; OMYA facility in Middlebury; and Pike Industries in Swanton. All Metals Recycling is being inspected because the facility may utilize a shredder, potentially releasing significant VOCs from painted metal. The limestone quarries will be inspected as part of an initiative to identify facilities using a kiln to dry finished crushed limestone material. We do not believe EPA will find that these quarries are in fact utilizing a kiln for drying purposes.

#### **Watershed Management Division:**

**Deformed Frogs in Woodbury Lake:** A report of several deformed frogs has been received, from Woodbury Lake. While this is not unprecedented, the nature of the deformities is more different than typical. Staff will visit the area to determine if there may be a localized chemical contamination signal. Previously, amphibian deformities in the Champlain Basin were an issue significant media and citizen interest in Vermont.

**Long Island Sound TMDL Interim Permitting Plan:** EPA Region 1 has given final approval to the Department's interim permitting plan for wastewater treatment facilities on the Connecticut River in connection with the Long Island Sound TMDL. This was the last outstanding item specified in the corrective action plan for resolution of the NPDES de-delegation petition.

**Shadow Lake, Glover:** Ann Bove had a good meeting at Shadow Lake in Glover regarding control options for the new Eurasian watermilfoil infestation in that lake. Sen. Rogers was in attendance and implied he wants to see action on milfoil coupled with the Shoreland bill.

#### **Fish and Wildlife**

**Dumpster Recon:** Staff did recon evaluating bear-human conflicts in Killington. A bear has caused problems at Gifford Wood SP as it has been persistent in trying to get garbage from their dumpster despite them taking steps to make it bear proof. Determined the bear doesn't constitute much of a human safety problem and that the park folks could do more to make the dumpster bear-proof and to scare the bear. The Park is not a good situation for using the bear trap. Did note that bears are gaining free access to a nearby dumpster at the Telemark Village and that the owners need to take measures to bear-proof their dumpster.

**More Muskellunges!!!** Staff coordinated travel to NYDEC's Chautauqua Hatchery in western NY to collect 7,580 surplus muskellunge fingerlings for stocking into Missisquoi River and Missisquoi Bay. Since 2008, over 30,000 of these fish have been stocked into the Missisquoi River and Missisquoi Bay in an attempt to restore a viable muskellunge population to Lake Champlain. Lake Champlain is the only lake in New England to which muskellunge are native. This year, for the first time, muskellunge were also stocked above Swanton Dam up to the Highgate Falls Dam. This is the last reach of the Missisquoi River that held a natural muskellunge population

**Watershed Grant Program:** Staff worked on changes to be made to the Watershed Grant program (WGP) for the 2014 project year. The goal is to improve the program and better align it with the Ecosystem Restoration Grant Program. The two programs have distinct funding requirements and can be made more complimentary. The WGP began in 1998 and is funded from half the proceeds from sale of the Vermont Conservation License Plate. The Departments of Environmental Conservation and Fish and Wildlife co-administer the Watershed Grants program. The program has been underway since 1998 and has thus far provided \$1,278,000 to fund 321 projects.

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

#### **State Lands Administration**

**ANR Land Transactions** Division staff met last week with the Bolton Development Review Board to review their decision regarding the proposed Lafreniere Sale Parcel subdivision. Based on the DRB's input, the Department will be evaluating options for moving forward and hopes to meet with the Bolton Select board in the near future once a decision has been made in this regard. The contractor for the barn stabilization work at this site will begin work this month and expects to complete this work by the end of October. Department staff will be holding a public meeting on September 23 in Plymouth to solicit input on the proposed sale of a 38-acre portion of Coolidge State Forest to Markowski Excavation which was authorized by the legislature this year. Work continues on other priority ANR land transactions including Stone donation at Rupert State Forest, acquisition of Benson inholding at Okemo State Forest, acquisition of Fitzpatrick inholding in Coolidge State Forest, land exchange at Alburgh Dunes State Park, and transfer of Woodchuck Mountain property to the Town of Newbury.

**Survey Section** Contract survey work at the West Shore Access Road at Groton State Forest is wrapping up. Survey work continues at Alburgh Dunes State Park.

#### **CONFIDENTIAL – ATTORNEY CLIENT PRIVILEGED – ATTORNEY WORK PRODUCT**

**Legal** The A. Johnson Co. (AJCO) currently holds the timber rights on two Long Trail parcels owned by the Department in the Town of Mendon. AJCO plans to sell these timber rights, along with additional land and timber rights they own in this region, to an individual who is proposing to develop a large (200,000± tap) sugaring operation on these lands. While the prospective new owner has been reaching out to area towns, the Department, and the Green Mountain Club

regarding his plans, he is moving very quickly to get the sugarbush set up for the 2014 sugaring season. AJCO believes the timber rights they own on the FPR parcels include the right to sugar. The Department does not agree that the timber rights reservation in the deed includes the right to sugar from a legal interpretation standpoint, and based upon the fact that maple sugaring is defined as agriculture in Vermont. Thus, the Department is seeking a legal opinion from the Attorney General's office on this matter. This issue has potential implications beyond the two FPR-managed state parcels in Mendon; AJCO also holds the timber rights on a number of DFW Wildlife Management Areas.

## **State Parks**

**Autumn Camping Season** With Labor Day comes the closing of about half of the state parks, but the other half remain open through Columbus Day.

**Cottages and Cabins** These continue to be incredibly popular; many folks don't care where they're located in the state, they just want to stay in them. We could fill additional cabins.

## **Forestry**

**Road and Infrastructure Projects** State lands staff in District 1 (southeastern area) are in full swing on FPR and WMA road and infrastructure projects and are completing the year's trail crew work. Two WMA road and parking projects are complete as is all the Forest Highway work this year's budget allowed. The use of umbrella contracts has simplified the process dramatically and has allowed crews to begin work soon after money was allocated. In District 2 (southwestern area), the contractor plans to begin reconstruction work on the CCC Road in Plymouth this week. This will be the final work on this road. With its completion, FPR will be able to open this state forest road to through traffic during the non-winter months. It also means that a major snowmobile route in southern Vermont will be available for recreationists this winter.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: September 6, 2013

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** We hosted an interagency meeting on Tuesday that went very well, discussing issues and next steps. We agreed to meet biweekly at least through the end of the year on the project. I am speaking with Mike Twomey weekly and hope to tee up issues and proposals for the discussion between you and Entergy's CEO later this month. We are awaiting the Board decision on our filing extension request to October 11<sup>th</sup>. Filings in the Vermont Supreme Court yesterday posed no change in positions at the moment. (EVY did give us a heads up about this filing) and the Court removed argument date of October 2<sup>nd</sup> from its calendar – with nothing scheduled thereafter, so it seems, properly, that they are putting this on the back burner for awhile.

**Net Metering:** PSD continues outreach on its proposal to key stakeholders and legislative leaders, and so far has had positive feedback from REV, VNRC, VPIRG, several developers, and GMP. We will continue to hone and tweak aspects of the proposal and will discuss legislative process with Louis Porter at our upcoming legislative check-in.

**VEIC/IBM:** We are doing our best to have IBM respond to the data management system RFP of Efficiency Vermont and for EVT and VEIC to be in a position to review it favorably. This will solve competing database issues and promote the deep thunder proposal IBM has floated with us and the utilities.

**VT Gas:** We are evaluating one potential routing issue that needs to be resolved and had a conference call today with VGS and VELCO to discuss feasibility of a route off the palmer's property and back on to the VELCO right of way. VELCO would be ok with that, VGS does not wish to do for other constructability issues. We are evaluating.

**NEG/ECP – NESCOE Studies:** We worked to roll back the hydro study release or results right now as the study limitations and assumptions needed a lot more work before being ready to discuss publically. NESCOE will discuss status in the slide presentation at NEG/ECP but NOT give even preliminary conclusions. Be aware that one "hypothetical route" for transmission from large hydro is through Vermont – as we authorized for purposes of modeling. There is no map or route specified as part of this analysis and the report is clear that this is for modeling purposes only.

**VTel:** Jim Porter and Kiersten Bourgeois went to VTEL yesterday to review its RUS application and I believe they feel that VTel represented to the federal government they'd cover at least 95-96% of addresses in the census blocks subject to the grant. We are working with ACCD and evaluating how this affects the 1700 unserved addresses previously discussed.

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

**Sept. 3:** PSD hosted interagency VY meeting; Chris and Darren meeting with Gabrielle Stebbins of REV on net metering and with Michael Dworkin and Kevin Jones of VLS on energy topics generally

**Sept. 4:** Chris meeting with Mary Powell; Darren meeting with Rebecca Ramos on net metering

**Sept. 5:** PSD/AG call with outside counsel to discuss decommissioning at VY

#### **Next week significant events/meetings:**

**Sept. 8-10:** Chris at NEG/ECP; James Bay Hydro on 8/10;

**Sept. 11:** VY Decommissioning meeting at EXE; Darren meeting with Scott Johnstone, Scudder Parker, and George Twigg at VEIC on 2014 legislative priorities

**Sept. 12:** Chris, Darren, and Ed McNamara in Boston for ISO System Planning meeting and NECPUC business meeting

**Media:** More VY stories focused on decommissioning, VPR and Caledonian Record (with reprints elsewhere) stories on GMP Lowell wind noise violations show cause briefs.

## **Everything Else:**

### ***PERD***

#### **Total Energy Study**

- “Electrification of all sectors” stakeholder meeting will be held this Thursday, September 5th.
- Alternative fuel vehicle (EV and natural gas) TES focus group brought staff up to speed on stakeholder thinking re: these two fuels, both of which are in early market stages, and mostly face barriers due to lack of consumer information and high upfront purchase costs.
- 15 private and public sector state energy leaders have confirmed attendance at the Capstone TES discussion, scheduled for September 16.

### ***Engineering***

#### **Gas pipeline inspection activity**

Several propane systems operated by Vermont’s largest propane marketer, AmeriGas, were inspected at their locations during this report period. Indications of possible violations of the state/federal gas safety code were observed and subsequently discussed with representatives of AmeriGas. The Gas Engineer also reviewed company records to substantiate pipeline safety related activities are completed adequately with-in time cycles which are specified by the code. A primary concern is the lack of determinations for Maximum Allowable Operating Pressure (pipeline system strength) and confirmation of adequate provisions to ensure overpressure conditions do not occur. Other areas of concern include corrosion protection, protection from outside forces, gas-meter locks, methods to locate underground piping, and qualifications of personnel who perform safety-related tasks. These items will be forwarded to a company officer via a written letter.

#### **Wind Turbine Sound Monitoring**

The Department met with representatives from Brüel and Kjær EMS Inc. (B&K), a sound monitoring company. The meeting also included Josh Castonguay of GMP and Ken Kaliski of RSG, GMP’s sound expert. B&K presented their equipment capable of monitoring 24/7/365 and recording actual sound and the direction of the sound source. This vendor appears to have both the expertise and equipment to do a full monitoring project with equipment fully traceable to national standard calibrations. B&K suggested that GMP initially monitor two locations, and then add others if noise issues are identified.

#### **Georgia Mountain Community Wind Farm**

The Department has been in receipt of a noise complaint at this project, and the complaint stated that there were “four fans at each turbine that were very noisy”. A quick review shows that each turbine has an external air cooler, each of which have four fans as part of their

package. The Department is researching the nature of these units and whether they were always part of the project.

## ***CAPI***

### **CONSUMER COMPLAINTS**

Complaint numbers for the period August 28th – September 3<sup>rd</sup> were nearly 100 calls and nearly 60 complaints.

#### **Post-CPG wind complaints**

Between Aug 28 and Sept 3, CAPI took in two complaints from one consumer regarding Georgia Mountain Community Wind, four specific complaints (from three consumers) and three wind turbine impact complaint postcards (no specific date for the complaints) regarding Lowell Wind, and one complaint regarding Sheffield/First Wind. Most of the complaints were not only about noise but also about health effects from the turbines. Additionally, Vermonters for a Clean Environment and a few consumers had questions about the fans and noises from same at Lowell Wind and GMCW. The questions had to do with whether the fans were part of the original CPGs for these projects

## ***Public Advocacy***

Entergy VY Supreme Court Appeal – PSB Docket 7440 – Within hours of Entergy's announcement that it would not seek to operate beyond 2014 the Supreme Court (Dooley) issued an order requiring the parties to show cause why the appeal should not be dismissed as moot. PSD has already argued in its brief that the appeal was moot, and intends to file a response reiterating that. Oral argument had been scheduled for October 2, but the Court's recently-published October calendar had no mention of it. It appears that the SCOV has decided to postpone the argument.

Entergy CPG – Docket 7862 – In response to a PSD filing, joined by all parties, the PSB issued an order postponing reply briefs until October 11. A status conference will be held October 1 to discuss the effect on the docket of Entergy's decision to shut down at YE 2014.

WEC Point to Point Distribution Tariff – Tariff No. 8458 – On July 22, 2013, WEC filed a point-to-point distribution tariff to enable WEC to charge standard offer projects in its territory a wheeling charge. The Board opened an investigation and on August 30, held a workshop to discuss the tariff. The workshop was well-attended (including REV, VIPPA, VEPPI, VEC, and GMP) and WEC's proposal met significant opposition. In light of the opposition, WEC indicated that it would be withdrawing its proposed tariff (subject to WEC Board approval) and refiling it in about a month when it files a similar tariff to provide point-to-point transmission service. WEC is to provide formal notice of the withdrawal by September 9.

GMP Successor Alternative Regulation – No Docket – On August 29, Department staff met with GMP staff to begin discussions on a successor alt reg plan, which GMP would need to file by the

end of 2013. Separately, the Department initiated a conversation with AARP and CLF to get their views on alternative regulation, and what improvements can be made going forward.

North Springfield Sustainable Energy Project (Springfield Biomass) - Docket 7833 – The Department filed Supplemental Testimony from Asa Hopkins on 9/4/13 indicating that the elements of the Forest Harvest Wood Procurement stipulation between the Petitioner (NSSEP) and the Agency of Natural Resources (ANR) have enabled the Department to alter our conclusion regarding the sustainability of the fuel source and thus we now believe the project meets the 248(b) criteria. We therefore support issuance of a CPG for the plant.

Regulation of VoIP – Docket 7316 – The Independents filed an objection to the Department’s proposed billback allocation. Following discussions with the Independents’ and consideration of a proposed alternative arrangement whereby the Independents would be treated as a single entity for billback purposes, the Department filed a letter on August 29<sup>th</sup> supporting the Independents’ proposal, provided it appeared reasonable to the Board and other parties. The Department will be receiving discovery requests on its testimony on September 6<sup>th</sup>.

WCVT’s Suspension of Interconnection Obligations with Comcast – Docket 7798 – The Board denied Waitsfield’s Motion for Relief from the Board’s Order, which sought an extension of the local number porting suspension period for an additional year based on the Legislature’s failure to establish a high-cost relief fund. The Department and Comcast opposed WCVT’s request.

Telrite Corporation Designation as an Eligible Telecommunications Carrier – Docket 8031 – The Department filed comments on the Hearing Officer’s Proposal for Decision on August 30<sup>th</sup>, noting that the Department supports the minor substantive changes from the parties’ consensus PFD.

Impacts of Act 89 on Energy Efficiency -EEU 2013-03 – The Department attended a Board workshop on 9/4 to discuss how BED, VEIC and VGS planned to implement restrictions on the use RGGI and Forward Capacity Funds based on the prohibition in the new law against using them for regulated fuel customers, which in Vermont comprise VGS customers. The Board set some interim deadlines for coordination proposals between the three entities.

Addison Expansion—Docket 7970 - VGS served discovery requests on the rebuttal testimony of the Department, ANR, and CLF; we are preparing responses, which are due on September 11. The Department participated in VGS’s deposition of CLF witness Stanton (greenhouse gas emissions). She was not particularly compelling and she acknowledged that the Department’s witness had appropriately corrected a crucial error in her analysis. The site visit and a second public hearing (Middlebury) are scheduled for September 10. Technical hearings have been formally noticed by the Board for September 16-20. VGS will meet on September 5 with ANR to attempt to negotiate a global settlement of all issues.

Ricker Mountain/Bolton 248a Application – Docket 8072 – The Department executed an MOU with ANR, AT&T and the tower owner outlining agreement to convert an existing temporary

MET tower into a permanent telecommunications facility. ANR had objected due to concerns of habitat fragmentation and strike risk for Bicknell's thrush in the area. AT&T and the tower owner agree not to further develop or construct new towers on the site. Technical hearing is scheduled for September 12.

Burlington Telecom – Docket 7044 – The AGO was contacted by BT's counsel to lobby for state intervention in the federal proceeding. AGO was noncommittal and is waiting for a transcript of the receiver hearing to review. AGO has indicated to the Department that it does not currently support the state becoming a party to the federal proceeding. The court had suggested that it could compel joinder of the state as a necessary party to the litigation, but has not issued any such order. Trial is scheduled to begin in early February.

Vermont System Planning Committee Additional Seat – Docket 8073 – VELCO filed a motion, with Department support, to amend the MOU approved by the Board in Docket 7081. The amendment would add a supply-side representative to the Supply & Demand Resources sector (in addition to VEIC & BED) of the VSPC. Proposed schedules for the remainder of the proceeding are due September 20, though it seems unlikely additional process is needed.

### ***Telecommunications***

VTel Broadband and Smart Grid – PSD telecom staff met with GMP staff on 09/03/2013, and confirmed that VTel is substantially behind schedule on the tower build-out that will provide the backhaul for smart grid. Currently smart grid backhaul is being provided by AT&T and FairPoint. According to GMP, next month VTel will have to begin paying for the backhaul being provided by AT&T and FairPoint due to VTel being contractually behind in its own build-out. There is a \$3,000,000 million cap as to VTel's liability but GMP says it will take years to reach the cap. GMP also indicated that it going to "require" VTel to retain Allen Stamp to oversee the remaining build-out. Stamp is currently on contract with VELCO to oversee the smart grid ARRA grant in Vermont which is about to end.

The PSD sent VTel some 1700 addresses that it was believed VTel was to provide broadband service and we have not yet received verification from VTel as to whether they will provide service to these addresses. PSD telecom staff will meet with VTel staff on 9/04/2013 to review VTel's ARRA grant application to make a determination as to what VTel's actual build-out commitment is to unserved addresses. It is also hoped that we will have an answer as to the 1700 addresses at that time.

Broadband availability databases – The Broadband Mapping Team decided to update the data on the broadbandvt.org website with the data showing current availability from service providers as of 12/31/12. The website also shows information about projects in process in two ways: the census-block based "Stoplight Map" and the address level search query database. These features currently have data showing information as of 6/30/12, and show all of VTel ARRA territory flagged to be served. The team decided not to update these databases with the 12/31/12 data at this time.

## ***Finance and Economics***

### Legislative

Staff is helping prepare an impact assessment on the VY closing for the Official Statement of the State of VT. This information is needed to inform purchasers of Vermont General Obligation bonds on the power supply impact and economic significance of the announced 2014 closure of the plant.

### Electric

Ryegate - Investigation into the Establishment of a Standard-Offer price for Baseload Renewable Power under SPEED Program. The pending question in the case is whether Ryegate will install a selective catalytic reduction system ("SCR") and if so, who gets the RECs and who will pay for the SCR. The parties have reached a tentative agreement where the Ryegate owner will pay for the SCR provided it gets 90% of the RECs for the first 2 years, 50% for years 3-7, and 10% for years 8 through the end of the PPA. The agreement raises policy questions regarding the transfer of RECs to Ryegate. From an economic perspective the agreement appears reasonable given that the state will have more renewable energy and the Vermont utilities will have no risk or exposure in paying for the SCR. Department comments on the agreement were due on September 3 and a technical hearing is scheduled for September 5. The Department has decided to provide comments during the technical hearing where it will support the agreement.

GMP - Third Fiscal Quarter 2013 PCAM, GMP has filed for a rate adjustment increase of \$2,890,142 or \$0.00282/kWh in the energy charge. Staff is reviewing the filing. The PSD recommendation is due September 13th.

VPPSA – VPPSA has informed staff that it is reviewing the possible implementation of electric utility bill payment by credit card for some of its member utilities similar to the GMP effort that is now underway.

### Gas

VGS---Alt Reg--- filed its 2014 base rates on August 28, reflecting a significant rate reduction of 5.86% or about \$5 million. The rate reduction was driven by an 18% reduction in gas costs that was off-set with a 7% increase in non-gas costs. Our recommendation is due September 15.

VGS – D7970 - Addison Pipeline Expansion Project – Discovery questions were received in response to rebuttal testimony regarding lifecycle greenhouse gas emissions. Staff is preparing background spreadsheets and assumptions regarding the efficiency scenario in response to the discovery request.

VGS - PSB Docket 8009 Investigation into Vermont Gas Systems, Inc. proposed rate design changes. Staff reviewed the filing and assisted PA and VGS in drafting a Proposal for Decision that was filed August 2. The Board last week issued its decision where it ordered the rates to

be phased in over two years. This week VGS filed amended tariffs that staff is reviewing where the rates will be phased in over two years.

VGS – Has filed an Interruptible Gas Sales Agreement (special contract) with BED for the McNeil Generating Facility. The PSD recommendation, due by 9/5/13, was completed with a recommendation the agreement be approved until it can be replaced with a tariff. We were advised this week that VGS has filed a tariff to replace the special contract.

#### Annual Utility Filings and Gross Receipts Tax

Staff is working with Legal Division reviewing the assessment of penalties to Barton Electric and New England Power Company. Both utilities paid its Gross Revenue taxes on a timely basis but each failed to file timely tax returns. Under VSA 30 each company should be assessed a 5% penalty of the taxes due for late filed returns, if the returns and taxes due are filed and paid within 15 days of the date due. Further, the penalty should be 25% of the tax owed if the filings were submitted 15 days after they were due; both utilities filed in August; the returns and taxes were due April 15. It appears a consensus is developing where Legal is agreeing that assessments should be prepared and mailed to the utilities.

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

##### ISO-NE DG Working Group

- ISO announced that the first meeting of the Distributed Generation Forecast Working Group will be on September 30, 2013.
- NESCOE had a call on August 29 to discuss the states' collective view on the direction of the DGFWG. VT staff proposed that states push to include a reasonable amount of DG in the 2014 Regional System Plan. NESCOE is drafting a letter to ISO that will likely include this concept.
- ISO's 2013 Regional System Plan Public Meeting will be held on September 12 and will include two panels focused on DG in system planning.

##### NESCOE Hydro Study

- NESCOE released a draft of a study regarding the economic implications of importing up to 3600 MW of Canadian hydro into New England. The study includes three pathways for modeling purposes - one from New Brunswick to Boston, one from Quebec through New York into Connecticut, and the third from Quebec into Vermont. The scope of the work is limited and the entire study was completed in five weeks.
- NESCOE released a draft version of the study that provided an estimate of the CO<sub>2</sub> reductions associated with hydro imports and the market benefits of importing hydro. The study indicated that there are significant CO<sub>2</sub> reductions, but that the import of hydro will result in a negative economic impact over the study period (which extended from 2014-2029). The negative economic impact is a result of several factors:
  - The cost of the transmission lines is very high - several billion dollars.
  - The study did not attempt to monetize the CO<sub>2</sub> reductions. Based upon a quick calculation, assigning even a nominal amount to CO<sub>2</sub> reductions would change

the results such that there would be a positive economic impact associated with importing hydro.

- The study examined only a 15 year period, and therefore does not account for any economic benefits over the entire 40 year economic life of the transmission lines.
- Massachusetts in particular had significant concerns with the study and has asked that the study be placed on hold until late September. It's unclear whether MA staff closely followed the discussions regarding the limited scope of the study. It's possible that framing the study results properly could address MA's concerns.

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** September 6, 2013  
**SUBJECT:** Governor's Report

## Fire Safety

Director Michael O'Neil will be leaving Monday September 9, 2013. Deputy Director Michael Desrochers will be promoted to the Directors Position. He will be the acting director until we complete all the paperwork to transition him into the position. He has been with the fire safety division for 20 plus years. Over the past 2 year he has been very involved in directing the division. We anticipate a seamless transition with Director Desrochers transition.

## Emergency Management/Homeland Security

DEMHS received notice of award of the FFY13 Homeland Security Grant Program award of \$3.4M and Operation Stone Garden grant of \$491K from DHS. This grant covers the programmatic side of HS along with some DEMHS operating costs and doubled the amount allocated to Operation Stone Garden with US Border Patrol. Neither of these are new awards, rather an annual allotment from DHS.

Director Joe Flynn attended the SOV interagency meeting hosted by the Public Service Department regarding the Vermont Yankee decommissioning and its impact across all sectors of the State. These meetings will be bi-weekly for the foreseeable future as an understanding is gained regarding the scope and impact.

DEMHS personnel conducted a two-day strategic planning session with the assistance of Leadership Strategies. This session is important as it defines and creates the guiding principles, mission statement, vision and direction of the new Division for the future.

COOP planning continues with VTNG on the exercise at the end of the month.

FEMA has responded to 69 of 80 appeal issues identified to date. Of those appeals formally filed by the State of Vermont to Region 1, the applicants have prevailed in approx. 61% of decisions.

FEMA is writing the last +/-20 of the DR4120 PWs. They project a total of 68 small projects and 7 large projects from this disaster (May 22-26).

Requests for Public Assistance for DR4140 (June 25-July 11) were due by COB on 09/03. 55 RPAs were submitted. FEMA now projects 117 small projects and 9 large projects for DR4140.

Submitted 34 applications to FEMA Region 1 requesting approximately \$15M for Hazard Mitigation Grant Round 5.

#### State Police

Uniform Troopers and BCI personnel responded to Kenny Drug Pharmacy in Cambridge for an armed robbery. Witnesses described the suspect, the getaway car and two female accomplices. Approximately one hour later the vehicle was spotted on 108 in Bakersfield. A felony stop was conducted and the three occupants were arrested for the Robbery.

Troopers responded to a "home invasion" robbery at a residence in East Montpelier. A lone male forcibly entered a residence on County Road and demanded cash from the victim's safe. The perpetrator fled investigation ongoing.

Throughout the State there were 106 arrests, 22 of those DUI.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: September 6, 2013**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Legislative Issues/Contacts:**

- Talked to Reps. Stevens and Ellis about the Waterbury project and the SOV's desire to know as soon as possible whether Waterbury intends to utilize Stanley and Wasson.
- Rep. Mrowicki called about the Ingram contract situation at the soon to be finished Bennington rest area. Meeting on Monday to try to find common ground.

**Significant Events/Meetings:**

- St. Albans project nearing final completion with E-Board consideration being considered to affect the deal as presently structured. We need to get this effort organized.
- An evaluation of the Regional Economic Development grant program, requested by the
- General Assembly, is due 9/15/2013. Worked on report with ACCD.

**FINANCE AND MANAGEMENT**

**Issues Update:**

**USDOL Wage & Hour Compliance Audit:** The Departments of Finance & Management, Human Resources and Public Safety are holding a conference call on Monday, September 9<sup>th</sup>, to finalize assignments and detail progress on the information required for the US Department of Labor (USDOL) audit at Public Safety. The initial meeting with the USDOL Auditor is scheduled for September 17<sup>th</sup>.

USDOL will be auditing wage & hour compliance – that is – are overtime (OT) and compensatory time paid/granted in accordance with the federal Fair Labor Standard Act (FLSA) by DPS.

Vermont G.O. Bonds: F&M continues working on the vast array of information necessary to update the Official Statement for the next planned issuance of Vermont General Obligation Bonds.

FY 2015 Budget Gap: Commissioner Reardon, Deputy Zeller and Budget Director Riven have begun working with the Joint Fiscal Office to construct the consensus FY 2015 GF Budget Gap.

Joint Fiscal Committee (JFC): On Wednesday, September 11<sup>th</sup>, Commissioner Reardon is scheduled to testify before the JFC to provide updates on FY 2013 final close-out and a very preliminary picture of the FY 2014 budget adjustment pressures. Reardon will also provide a recommendation on how BGS engineering costs should be treated and funded with regards to the capital and/or appropriation bills.

## **HEALTH CARE REFORM**

### **Issue Updates:**

Financing: Michael's work focused on five major tasks. 1. Conducting interviews for the data analysis white paper to be co-authored with legislative staff. 2. Interviews with authors of others state-level single-payer studies. 3. Preparation for the business advisory council meeting. 4. Preparation for meeting with the Governor. 5. Developed and refined a specific, task oriented work plan focused on finance work to be done by the end of 2013.

Michael felt that he received good and actionable feedback during the meeting with Governor. One item not covered during the meeting was the interaction between healthcare finance and legislative tax proposals. It is important that we don't lose this connection and circle back to it soon.

VHC - Outreach: Ads launched this week. September 18<sup>th</sup>, the Governor will be kicking off the Small Business "Countdown to Coverage" at an event in Montpelier. I will do a presentation and there will be navigators at the event to meet individually with businesses as well. There are 3 events with Congressman Welch the following week.

The Governor will also attend an enrollment event on October 16<sup>th</sup> that Planned Parenthood is planning. It will be held at the Community Health Center in Burlington. We are finalizing partnerships with several organizations and businesses, including Comcast, hospitals, FQHCs, pharmacies, and others.

David Reynolds met with Bi-State Primary Care to begin organizing a FQHC statewide event promoting Vermont Health Connect. He is aware of Senator Sander's concerns.

David also drafted an Op Ed for Mark Larson rebutting Caledonian Record editor's anti-Vermont Health connect editorial. This was published on 8/30. David also submitted his op ed on ACA progress to all Vermont daily newspapers.

Operations & Technology: CGI is back on track and state staff has begun testing. We will know by next week whether the latest iteration of OneGate is functional or if there are problems that will need addressing. As discussed with the Governor this week, we will have electronic billing available as early as November 1<sup>st</sup>. Paper checks could be processed at any time. Because coverage begins January 1<sup>st</sup>, it is unlikely that many people would want to pay several months in advance. Payment must be received by Dec 21<sup>st</sup> to ensure that employees receive enrollment cards by January 1<sup>st</sup>.

Single Payer Operational Planning: No update.

SIM Grant: We have a “reverse site visit” in D.C. September 17<sup>th</sup> to go over the operational planning with CMS. Anya is working on a letter from the Governor to send out to private partners who are participating in the SIM work groups, steering committee, and core team. David Reynolds met with Office of Professional Regulation to determine the financial needs to complete professional surveys for the SIM grant workforce development project.

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

- BCBS and Mental Health Parity with Anne Donahue – Rep. Donahue asked that DFR review whether BCBS’s current structure for managing mental health through the new organization they created with the Brattleboro Retreat was a violation of the federal parity law. She shared a recent and relevant US District Court of Vermont decision on a motion to dismiss with DFR. Commissioner Donegan will have her folks review the issues and brief me.
- Legislative teleconference on Vermont Health Connect – Commissioner Larson, Deputy Tucker and I had a call with the full general assembly to update them on VHC. The call went well, except that the JFO’s email system did not run smoothly for submitting questions. We did answer all questions received and continue to receive some questions from members. In addition, we’ve indicated that legislators could use David Reynolds as their contact on VHC questions if they preferred to do that over submitting questions to vthealthconnect@state.vt.us

### **Press/Media Notes:**

- Peter Hirschfeld is doing a blog post on a right-wing comparison of rates in the individual market, which does not look accurate for Vermont.

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

- Ron Christie, United Steelworkers – Mr. Christie called the Governor’s Office to talk about his experience with negotiation health benefits with several towns and private entities. He felt that there were some employers (one town in particular) that were using the changing landscape to shift additional costs onto their employees. He basically wanted to make sure that the Governor understood that this was an issue that was happening. He did also negotiate a contract with a private company where both the employer and the employee’s costs were reduced and the employees got better coverage. He indicated he is seeing win-wins as well as some situations where it is less clear what the right choices are. He was interested in knowing if we could “help” – I indicated that I didn’t think we would get in the middle of a labor negotiation of this type.

## **HUMAN RESOURCES**

### **Evolving Issues:**

- VSEA has reached out to Blue Cross Blue Shield (BCBS) directly to receive an explanation of benefits. Director Wilson will contact BCBS to explain that DHR staff must be present for any

discussions with VSEA. Director Wilson will also reach out to the VSEA and offer an explanation of benefits during a Fall Benefits Advisory Committee meeting.

- The transition to BCBS continues to move smoothly, with kick off meetings for subgroups taking place this week.
- VSP Majors Classification Request: Friday morning Director Paulger and John Berard will meet with Colonel L'Esperance to discuss the pending classification review. The Majors are currently a pay grade 30, and the Colonel is a pay grade 32. The VSP management level jobs are very compressed and this review will exacerbate the problems associated with pay compression and could negatively impact the ability of DPS/VSP to make necessary structural changes in the future.
- Work continues on a supervisory training program to be delivered to all supervisors and managers in Fall, 2013.

## **INFORMATION AND INNOVATION**

Nothing to report.

## **LIBRARIES**

Nothing to report.

## **TAXES**

### **Legislative Update:**

JFO Data: Steve Klein has reported to the Joint Fiscal Committee that the Department and JFO are working on three prong approach: improved income tax model for the session, continued employment of Deb Brighton through the session (JFO to pay), and consideration of the purchase of a micro simulation model for the long term. We have a meeting next week for all the players, including our new fiscal analyst, to discuss the upcoming session face to face – so far, the dynamic is really positive with our new team.

Closing Tax Gap: The Department has developed a work plan on its commitment to realizing \$1.5M of additional enhanced revenue, outside of the data warehouse, to help close the budget gap. One initiative which we have launched is a “Know What You Owe” come forward, geared toward self audit on unpaid use tax obligations. This month our outreach team will partner with auditors to put on two presentations about the program in Washington County.

Regulations: Our goal was to tackle two sets of regulations in the off-season, capital gains and cloud software. We have circulated a draft on capital gains to our practitioner working group, who we are meeting with next Monday. Late in the session several years ago, a deal was struck that allows for a straight \$5000 exemption for capital gains or a more generous 40% exclusion geared toward the sale of a small business, although the language is a bit circuitous. Our General Counsel has tried to craft a regulation that meets the apparent intent without straining the language – basically the draft states that the 40% is available in a stock sale of a closely held business, but not an asset sale. We expect some

push back based on the treatment of the sale of an LLC, but to go further may require clarifying legislation. Regulations on cloud, as expected, are proving difficult – in the meantime, the Hearing Officer is working on some letter ruling requests, which will be made public once issued (in redacted form).

**Operations:**

RFP for Integrated Tax System: Next week we will have a strategy session of our internal negotiating team, including our consultant and Jaye Johnson from the AG's office, and then we will kick off negotiations with FAST Enterprises. We anticipate proposing an amendment in Budget Adjustment that basically would extend our computer modernization fund to include 80% of the enhanced revenue from the ITS, with an appropriation out of the fund to cover the ITS.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
 Date: September 6, 2013  
 RE: Boards and Commissions Update

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**Current Vacancies**

**State Police Advisory Commission:** Recommendation for Tom Crowley's replacement

Last name	first name	City	Board/Commission	Initial appt	ending date	Comments
Boyde	Glenn	Colchester	State Police Advisory Comm	8/7/2013	6/30/2017	
Vacancy			State Police Advisory Comm		6/30/2016	
Jefferson	Shirley	So Royalton	State Police Advisory Comm	2/6/2006	6/30/2017	Vt. Law School AA
Pallito	Patti	Richmond	State Police Advisory Comm	8/15/2012	6/30/2017	
Sartorelli	Ugo	Barre	State Police Advisory Comm	5/2/2005	6/30/2016	
Sheahan	Nancy	So Burlington	State Police Advisory Comm	12/15/2008	2/28/2014	
Willey	Leo	Newport	State Police Advisory Comm	2/25/2002	2/28/2014	Retired state trooper

**Vermont Economic Development Authority:** *H.395 created one more Governor appointment. I spoke with Jo Bradley and she doesn't like an agriculture person.*

Bishop	Bethany	Montpelier	VEDA	12/1/2010	6/30/2018	chamber
Bourgeois	Steven	Swanton	VEDA		6/30/2014	
Britt	Robert	South Burlington	VEDA	6/20/2002	6/30/2018	
Graves	Leon	Fairfield	VEDA	7/1/2004	6/30/2016	
Hashagen	John	Brattleboro	VEDA	7/6/2000	6/30/2016	retired Bank CEO
Kurzman	Daniel	Canaan	VEDA	11/13/2007	6/30/2016	
McEwan	Kenneth	Panton	VEDA	9/15/2000	6/30/2018	
Patten	Will	Hinesburg	VEDA	7/20/2012	6/30/2018	
Snow	John	Charlotte	VEDA	9/8/2011	6/30/2014	

**District #1 Environmental Commission (Rutland) ALTERNATE MEMBER:**

Last name	first name	City	Board/Commission	Initial appt	ending date	Comments
Beraldi	Amanda	Rutland	District #1 Environmental Comm	3/10/2003	1/31/2015	member
Bloomer	John	Rutland	District #1 Environmental Comm	4/18/2013	1/31/2015	Alternate Member
Blucher	Hope	Danby	District #1 Environmental Comm	5/19/2011	1/31/2015	Alternate Member
Vacancy			District #1 Environmental Comm		1/31/2014	Alternate Member
Henry	Michael	Rutland	District #1 Environmental Comm	3/29/2000	1/31/2017	Member
Liccardi	John	Rutland	District #1 Environmental Comm	5/19/2011	1/31/2015	Chair
Ogden	Herb	Mount Tabor	District #1 Environmental Comm	5/19/2011	1/31/2015	Alternate Member

## **Appointments made: September 4, 2013**

### **Justice of the Peace, Town of Marshfield:**

APPOINTED: James Arisman –Marshfield

### **Justice of the Peace, Town of Norwich:**

APPOINTED: Michael Goodrich-Norwich

### **Justice of the Peace, Town of Peacham:**

APPOINTED: Susan Johnson-Peachan

### **Disabilities, Aging, and Independent Living Advisory Board:**

DESIGNATE AS CHAIR: Janet Cramer, Brattleboro (Aging)

### **Human Services Grant Advisory Committee:**

REAPPOINTED: Jeffrey Moreau, Burlington (UVM Foundation)

REAPPOINTED: MaryEllen Mendl, Colchester (United Way)

REAPPOINTED: Barbara Ternes, Rockingham (Parks Place)

### **Recreational and Education Facilities Grant Program Committee:**

REAPPOINTED: Mark Delaney, Cambridge

### **Public Safety Broadband Network Commission:**

APPOINTED: Alton Barber, Hinesburg (Fire Chief Association)

### **Vermont Humanities Council:**

APPOINTED: Robert Wells, South Londonderry

APPOINTED: Elaine Harrington, Middlesex

### **Search & Rescue Council:**

APPOINTED: Marge Fish, Londonderry (PUBLIC w/ experience)

APPOINTED: Peg Doheny, Enosburg Falls (NAT'L SKI PATROL w/ experience)

APPOINTED: Drew Hazelton, Jamaica (Professional or Volunteer S & R Organization)

APPOINTED: Derek Libby, Stowe (Career Firefighter w/ "SARTECH3" training)

### **Milk Commission:**

APPOINTED: Harold Howrigan, Fairfield (Farmer rep-St. Albans Coop Creamery)

APPOINTED: Cheryl DeVos, North Ferrisburgh (processor/milk handler)

APPOINTED: Eric Paris, Lyndon (Farmer no ag board)

### **Commission on Successful Aging:**

APPOINTED: Mary West, Charlotte (Area Agencies on Aging)

APPOINTED: Kelly Stoddard Poor, Montpelier (Area Agencies on Aging)

### **Vermont Lottery Commission:**

APPOINTED: Ed Flanagan, Montpelier

### **Employment Security Board:**

REAPPOINTED: Mary Anne Gucciardi, South Burlington

### **Citizens Advisory Committee on Lake Champlain's Future:**

APPOINTED: Alex MacDonald, Lincoln

### **Human Services Board:**

REAPPOINTED: Sharon Wilson, Duxbury

### **Children & Family Council for Prevention Programs:**

APPOINTED: Maria Avila, Burlington

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: September 6, 2013**  
**Re: Weekly Report**

**Status of Governor's Priorities:** Working on preliminary information for FY15 budget.

**Legislative Issues/Contacts:**

- Reviewing draft changes to Department Regulations with AG's Office- mostly cleanup language and clarifying. Board review next and then on to ICAR and then LCAR.

**Press Issues/Releases/Contacts:** Nothing to report.

**Significant Events/Meetings:** Next Board Meeting 9/11 Enforcement Hearings.

**Evolving Issues:**

- Working with vendor on contract for ERP/POS Project.
- Preliminary review of department processes for potential licensing and enforcement system. .
- Working on some regulation changes- draft document in house review.

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**Summary of Key Department Activity:**

- September sales are looking good: +6%.

**Commissioner's Commentary:** Have a great weekend.