

# WEEKLY REPORTS

Checklist  
3/20/15

Elizabeth Miller/Alyson Richards

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

TBD

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

Sue Allen

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

Sarah London

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

Susan Spaulding

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

To: Governor Peter Shumlin  
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development  
Date: March 20, 2015  
Re: Weekly Report

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## LEGISLATIVE ACTIVITY

- **Budget:** As of Thursday evening, all sections of the ACCD budget are now closed with the caveat that the House Appropriations Committee may choose to reopen the Tourism and Marketing section if they are unable to find enough other cuts to close the gap. Lucy has done fabulous work with the committee!
- **Economic Development Bill:** The bill was voted out of the Senate Economic Committee and is currently in the Senate Natural Resources Committee. They are taking testimony on the 5 land use provisions in the bill. ACCD is on the record opposing the Enterprise Zones and Umbrella Permit language and are actively working with NRB to craft language that we can support around the priority housing issue. The 9L provision in the bill may see another tweak before it leaves this committee but it will be a tweak in a good direction from our point of view. They expect to vote it out of committee on Friday. In the meantime, Senate Finance is taking testimony on the money pieces and it will also need to make a stop in Senate Approps as well before heading to the floor sometime next week.
- Commissioner Gosselin reviewed **S. 95 and S.14** and provided recommendations to Marijuana Task Force including: not legalizing lounges, limiting sales in first year to current dispensaries, requiring a license for all growers, creating a debit card for all purchasing and transactions to avoid banking and cash problems associated with industry and providing easier regulation and taxation.
- **H.25: Green Burials:** Passed the House on Third Reading. Now on to the Senate! Thanks Jess for monitoring this bill. Maybe there is an opportunity for a new industry for Vermont (<http://www.iflscience.com/plants-and-animals/one-day-green-cemeteries-will-use-corpses-help-trees-grow>)
- **Priority Housing:** Suggested fix for this issue is in Senate Economic Development Bill per request of Town of Colchester. We do not support as drafted, but continue to work with ANR/NRB/Ag on a fix. ACCD plans to draft a fix for review by our sister agencies in order to move the discussion along and try and ensure that we have a fix this year. [Background: last year, the legislature added incentives to encourage development in our designated centers. One of these included Act 250 exemptions for priority housing projects (with a certain portion of affordable housing) in designated growth centers, neighborhood development areas, downtowns and new town centers. We realized late last year that properties with existing Act 250 permits may not receive this benefit. It will effect Colchester and South Burlington's designations.]
- **New Town Center Designation:** The bill has draft language to modify one of the designation criteria for NTCs. It is an improvement on what the Town of Colchester had originally requested in that it is more in line with the policy objectives. Noelle spoke to Dawn regarding both the above issues as well as Senator Mazza.
- **Enterprise Zones and Umbrella Permits:** NRB are taking the issues regarding these sections of the bill. However, Noelle did reach out to Katie of the LCCC and Kate from VNRC to see if there was a way to have a more productive discussion on these issues. Enterprise Zones has been proposed for the last 7 years and maybe there is a more productive way to understand the issue and find a solution that works for developers as well as protects the environment.
- **H. 367: Municipal Planning Updates:** The Vermont Planners Association requested Rep. Ellis to draft a bill requiring municipal plans to be renewed every 10 years vs the current 5 with requirements for a 5 year review by the RPC. DHCD's recent survey's showed support for increasing the time. However, DHCD is neutral currently on the issue as there is a divide between some of the RPCs and VPA members. We will request some clarification of the review requirements and any plan confirmation consequences. Chris will be testifying on Thursday and will share the findings from the survey with the committee. Many feel this change will give cities and towns more time to get things done; however, the survey also found that the lack of funding was the major impediment to plan implementation. While money is always hard to find -- the upcoming state planning manual re-write is working to address this issue by strengthening the connections between town plans and the funding/implementation tools (like the state designation programs) that can help communities achieve their goals.

- **9 (L): Education and Community Work:** Noelle attended a meeting with John Adams of the Ferrishburgh Select Board on Wednesday evening. Good crowd of about 25 or so. State Rep. Van Wyck was in attendance along with Adam Lougee from the Addison County RPC, members of the planning commissioner, and neighbors of the property. Provided an outline of the site history (of the 30+ acres given to them by AOT, only 4.5 can be developed, the rest is preserved for ag, wetland protection or open space per a complicated agreement with 5 parties; there is public water and land perks for septic, but Vergennes may provide sewer). Selling this site has been a challenge. In looking at a previous application for a Stewards and the recent proposal for a car dealership, issues of aesthetics, view sheds, and traffic have been raised as well as 9(L) with the recent proposal. Outlined the suggested uses – industrial, light manufacturing, value added ag enterprise, building on link to gate way of Vergennes and Scenic Byways. These uses met Town Plan and bylaws. Suggested that they maintain this area as industrial. Offered to help with any potential developers regarding the 9(L) issue and suggested that they consider doing some pre-permitting for the site and working with Robin Scheu. Several in attendance felt that this was a much more positive direction, with potential for higher paying jobs than retail. Will follow up by reviewing the agreement and meeting with Paul Bruhn as Preservation VT was part of the agreement for the site.
- **H.123 Mobile Home Park Bill:** Jen continued to work in support of the bill this week. After excellent testimony by Dale Azaria and Shaun Gilpin, the House General Housing and Military Affairs Committee approved the bill just hours before the crossover deadline. The vote was 5-3, along party lines. Committee Republicans oppose provisions making it explicit that violations of the mobile home park statutes fall under the state's consumer protection act and the Attorney General's authority. Helped Chairwoman Head prepare for floor action and provided talking points. The same concern about the AG's involvement was expressed when the bill was taken up by the full House and it was approved for Third Reading by 95-47, again, along party lines. Also facilitated negotiations between Vermont Legal Aid, nonprofit and private park owners, the AG's office and the Mobile Home Park Program on language related to the process for abandoned mobile homes from when someone has been evicted from a park. Abandoned homes create an expense for owners, eyesores and potential hazards for neighbors and prevent new homes from coming on line. If successful, we will offer compromise language in the Senate.

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

**Vermed, Bellows Falls:** I met with Sam Helba and John Shields of Graphic Colors in Buffalo who recently purchased Vermed. They are very clear they have capacity in their Buffalo facility to move the company there losing 60 jobs and Bellows Falls. They're also clear they are concerned about labor availability in Buffalo. However, New York State and the City of Buffalo are offering a lot of incentives to move the company there. He is weighing the incentives in New York versus workforce in Vermont and is very clear he will need incentives to remain in Vermont. He is also very clear that when they buy a company, it continues to grow. He commented on opportunities he has to bring to both Bellows Falls should he decide to stay. His timeline it is a decision by April 1. We have very little time. I am **STRONGLY** recommending we provide a grant to this company from the Entergy funds to assure their retention. I know the governor doesn't like grants, but in this case I don't think we have any choice. They are also looking at VEGI for growth and VTP for training.

**CONFIDENTIAL: VEDA:** VEDA will be conducting a "consensual foreclosure" on SB Electronics in Barre. This was actually requested by SBE as a means of restructuring the balance sheet and getting the Department of Energy out of the deal. While this is messy, and there will be an auction, we believe the balance sheet will look better in the end and the company will be on firmer ground. There is no question there is concern for SBE and their current condition, but there is no imminent danger.

Also, the US Dept. of Treasury has issued a press release indicating Vermont is #1 in the country for deploying the SSBCI funding provided by the Treasury two years ago. This is exciting but one of the recipient is Revision which has recently laid off. VEDA may delay a release to Vermont press for a bit to enable some distance from the lay off news.

**Raw milk:** I know there is discussion in the legislature of enabling raw milk sales. However this makes me deeply concerned for our dairy products and dairy brand. All it takes is one person to get sick and there goes the gold standard brand for Vermont milk and cheese. I urged us to proceed with caution about raw milk. Apparently there are scientists at UVM that are at the top of the field of the raw milk research and should be consulted.

**Lamoille County:** The Lamoille County regional planning commission and regional development corporation are having conversations about a possible merger. This is just a starting conversation and we are not certain if this will go anywhere.

**Hermitage:** Jim Barns of the Hermitage Club called me Wednesday hoping I could "put in a good word with the attorney general" about their current settlement negotiations relating to his permit violations. I told him I would be happy to him "encourage a fast settlement" with the AG's office but that's the best I could do. I will check in with Sarah London about any concerns for conflict in me even talking to the AG about this issue. It may be better for me to speak with ANR.

**Bank of America CDFI: From Noelle:** Last summer Bank of America reps and their local advocate, John Hollar from DRM, met with Jessica Mishaan in the Governor's Office and a few senior agency staff regarding brining BoA's CDFI program. They shared various initiatives that they had in other states and wanted to work with the state to identify needs and potential local partners. Noelle followed up with John in the fall and suggested that housing and energy efficiency would be an area that were in line with BoA interests and would meet VT's Comprehensive Energy Plan goals, and improve an aging housing stock. In one of our meetings, John noted that the key hurdle was on bill financing. Noelle noted that GMP has been doing on bill financing in Rutland. John followed up and BoA has met with GMP and their local partner, Neighborworks of Western Vermont and will be meeting with the Community Loan Fund. They are very excited and see an opportunity to bring additional resources to this program. John said that once the elements are in place they want to have a presser with the Governor, BoA and GMP.

#### **LUCY LERICHE, DEPUTY SECRETARY**

- Lucy was primarily in the State House this week following the economic development bill and ACCD budget.

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

- **New Business:** Followed up with two new businesses considering Vermont. Maia Strategy has signed a letter of intent to locate in Burlington. VEGI analysis has been done and may not be significant. Also spoke with Nathan Irons who is working to locate a new life insurance company here. Have a longer meeting set for Friday, March 20.
- **Communications:** Have identified four target groups for Strategic Communications Plan (College students/Alumni/Family; Vermont Influencers; Businesses; Tourists/Second Homeowners). Meeting with representatives from each group now to discuss best opportunities to engage them, including VT Chamber, Vermont Business Roundtable, Vermont Businesses for Social Responsibility, Vermont Tech Alliance; representatives from Champlain and UVM and others. Also, worked with Brent Raymond, Heather Pelham (aka our most amazing design and branding wizard), Shelley Pembroke and Kiersten Bourgeois to create a folder with a series of one-sheets describing Vermont's advantages for businesses considering relocating. Folder will be distributed at **SelectUSA conference in Washington DC** March 23-24 and is geared to attract foreign businesses and investment to Vermont. Worked with Beth Demers and Scott Coriell on presser around **Vermont Training Program** and profile of trainee who has moved off state assistance because of it.
- **Sun "Burn":** Received complaint from **Middlebury restaurant Tourterelle** that proposed new SunCommon solar array in the field behind the restaurant will impact its considerable wedding business. Am working with both parties to see if this can be resolved but solar zoning may be something to be considered by towns moving forward.
- **Heart Burn:** Judged the **Vermont Chili Festival** which drew more than 6,000 to the streets of Middlebury on Saturday, 3/14. Gave interview to Rutland Herald on how Festival has helped town attract crowds and how events can help spur economic development.

#### **BUSINESS SUPPORT - Economic Development ♦ Jared Duval, Director**

- Represented ACCD at the second of four **Value Chain Workshops** for the Forest and Wood products sector, this one focused on developing business and market opportunities in **wood construction**. These workshops are the next step in the Forest Systems Analysis being undertaken by the Forest Committee of

the Working Lands Enterprise Board and our consultant, Yellow Wood Partners. 20 businesses/ organizations from up and down the supply chain participated including Green Mountain Technical Career Center, Davis Contracting (logging), Timber Resource Group, Currier Forest Products, Clifford Lumber, Stark Mountain Woodworking, Winterwood Timber Frames, Ironwood Brand, Structural Energy Corporation, Black River Design, Breadloaf Corporation, Green Mountain Habitat for Humanity, UVM's Architect, and the State Office of Purchasing and Contracting in Buildings and General Services. Two of the Value chain opportunities identified were to develop strategies to generate more capacity for engineered wood products, like cross laminated timber (CLT), and more demand opportunities for solid wood products and large timbers. Will continue to develop these opportunities.

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

- **Risk & Insurance (R&I) Captive Article:** Dan was quoted in an article titled "IRS Targets Micro Captives" written by the managing editor of R&I. This came from an interview that happened at the CICA Conference on current trends and issues facing the captive insurance industry. R&I is the largest monthly trade publication covering the insurance industry.
- **Risk & Insurance Editorial Meetings:** Dan is working with Dan Reynolds, the editor-in-chief, to have the magazine do several articles on Vermont and captive insurance. Dan has worked with them on an on-going basis to keep Vermont in the forefront on editorial topics concerning captive insurance.

#### **VERMONT ECONOMIC PROGRESS COUNCIL ♦ Fred Kenney, Director**

##### **VEGI**

- Council approved an Initial Application from Triad Design for up to \$968,657. Triad will partner with VT HITEC to train unemployed and underemployed Vermonters to fill Triad jobs here in Vermont instead of Triad creating offices at or near their customer's facility, which is their normal mode of operation.
- Met with Greg Maguire, Kent Rosenthal and David Downer regarding potential growth of Revision Military (Essex) and Revision Ballistics (Newport). Company will file Initial application for March meeting for Revision Military and send a Pre-Application for Revision Ballistics.

##### **Windham County Economic Development Program**

- Worked with VEDA to revise MOU.
- Worked with Linda Rossi at SBDC regarding potential grant for counseling in Windham County.
- Worked on Windham County Partners proposal.
- Continued process to revise program.

##### **Recruitment**

- With Kiersten, spoke with Stephane Tetrault regarding potential location of a biopolymer plastics facility in Vermont.

#### **VERMONT GLOBAL TRADE PARTNERSHIP ♦ Becky Fu, Manager of International Trade**

- Becky is working with team on Power from the North Day 2 matchmaking event. The event now has around 80 confirmed attendees. It will take place next Tuesday, March 24 at UVM. High level Canadian energy companies such as Gaz Metro and Hydro Quebec have confirmed attending.
- Becky is working on the final logistics for AeroMart Montreal, making sure the 6 VT companies are meeting all the deadlines for online meeting request, etc.

#### **VT PROCUREMENT TECHNICAL ASSISTANCE CENTER ♦ Robin Miller, Director**

##### **Other PTAC News**

- In advance of the upcoming May Matchmaker in Manchester, VT the PTAC team has organized a series of 'Preparing for the Matchmaker' workshops throughout the state:
  - MARCH 24, 2015 TUESDAY 1:00 - 3:00  
REDC, 110 Merchants Row, Ste. 312, Rutland, VT
  - MARCH 26, 2015 THURSDAY 10:00 - 12:00  
Passumpsic Savings Bank, 1 Gardner St., Newport, VT
  - MARCH 27, 2015 FRIDAY 1:00 - 3:00  
Springfield State Office Bldg., 100 Mineral St.

Springfield, VT \*Parking in lower lot

- APRIL, 2 2015 THURSDAY 10:00 – 12:00  
VT Tech Enterprise Center, 1540 VT Route 66,  
Randolph, VT
- APRIL, 8 2015 WEDNESDAY 10:00 – 12:00  
GBIC Bldg., 60 Main Street, Burlington, VT
- APRIL 16, 2015 THURSDAY 10:00 - 12:00  
Green Mountain Technology & Career Center, 738  
VT. 15 W., Hyde Park, VT
- APRIL 20, 2015 MONDAY 1:00 - 3:00  
CCV Dept. of Health Community Rm., 324 Main St.,  
Bennington, VT
- APRIL 28, 2015 TUESDAY 1:00 - 3:00  
ACEDC, 1590 U.S. Route 7, Ste. 8, Middlebury, VT

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

- **Rock of Ages:** Beth Demers spoke to Rob Boulanger, Vice President U.S. Manufacturing Operations, of the Graniteville based Rock of Ages. The company is looking to purchase some new equipment that would allow them to gain efficiency and a greater market share within certain product lines. Employee training would be for incumbent employees and new employees who are hired for this market expansion. Rob will finalize numbers and be back in touch with Beth in the coming weeks.
- **Vermont Castings:** Beth Demers spoke with Tanya LaFrance, Director of Human Resources, of the Bethel based stove manufacturer. Despite the recent press the company is not completely shutting down operations. Much of the assembly in Bethel will move out of state. The company does plan to keep the foundry operations in Randolph and add a new enamel line. In order to retain existing employees and add the new line the company is seeking VTP funds to cross and upgrade train employees. Beth will meet with Tanya at the Randolph foundry next week.
- **Grant Awards:** The following businesses and training providers were awarded Vermont Training Program grant funds. Beth Demers has put together grant agreements for each of them and will be getting signatures in the coming days.
  - Critical Process Systems Group (Colchester): \$26,109.00
  - Dynapower (South Burlington): \$46,400.00
  - SSW Erectors (Morrisville): \$11,187.50
  - VSJF – Vermont Agricultural Development Program (Montpelier): \$12,500.00
  - VMEC – Measuring, Understanding & Improving the Lean Enterprise: \$11,187.50
- **Stafford Technical Center:** Beth Demers met with Adult Education Director Bill Lucci at the Rutland based technical center. The center has recently completed the construction of a new STEM lab and curriculum development. Bill is now working with GE to apply for a grant that would allow the center to develop a robotics lab and curriculum.
- **H. Hirschmann:** Beth Demers has been working with Lisa Gosselin and Scott Coriell from the Governor's Office to organize a press conference for the Governor at the H. Hirschmann Rutland facility. The Thursday press conference will highlight the company and the Vermont Training Program.
- **VTP Supplemental Report:** Jess has finished the FY14 Supplemental Report for the Vermont Training Program. This report includes 15 business grants and 10 training provider grants with the total amount of employees served at 2494 and \$938,576.12 spent. The report will be finalized once all of the grants under the "old" program have closed.

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

- **Environmental Review:** While HUD has closed its findings related to the Department's implementation of environmental review, concerns among our partners continue to swirl. Several months ago, Senator Leahy wrote to HUD Secretary Castro asking for some consideration and flexibility around the prohibition on purchase and sale agreements, among others. He received what his staff refers to as "a very unsatisfactory response" saying essentially, the rules are the rules. Now the Senator and his staff have set their eyes on the regional office. Provided the Department's perspective in several conversations this week with them and HUD's Vermont Field Director Mike McNamara. While ER rules and higher standards are here to stay and it is the Department's responsibility to ensure they are met, there may be opportunities to work with the regional office on interpretations related to some of the most problematic issues.
- **Housing Council:** Environmental Review was also the subject of a lengthy and productive discussion at the council meeting this week. We were joined by Leahy staff, Kate Fournier, Jason Richie and Josh Hanford. After a direct and candid exchange of perspectives and information, the Council established a working group to develop a list of issues we'd like to pursue with the Regional Office in coordination with Leahy's office. Other topics included updates on housing-related legislation and the Federal Budget. Many thanks to Arthur who staffed the meeting while Shaun monitored the floor debate on H.123.
- **Local Investment Advisory Committee:** At the request of Treasurer Beth Pearce, joined the committee for the purposes of reviewing responses to its solicitation for local investment financing proposals for housing, energy, transportation, infrastructure and post-secondary education. LIAC will make recommendations to the Treasurer for the use of 10% of the State's average daily cash balance, approximately \$8.2 million. Reviewed the seven proposals received by the committee from Champlain Housing Trust, VEIC, Housing Vermont, NeighborWorks of Western Vermont, Vermont Housing Finance Agency, Vermont Law School and the Town of Windsor. The committee is scheduled to meet and make its decisions on March 20.

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

### **Partner Updates**

- **U.S. Forest Service Grant Awarded:** US Forest Service awarded approximately \$250K to a multi-partner (ANR, ACCD, AOT, and UVM) effort to reduce stormwater run-off from urban and rural roads in the Lake Champlain Basin. Matching funds include an additional \$250K to plant trees and install green stormwater infrastructure along roadsides. Next steps include, updating the work plan and convening the grant stakeholder group, with a formal project kick-off stating after July 1.

## **GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director**

### **Closeout Agreements**

- After almost 2 years of deliberations, the Town of Hinesburg, has entered into a Closeout Agreement with the State to manage the loan and interest repayments from the Vermont Smoke and Cure project in a new revolving loan fund. Quarterly interest only repayments began in April 2012 through April 2014, when principal repayments began. The State will recapture 50% of the original loan amount of \$530,000 from the Town, at a pace of approximately \$32,000 annually. Thank you Cassie for your perseverance and patience with the new municipal staff.

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

- **State Historic Preservation Plan:** As part of our federal funding through the Historic Preservation Fund, the Division must prepare a five-year state plan. A public survey for the general public and all our preservation partners and friends has been prepared/completed. The participants are asked how they view preservation in Vermont, if they are aware of our many programs, what types of resources and landmarks are important to them, and takes the temperature of how the Division is doing in addressing Vermont Preservation so we can make our work plan for the future. The format is being finalized to place in an online platform for dissemination to our mailing list and for placement on our website. Thanks to Heather for her guidance, Deb and Jenni for the emailing list updates, and Jess and Devin for working diligently through the survey questions.

### **State Archaeologist**

- **Archaeology Heritage Center:** On Wednesday night, the Archaeology Heritage Center hosted a lecture by Fred Wiseman, entitled "Wabanaki Agriculture: Theory and Practice". A total of 25 people attended,

which was a wonderful turnout. Jess wishes to thank the Vermont Historical Society for his use of the Committee Room and the help they provided during the lecture.

#### **State Architectural Historian**

- National Register nominations for properties in Montgomery, Grafton and Waitsfield are being prepared for presentation to the Advisory Council next month.
- Devin has been providing extensive guidance to the Town of Wilmington regarding local review of historic preservation projects. There is interest locally in applying for Certified Local Government designation, which could help get local preservation efforts on track.

#### **State-Owned Historic Sites**

- **Mount Independence:** The South Lake Champlain Fund of the Vermont Community Foundation has awarded Mount Independence a grant of \$2,500 for the annual “archaeology walkover” with 2 professional archaeologists and a team of volunteers. Each year we spend a day walking over specific areas to identify and map historic evidence on the surface. This surface mapping is the top archaeological priority in the site’s cultural resource management plan.
- **HOUSING ♦ Arthur Hamlin, Housing Program Coordinator / Shaun Gilpin, Housing Policy Specialist**
  - A park sale notice is required before closing a mobile home park in order to sell the property within five years. Evergreen MHP in Pownal, which has 19 lots, was noticed for sale in September 2014 with no disclosure of a potential closure, but was re-noticed last month as the owners indicate that the park septic systems may need to be replaced and they plan to close the park if it can’t be sold. Arthur met with several residents last fall but there was not enough interest in trying to buy the park and no nonprofit was interested. As the situation has changed, he reached out again to Shires Housing and HFI about their interest in buying and preserving the park. A resident meeting will be schedule in early April.
  - Also in Pownal, the Alta Gardens MHP which was notice for sale in March 2014, was sold by Eugene Bisson to Mark Garrity on March 2, 2015. Not enough residents expressed interest in meeting when Arthur offered to meet with them last year. Shires Housing at the time said they would only buy the park if they could relocate the residents out of the flood zone, but Mr. Bisson felt he could sell the park for much more than they would be willing to pay.
  - The first draft of the Consolidated Plan has been published on the ACCD website. The new, HUD-mandated, format is taking some getting used to. Shaun read through the document, generated by the new online system, and made some suggestions to how it might be made more citizen-friendly. A public hearing on the draft Plan is scheduled for late next week and we are receiving public comments through April 27<sup>th</sup>. A final draft will be submitted to HUD through their online system in May.

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

##### **Regular CDBG: Existing grants**

- **City of Barre:** The City’s \$1 million Implementation Grant project for the \$9.3 million Summer Street project being undertaken by Central Vermont Community Land Trust (CVCLT) and Housing Vermont (HVT) that involved the demolition of 3 buildings/32 units will now be replaced by one building instead of two buildings. It will still include the commercial space for CVCLT offices, but the number of units was reduced by one to 27. The project hopes to have all 27 units be Section 8 voucher units. Finally the project is now being called Downstreet Apartments.

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

- Megan attended a Discover New England board meeting where the agenda was divided between a presentation from our research company and the presentation of our 3 year strategic plan. Some of the key points of the research that will affect our strategic plan are as follow:
  - 90% of passengers entering Logan visit New England before flying anywhere else.
  - Only 3 of 10 NE visitors enter through Logan Airport. New York, Newark, Miami and Chicago are the other entry points, with NY and NJ representing a combined 36% of visitor entries.
  - Visitors to the US average 1.4 states visited, while visitors to NE average 2.5 states.
  - NE has a very high percentage of visitors in the categories of friends and family, business, study and convention. We need to increase our leisure travelers.



- Although overseas visitation to the US is increasing, NE is at a record low of market share. The marketing initiatives by Travel South and The Capital Region have greatly affected us. That said, the average NE stay has gone up by 1 night and we have an overall net gain from overseas visitors.
- France and Australia have both increased market share.
- Although China arrivals are projected to increase 172% in the next 5 years there is a new “anticorruption law” that will greatly affect the leisure travel patterns that have evolved in conjunction with business travel. The law will restrict anyone traveling on business for a company that is owned by the state from tacking on leisure travel.

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

- **ADARA media:** Below are the final results from this winter’s advertising campaign with Adara media, an online booking engine that places media across travel brand and OTA channels. This campaign was very successful, inspiring bookings to Vermont as you will see below. Tracking data was placed on digital advertising, allowing us to see if a consumer who clicked on an ad ultimately booked travel.

Vertical	Bookings	Avg. Length Of Stay	Avg. Advanced Purchase Window	Avg. # Travelers	ADR (USD)	Total Travelers	Total Nights	Revenue (USD)
Flight	853	5.9	32	1.2		1,043	5,010	
Hotel	826	1.7	27.9	1.8	\$ 136.39	1,477	1,401	\$ 191,082.39
	<b>1,679</b>					<b>2,520</b>	<b>6,411</b>	
					<b>TOTAL AD SPEND</b>			<b>\$ 30,000.00</b>
					<b>ROI</b>	<b>HOTEL REVENUE</b>		<b>6.4</b>

Residence of those who booked

Vermont hotel booking

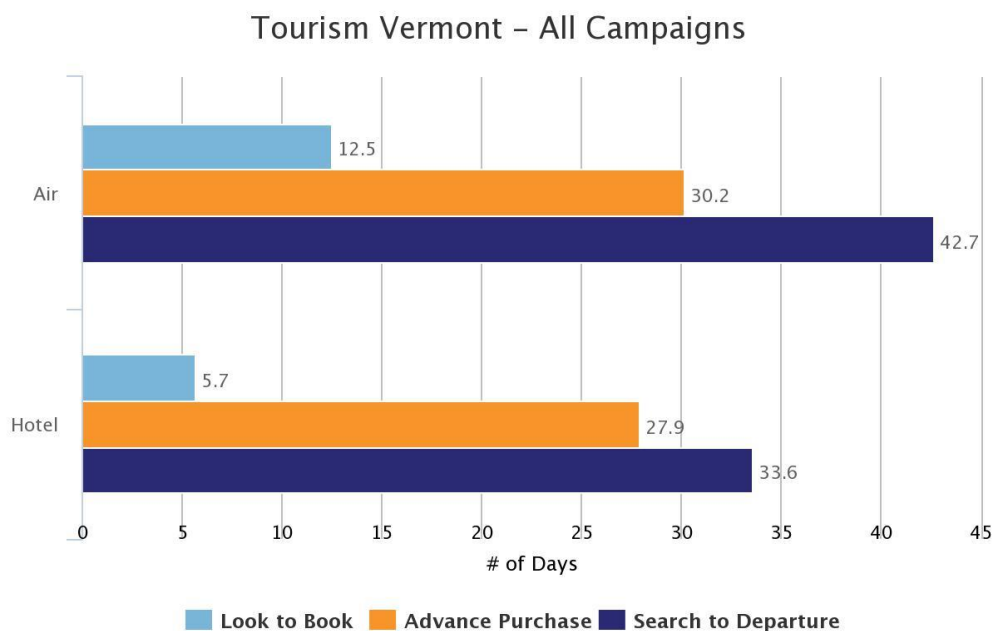
**Tourism Vermont - All Campaigns - Hotel**

Rank	City	Volume
1	Boston	203
2	Burlington	173
3	New York	135
4	Hartford	58
5	Philadelphia	26
6	Washington	23
7	Albany	20
8	Providence	18
9	Raleigh	12
10	Buffalo	11
11	Springfield	10
12	Wilkes Barre	10
13	Watertown	9
14	Los Angeles	9
15	Syracuse	9
16	Portland	9
17	Cleveland	7
18	Dayton	6
19	Charlotte	6
20	Rochester	6

**Tourism Vermont - All Campaigns - Hotel**

Rank	City	Volume
1	Burlington	6,574
2	Williston	4,585
3	White River Jun	3,562
4	South Burlingto	3,044
5	Colchester	2,900
6	Rutland	2,814
7	Brattleboro	1,686
8	Middlebury	956
9	Bennington	927
10	Montpelier	834
11	Brownsville	622
12	Springfield	585
13	Saint Johnsbury	402
14	Shelburne	284
15	Quechee	234
16	Barre	198
17	Manchester	86
18	Killington	40
19	Bellows Falls	39
20		38

- Air travelers take 42.7 days on the average from the time they 1<sup>st</sup> search to the time they travel to Vermont
- Hotel only travelers take only 33.6 days from Search to Travel



#### **SALES ♦ Christiane Skinner, Sales Manager, International and North American Markets**

- **Visit USA - Italy Showcase:** Christiane Skinner attended the showcase that was held in Pisa on March 2-3, 2015. She had one-on-one appointments with 39 Italian tour operators who were joined by 80 Italian travel agents. This event was very productive and Christiane noted that travel agents like sending honeymooners to Vermont and the rest of New England. Forty-three businesses and organizations from across the US were present at the event.
- **ITB – Germany:** Following the Italy Showcase, Christiane attended ITB in Berlin on March 4-8. This is the largest B2B event in the world, where 10,000 exhibitors meet with tour operators, media and the public in the 27 halls of the Messe Berlin Convention Center. We heard from a few tour operators and media that they would like to promote skiing in Vermont as the snow conditions were not the best in the Rockies this year.
- **Toronto Outdoor Adventure Show:** Deb Carbin, VDTM's contractor, attended the Adventure Show on February 20-22, 2015. This is the largest showcase of outdoor gear and adventure travel experiences. She was joined by staff from GoSojourn promoting bicycle tours in Vermont. There were numerous questions about motorcycling through Vermont as many motorcycle enthusiasts attend Americade in Upper New York State. Skiing and fishing were popular requests.
- **AAA Southern New England Showcase:** Deb Carbin also attended the AAA showcase held at the Gillette Stadium on March 6-8, 2015. VDTM partnered with Rock of Ages, Northern Vermont Hotels and Casablanca Motel from Manchester. This year, the show welcomed 17,911 visitors, which was a record. This is an excellent consumer show for our state.

#### **VERMONT LIFE ♦ Mary Hegarty Nowlan, Editor/Sky Barsch, Associate Publisher**

- **Vermont State Colleges:** Mary and Sky are meeting with Jeb Spaulding to discuss digital subscriptions for VSC students.

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

- **Universal Recycling:** Outreach planning efforts have begun in earnest at DEC to prepare for the recycling ban that will take effect on July 1. The DEC Waste Management team met with Heather and Erik Filkorn from VTrans to discuss outcomes and lessons learned from the hand-held cell phone ban campaign conducted last fall. DEC has also reached out to the CMO's group of master marketing contractors for help with message development and campaign tactics.

## Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report – Weeks Ending March 13 and 20, 2015

Obvious big issue for VDOL this week was the UI system breach by the now-former employee, and the press release today. To date, we only have the hard copies she printed out and were found by VSP during the search of her house. VSP is printing out all the emails from her home computer, and they are awaiting the download from her FairPoint account. We will continue to notify affected individuals. VSP does not believe she transferred the info to any other party, and that the likelihood of identity theft is minimal. We certainly hope that is true.

## Legislative

- VDOL's UI technical corrections bill, H.306 was voted out of House Commerce unanimously.
- Prevailing Wage: I testified in House Institutions, along with Commissioner Obuchowski, on PW, and had several follow up conversations with Chairwoman Emmons, as well as with Senator Campbell to get this on his radar and remind him of his commitment to support PW. VDOL and BGS have been collaborating on getting the definitions correct, and providing JFO with info for an updated fiscal note. I have been keeping Adam Necrasson fully updated.
- Independent contractor bills are numerous this session, but it does not appear that any of them are gaining momentum. Chairman Botzow was relatively abrupt with Rep McCormack and, again, with Rep Masland, when they came before Commerce to present their bills, so those have no traction, and we will see if Rep Scheuermann's bill will move. Sue Zeller has been asking VDOL to get something in statute regarding "Chatham Woods", which is a Vermont Supreme Court case that deals with statutory liability of the contracting entity if their sub-contractors fail to have WC coverage. VDOL staff was calling Sue today to understand what she is asking us to do. The state of Vermont has run into issues with sub-contractor issues, and there may be larger issues looming in AHS, including an issue raised by Commissioner Chen, which VDOL and AHS have met over the past few years. I will summarize the issue further next week.
- I was called to SED by Chairman Mullin to comment on S.133, the bill which prohibits penalizing an employee for use of accrued leave. I answered questions about labor laws and whether protections now exist, and the committee voted it out. I advised that the Administration and VDOL had no position on the bill.
- VDOL's budget has been on the table this week in House Appropriations, and again this afternoon. We will take a hit in one-time give back from vacancy savings, and transferring WC Investigators from GF to WC fund (which is solvent). It seems that the VOSHA and WETF cuts may be off the table for now.
- S.109 – taking credit card fees and other employer-costs out of tips and gratuities – was discussed by SED, and VDOL legal division did a memo to the Committee explaining the provisions of law under FLSA. We have been asked to continue working with Leg Council to present more legal analysis. This is Senator Dick McCormack's bill.
- H.331: Rep. Masland bill. Steve Monahan, WC Director, testified (against) this in Commerce this week.
- Senator Sirotkin and I met on Newspaper Carriers, and he said that it "was acceptable" to him that we refile the proposed rule through LCAR. A few days later I received a rather nasty letter from Reps. Hatch-Davis and Donovan, critical of the department and me, of which I will send a copy and my response.

Unemployment: For the week ending 03/14/15, we took 2, 356 calls. This is an increase of 38 calls from the prior week. We paid 6,762 claimants during the week ending 03/14/15 compared to 7,113 for the prior week. We processed 153 Mass claims for week ending 03/14/15: Sodexo – 95; Appalachian flooring – 10; Adams Granite – 26; Granite Industries of VT – 3; Riverton memorial – 1; Rock of Ages – 2; Culture Craft – 2; Spruce Mountain – 5; Student Transportation - 7

Workforce Development: We have a meeting of all Internship grantees this coming Wednesday to get them working together to do an aggressive summer outreach program for HS and College kids this summer. VDOL has federal money for both At-Risk Youth SEO (work opportunities), and for interns to work in our LMI and Career Resource Offices. This week, our district offices reported that we held hiring events for C&S Wholesale, Green Mountain Flagging (hired 22 of our referrals), and worked with Stratton Mountain, Vermont Country Store, Westminster Meats, Mount Snow, Grafton Cheese, and Structural Bridges. Lyndon State College laid off 5 employees due to decline in enrollment/budget shortfalls. VDOL staff worked the UVM Career Fair on March 18<sup>th</sup>. VDOL Veterans Job Counselors attended the LSC event and the UVM event. VDOL is working on the Biz-Summit in the NEK/LSC. Confidential: Community National Bank has advised that they may be laying-off 20 employees throughout northern Vermont. We are advising the Adult Tech Ed and HS Career Center Directors on program offerings that will meet the needs of the Vermont employer community in their area. Michele Kupersmith has been meeting with many of the local WIBS, ATEs, other state agencies and partners, and many employers to discuss how VDOL can assist them. This seems to be well-received. The next SWIB meeting is May 14<sup>th</sup>.



**State of Vermont**  
**Department of Financial Regulation**  
89 Main Street  
Montpelier, VT 05620-3101  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
[Banking] 888-568-4547

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: March 21, 2015**  
**Re: Weekly Report**

*Susan L. Donegan*

**Insurance Division:**

Another health insurance-related data breach was reported this week. Premera Blue Cross, which is a BlueCross BlueShield plan providing health insurance coverage in Washington State and Alaska identified as many as 11 million policyholders who had data in Premera's system that was improperly accessed as early as May 2014. Preliminary numbers show about 2,080 Vermont members could be affected but more detailed information is expected early next week. The Department continues to be in daily communication with BlueCross BlueShield of Vermont concerning the January Anthem Blue Cross breach and Commissioner Donegan participates in confidential Anthem multi-state briefings through the NAIC.

**Banking Division:**

The Department has settled charges against PYC, a New York company, and Blu-Bin, a local company with a kiosk in the Burlington Town Center Mall, for operating Bitcoin ATMs without money transmitters' licenses. PYC removed the ATM, paid a \$2,500 fine, and agreed to obtain a license before resuming operations. Charges against Blu-Bin were dismissed.





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**CONFIDENTIAL AND PRIVILEGED  
MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: February 20, 2015

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**Media Contacts:**

- Paris Achen, Burlington Free Press, requested enrollment data by county.
- Alex Abrami, Burlington Free Press, requested information on AEDs at school events in light of a recent coach collapsing at a game.
- Howard Weiss-Tisman, Brattleboro Reformer, spoke with Jill at the State Board meeting and also with Rebecca the following day regarding the State Board's resolution against the use of testing for accountability purposes.
- Emma Brown, Washington Post, spoke with Rebecca, Jill, and Brad James and issued a corrected follow up article to their NCES data article of last week. We continue to work with NCES on how to draw more accurate conclusions. NCES is a division of USDOE.
- Natalie at the Barton Chronicle requested follow up information regarding the Statewide Spelling Bee results.
- David Corriveau, Valley News, requested follow up information regarding the Statewide Spelling Bee results.
- We were requested via a parent to comment on their reporting of their child's bullying to WCAX. It is not appropriate for us to weigh in on individual student allegations.
- Queries Regarding SBAC Memo from the State Board of Education:
  - Charlotte Albright, VPR
  - Josh O'Gorman, Rutland Herald
  - Judy Simpson, WCAX
  - Taylor Reed, Caledonian Record
  - April Burbank, Burlington Free Press
  - Lisa Rathke, AP
- Regarding Dual Enrollment and School Choice by Gender – Amy Thornton, Vermont Woman

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

- Presented at VTVLC's "Online and Blended Learning Conference"
- Met with Rich Zeiger, CA deputy to plan a joint presentation for the P21 conference in DC next week on supporting innovation from the State level.
- Met with Brian Kelly of US News and World Report and Terry Halliday, Secretary in KY to plan for a panel presentation in DC next week.

## **Emerging issues**

### **SBAC**

The testing window just opened, and schools are beginning to administer the test. Simultaneously, we worked with the SBE on a resolution that prohibits the use of SBAC scores in the initial year(s) for any consequential purposes. We are currently applying to the US Department of Education for an exemption that will permit the state to implement the Board's policy while maintaining statutory compliance and eligibility for funding. The Board's action does not mean that Vermont is suspending testing. It means that the test scores that will result from the current SBAC administration will not be used this year to make any annual determination of consequence. The SBAC, our strategy and testing in general are going to get a lot of attention in the press. It is very useful to us to have the SBAC statement—it gives me some power to negotiate. We do not expect this to jeopardize funding. We are being careful to stay shoulder to shoulder with CA on this. They are the giant in the room.

### **Education Quality Reviews**

Internally, we have been working to identify appropriate indicators, or measures, for both our annual data snapshots (e.g. online data snapshots of key performance, capacity, climate and fiscal measures) and for the Integrated field visits we will conduct as part of the Education Quality Review process. We are seeking a broad-based representative group to provide input regarding what this process will be. We don't expect to be able to accommodate all interested parties, but will work to develop a representative group. Those selected to participate will need to commit to two full days for the EQR Field Summit on April 23 and May 29, 2015 from 9:00AM to 4:00PM. Let me know if you might want to stop by at all.

### **US ED and Equity**

US ED/NCES has verbally acknowledged that their data were wrong and their findings with respect to VT were incorrect. It is clear from the conversation that this was a political initiative, not a factual issue. Sec. Duncan's staff got our message about the data issue, and decided to single us out anyway in the press release. In meetings since then, it is clear they may have made mistakes for other states as well, but because this is a political issue, they have yet to publicly acknowledge the error or correct the record. <http://wapo.st/1FxvrHr> The quote from Brad is a little unfortunate. I understand what he meant, but in truth, VT has

no difficulty reporting its spending accurately on federal forms. The problem is that accurately reported VT data are not readily comparable with data from most states using more straightforward governance structures, especially when using mechanical, one size fits all, calculations. However, I think the numbers speak for themselves.

Funny counterpoint: the Urban League released a report this week with the following: “In Vermont, however, Blacks are more likely to graduate high school. There, 100 percent of Black freshmen graduate from high school, compared to 89.9 percent of Whites. This happened in Maine, Arizona and North Dakota, which all have small black populations.” <http://newsone.com/3099669/state-of-black-america-2015-high-school-graduation-racial-gap/>

### **HR Issues**

We have been focusing pretty intensely on performance management at the Leadership level. We have been working very closely with HR to get support for supervision, including frequent consultation and a full day training for everyone on the leadership team. As a result, some employees at the Agency are choosing to leave voluntarily. Two pending cases with extremely difficult employees will result in a lot of grievances, but we are working closely with HR to make sure we can stand up to those. Wanted to let you know in advance, as VSEA will likely call us out publicly as a horrible place to work. I don't have any doubts about the need to move on these individuals. I want to give huge kudos to John Berard and Heidi Dimick at HR. It feels like a new regime over there.

### **Governance and Caps**

The caps have to go. They just do. I am trusting now in the fact that the Senate has no appetite for them. Sheer political genius might be if the Senate could claim victory for killing the caps, and House could gain victory for framing the way to larger districts. They (and particularly the Senate) are still tossing and turning over voluntary vs. mandatory, particularly in the senate. Longer run, another reason to lean towards a voluntary approach is our diminished capacity: we can deal with requests if they come in batches, but I don't know what we would do if faced with 60 proposals simultaneously. We are trying to keep a lower profile in the House, though I have been communicating with Sharpe by phone outside the committee.

### **Note on Schedule:**

I will be in DC most of next week for meetings and a few public presentations.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: March 20, 2015**  
**Re: Weekly Report**

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

none

**Legislative Issues/Contacts:**

Meetings on Thursday and Friday with Senators to get their thoughts and share information about lottery and the proposed restrictions.

**Press Issues/Releases/Contacts:**

none

**Significant Events/Meetings:**

none

**Evolving Issues:**

Contingency plan for staff reduction. Met with staff to let them ask questions because story is prevalent in media. They asked some basic questions and left with a better understanding.

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

Lottery sales continue to be good. We are working on product and media planning for FY16.

**Executive Director's Commentary:**

My Director of Security has received orders from the National Guard for overseas deployment, leaving in May for about one year. I will need to replace him, even if on interim basis because the job is more technology and gaming security than physical premises security. HR is aware and we are beginning the process.

On the national level, hearings are scheduled in Wash DC for two bills aimed at online gaming and the Wire Act. Both have some crippling restrictions to current lottery practices for all states. Our delegates are receiving visits from the National Lottery Assoc's Director and certain state lottery directors who could attend.



OFFICE OF THE SECRETARY

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**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Sue Minter**  
**DATE: Friday, March 20, 2015**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**Legislature:**

This week House Trans voted out the T-Bill and brought it to the Appropriations Committee. We expect it to be on the floor next week. Following our meeting last week, and my subsequent testimony in Senate, I suggested to Pat that he not raise the TIB floor to the TF assessment level. He and the committee agreed they did not want to be on a different path than the Senate. Their bill does establish a floor at current price (it would take effect when gas prices fall below \$2.49/gallon), and perhaps remains a discussion for the end of session (?). Instead of the additional revenue, the bill includes cuts that we proposed, including: Labor Savings (\$1M); Project cuts (\$2.5M T-funds, \$8.3M fed funds); leveling (\$1.5M T-funds); Maintenance decrease due to fuel price savings (\$700K in T-funds); Central Garage Fund Balance (\$1M Internal Service Funds).

The bill also establishes a Town Highway Clean Water Program which directs the Agency to coordinate with VLCT to examine existing water quality related programming and activities to incorporate into or support the new program. The program will be funded at \$1M per year for 3 years through JTOC reductions.

**Brattleboro Bridge**

I will head to Brattleboro on Monday where I will meet with: Brattleboro Reformer (Bob Audette); advocates for a bridge connecting Route 30 and the West River (including Liz Bankowski); a group of area legislators (Mollie Burke is helping me gather); and then the select board.

My goal with the media is to put this schedule change (not using the word "delay") into the larger context of progress we are making in bridge and road improvements statewide. The Brattleboro Bridge is one of 6 we are rebuilding in the I-91 corridor in southern Vermont. After 50 years of use we are rebuilding our Interstate, fixing at-risk critical bridges that are investments for the next generation. The generation that built the interstate sacrificed greatly for our benefit, and while these investments are

inconvenient, they are nothing compared to what happened 50 years ago. We have built 6 major bridges in expedited fashion through innovative contracting and construction techniques. While the schedule for this bridge is longer than we anticipated, it is still, overall, being built in record time through the design-build process. I intend to mention that you have personally engaged in this process to work to hold the contractor's feet to the fire moving forward. With your assistance we have pushed the contractor to bring new resources to Vermont to get this bridge completed as soon as possible. We are also working harder to mitigate traffic and inform the traveling public of what is occurring in the project and how it might affect travelers.

There is some promise that the heavy delays in the southbound barrel of I-91 can be mitigated by closing the ramps at Exit 3. This strategy was deployed Sunday, March 15 with very good results. Actual traffic data showed a significant improvement of travel speeds for mainline I-91 southbound traffic. Another test is scheduled for this Sunday. If the same level of success is achieved, a more refined analysis will take place to determine the optimum times to deploy this strategy, including evaluating ways to keep northbound traffic open when closing the southbound ramp (per your request).

#### **Missisquoi Bay Causeway**

The issue of removing the causeway has come up in the legislature. Rep. Helm has been raising it in testimony and in questions with us. (His view is that the pollution problems would be solved if we remove it.) Tom Torti stated at the "Lake Day" that this is a critical project to lake cleanup. We don't think Helm will raise it as an amendment, but it could come up when the T-Bill hits the floor.

We are working with ANR to assess whether such a project could ever be permitted, and whether there is evidence that it could help with water quality. The preponderance of evidence is that it will not help, and it has the problem of the habitat of the spiny soft shell turtle which is an endangered species in Vermont. However, we have met with ANR and believe that it would be prudent to move the project forward in the T-Bill when it is in the Senate. If we establish it as a project, we can begin scoping to further refine the analysis and also assess public reaction.

#### **NOTES FOR STAFF**

##### **Causeway Continued**

VTrans estimated the costs associated with removing the causeway and determined that up to 60% of the causeway could be removed with the existing remaining earmark of \$4.6M. This estimate does not include costs for endangered species mitigation or permitting costs for the project.

Fish and Wildlife is currently analyzing how much of the causeway can be removed and have the project receive an endangered species permit which would include mitigation measures for the spiny soft shell turtle. The project would also need DEC permits as well

as Army Corps permits. The F&W analysis has three removal options: a portion of the east end; a portion close to the bridge abutments; and then the east end portion and the portion next to the abutments. F&W feels comfortable with a phased approach to causeway removal with an initial removal of 330 feet of the causeway on the east end, a period of monitoring to follow and based on the monitoring results there is the potential to remove an additional 330 feet. Removing 330 feet of the causeway represents 10% of the existing causeway, both east and west portions. A threshold issue is whether F&W can permit enough of the causeway to be removed to make the expense of funds seem worthwhile from a public perspective. Removing only 10 to 20% of the causeway may invite more public dissatisfaction with the performance of government than not removing any of the causeway and some would see using those funds on other transportation infrastructure as a better alternative.

Rep. Helm has become interested in this issue and the ultimate disposition of the earmark. He would seem to be happy with removing the entire causeway but if that couldn't be achieved, wants to see the earmark be used for other bridges. His big concern is the earmark not being clawed back by the federal government during the reauthorization process.

ANR and VTrans have both agreed that the best path forward is to add this causeway removal project to the VTrans T-Bill in the Senate. If approved, the first step in FY16 would be to begin scoping the project which requires the development of a purpose and need statement for the project and local public meetings to review the statement and develop a range of alternatives. The range of alternatives are narrowed to three or four which then get carried into the environmental review which is either an environmental assessment or an environmental impact statement. VTrans will need to make a decision at the end of scoping whether the project should continue into permitting; this is the point where payback obligations accrue for the Agency should the project not advance and it receives an environmental permit.

Given that F&W only thinks 10% to 20% of the causeway can be removed and still receive an endangered species permit, VTrans is confident that this work can be accomplished with \$3M in funds if it goes forward and we would like to expend \$1.6M on other bridge projects, to both assist with our budget issues and utilize the federal funds for transportation. We have not shared this latest thinking on the \$1.6M with ANR.

### **Waterbury Projects**

- A public information meeting was held on Wednesday, March 18, 2015 in Waterbury to update the public on the status of the various projects and present this summer's planned construction activity. The meeting was well attended and included presentations from VTrans, Town officials and BGS (regarding the State Office Complex project). The atmosphere was positive, attendees had many informed

questions and they were reminded of the multiple forms of media to receive information for the projects.

- I-89 bridges project -- no traffic delays. Work continues in preparation for opening crossover lanes in April.
- Ramp and signal work at I-89 southbound Exit 10 begins April 6.

#### **Driver Privilege Card Fraud Update**

Thus far 214 cases of fraud have been confirmed involving applicants of foreign origin providing false information on DMV Driver Privilege Card applications; the vast majority of the transactions occurring in the southern part of the State. The initial volume of cases continues to be vetted through our investigative process. Fortunately, only one new case has been identified since January 1, 2015. It appears enforcement efforts have mitigated the flood of fraudulent Driver Privilege Card applications and we believe this decline will be sustained. The DMV has been FOIA'd by the ACLU and the Migrant Justice in MA and is in the process of fulfilling those information requests.

#### **Theft of Vehicle Inspection Stickers**

From late December to present, there have been approximately 12 burglaries reported by licensed state inspection stations from Georgia to Bethel. Over 500 inspection stickers have been stolen from these facilities and are being sold illegally for up to \$120 each. DMV has compiled a list of the serial numbers for the stolen stickers, which has been shared with local and state law enforcement. DMV is concerned the stolen stickers are being used on vehicles that would otherwise be unable to pass a safety inspection. WCAX did a piece on this matter with the focus on the stolen sticker reports, inspection sticker security requirements and penalties for individuals who may use or possess stolen stickers.

#### **Driver Restoration Day**

Chittenden County State's Attorney T.J. Donovan met with members of the Vermont Association of Chiefs of Police at the Police Academy on Tuesday to discuss Friday's Driver Restoration Day. There was angst by several of the chiefs regarding the program, but general agreement from the group that the issue of suspended drivers needs to be addressed. The chiefs (law enforcement) want to be involved in future discussions of how to address this problem and are interested in what measures will be used to assess the success of the Chittenden County Project.

DMV has prepared packets for the approximately 400 people who have already registered for the program. State's Attorney Donovan said he has heard from his staff there may be as many as 800 people showing up; some have said they may camp out on the sidewalk overnight to be at the front of the line. Staff from DMV will be assigning additional human resources to assure customer needs are met.

#### **Federal Cross-Border Updates**

On March 16<sup>th</sup> a Preclearance Agreement was signed between the US Department of Homeland Security and Canada's Ministry of Public Safety. This agreement will cover extension of preclearance to all modes, with the current aviation agreement being amended and a new surface and marine agreement being established. Federal laws still need to be enacted but this agreement was the major obstacle to engagement of DHS-CBP in development of a secured facility inside Montreal Central Station to facilitate Vermont's extension of passenger rail service to Montreal.

#### **T-Bill Summary – Major Highlights**

- Agency proposed funding adjustments
  - Personnel or Labor Cost Savings of \$1M
  - Program Development Funding decrease of \$2.5M in state funds and \$8.3M in federal funds
  - Leveling decrease of \$1.5M in state funds
  - Maintenance Program decrease of \$700K in state funds due to anticipated fuel savings
  - Town Highway Structures Program return of cash balance of \$3.15M in state funds that was used to balance the FY15 budget
  - Central Garage Fund balance transfer -of \$1M
- TIB Floor is established at 4.15 cents per gallon on 2% transportation infrastructure assessment – this will stop the erosion of TIB funds, not generate revenue. It would take effect when gas prices fall below \$2.49/gallon.
- Town Highway Clean Water Program established, directing the Agency to coordinate with VLCT to examine existing water quality related programming and activities to incorporate into or support the new program. The program will be funded at \$1M per year for 3 years through JTOC reductions.
- Transportation Alternatives Grant Program dedication of up to \$1.1M to environmental mitigation projects related to stormwater, highways, and sand salt sheds; the set aside will sunset in 07/01/18. The cap on sand and salt shed grant awards of \$50K has been removed.
- Studies
  - Transportation Revenue Study Committee
  - Study of Albany to Bennington to Manchester Bus Service
  - Montpelier to St. Albans Commuter Rail Service; Feasibility Study
  - Review of VT Elders and Persons with Disabilities Transportation Program
- Newport airport will be called the “Northeast Kingdom International Airport”

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** March 20, 2015

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Highlights:

**AHSCO:**

Housing Focus in Burlington	pg. 3
Continuing to Build an RBA Culture at AHS	pg. 3
Working with the Designated Agencies on Outcomes	pg. 3

**VDH:**

Substance Abuse Prevention Grant Proposal Submitted	pg. 4
Bottoms Up to Colorectal Cancer Screening	pg. 4
Tobacco Control Makes Significant Gains in 2014	pg. 4

**DMH**

Vermont Psychiatric Care Hospital (VPCH)	pg. 5
Soteria House	pg. 5

**DAIL**

Essex Native Heidi Viens, Who is Blind, Succeeds in New Business Venture (see press below	pg. 5
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**DCF:**

Vermont Most Improved State in the Nation	pg. 7
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**DVHA:**

Vermont Health Connect Project and Operations Updates	pg. 7
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**Secretary's Message**

I have been working with my staff to explore and develop a systemic approach to suicide prevention. As you well know, Vermont's rate for death by suicide is high compared to national averages; in fact with slightly over 100 deaths per year, we are seeing approximately 2 deaths per week. This is a public health crisis that we can and must address in Vermont. I would like to develop an approach that you can use as an initiative moving forward with a set of measurable outcomes. As soon as we can articulate a cohesive approach, I will bring it to you for discussion.

Our 30+ year-old Department of Corrections (DOC) offender management legacy system, PAS, was taken down on Monday, March 16<sup>th</sup> at 8am. After two years of preparation and several months of training leading up to this point, DII and AHS-IT staff brought the new Offender Management System (OMS) online. Several contractors, DOC and AHS-IT staff were available to answer any remaining questions that staff had as they started the new system. The OMS system is currently being used for the DOC day- to-day operations. This is a significant accomplishment and an example of a successful IT modernization and transition into a new management information system.

I am pleased to announce that Allan J. Sullivan has accepted the position of AHS General Counsel. Allan brings over 30 years of legal experience to this new role. Allan served as Assistant U.S. Attorney in the Southern District of Florida, including as Chief of Criminal Division overseeing the work of

over 200 federal prosecutors. In addition, Allan served in Washington, D.C. as Counsel in the Office of Professional Responsibility in the Department of Justice. Allan has worked many years in private practice, including as a Principal in the Litigation Group of Baker & McKenzie and also was a member of that firm's Healthcare and Pharmaceuticals Practice Group. More recently, Allan launched his own firm Sullivan, Ruvoldt, PLLC. His practice areas include commercial litigation, arbitration, and securities fraud. Allan has been recognized as a leading attorney for his work in the area of white-collar crime by The Best Lawyers in America. Through his work, he has gained substantial experience in health care law, legal compliance programs and in managing and supervising legal staff. Allan moved to Vermont in 2013 and he is anxious to apply his skills and talents in public service. Allan will join us at 208 Hurricane Lane on April 6, 2015.

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

#### **Waiver Consolidation Mechanics**

AHS staff is working with Finance & Management and the Joint Fiscal Office on the appropriate mechanism for making appropriation changes related to the waiver consolidation for the FY 2016 budget. There is already a process established for the FY 2015 budget to go through the Joint Fiscal Committee.

#### **Building Bright Futures Early Childhood (EC) Action Plan Accountability**

AHS staff attended an event with Building Bright Futures and all the identified lead organizations related to actions within the EC Action Plan to develop a viable plan for accountability and coordination related to 3 of the 6 goals of the plan. Another meeting will be scheduled to address the remaining 3 goals in order to ensure that we can monitor and identify progress on the plan.

#### **Promise Community Grant Application for Franklin County**

The AHS Field Directors met with interested organizations in Franklin County to develop a potential grant application for the Promise Communities initiative. Proposed core services for an application were identified as follows:

- Transportation for preschoolers to access services
- Social Workers to work with preschool families
- Behavioral Specialists to help teachers best support preschool children who have been exposed to trauma.
- Coaches to support preschool teachers in implementing evidence based practices around social and emotional development, literacy and numeracy to fidelity.

The target communities we are considering are those served by the Franklin County Early Childhood Programs, which includes Fairfield, Franklin, Highgate, Saint Albans City and Town, Sheldon and Swanton.

#### **Winooski as a Potential Promise Community**

The Burlington Field Director received one request from the Burlington District for a Promise Community grant application. It is for the city of Winooski and stresses the importance of the Winooski Early Childhood Network established just over two years ago. It includes many partners ( VT Birth -3, University of VT Medical Center, YMCA, the City, Winooski Family Center, the school district, Building Bright Futures, Children's Integrated Services and the Winooski Library) who

regularly work together to enhance services and activities for families with young children in Winooski. Given the city's poverty rate (78.82% eligible for Free/reduced lunches), population diversity (905 students, 31 native languages; 27% of students considered English Language Learners) and challenging performance levels (31% of Kindergarten considered "ready" and 36% reading at grade level by Grade 3) it appears to be a worthy application.

#### Housing Focus in Burlington

The Burlington Field Directors are utilizing lessons learned from the success of ongoing warming shelter to inform the work of the Continuum of Care Coordinated Entry Workgroup. This group has scheduled regular meetings to address multiple components of a successful housing approach to include creating a process map for Permanent Supportive Housing, reviewing HUD guidelines about the prioritization tool, and discussing data related to need for families and singles. The group includes wide representation from both the community and state government.

#### Bennington Idea Fund Prepares to launch

A new non-profit is forming in Bennington; it is being spearheaded by some members of the business community. The Idea Fund will give out small grants to community members who have new and creative ideas for alleviating poverty. There will be staff to offer technical assistance in the development of ideas and projects as well as implementation. The intent is for the fund to be flexible and encourage unconventional approaches. The group intends to give out 5 grants of \$5,000 each in the coming year.

#### Brattleboro Blueprint Team Evolves

The Blueprint Clinical Planning Team in Brattleboro is taking the next step in its evolution. The group has spent a number of years learning about what services all the community organizations and coalitions have to offer with the goal of enhancing local collaborations and partnerships. They will transition toward a more formalized structure of a community health improvement partnership—similar to the transition happening in Bennington and other regions. Miriam Sheehey, Assistant Director of Clinical Quality Operations, OneCare Vermont, provided the group with an overview of the Healthcare Reform Landscape and current community health improvement activities across the State of Vermont to start the local conversation.

#### Continuing to Build an RBA Culture at AHS

AHS Secretary's Office facilitated an "RBA Awareness and Engagement" presentation to AHS staff from across the Departments which focused on the fundamentals of Results Based Accountability in the context of the AHS Performance Framework for continuous improvement. Feedback suggests that the presentation is a helpful tool for engaging and increased number of staff at all levels of the organization in a culture shift toward a) measuring outcomes rather than outputs and b) continuously improving our work.

Additionally, the Secretary's Office trained contracts/grants and program management staff at DMH in Results Based Accountability 101 and led a discussion about how current experience in managing performance through contracts will inform a process to incorporate a results-based approach into AHS-wide contract reform.

#### Working with the Designated Agencies on Outcomes



The AHS Secretary's Office met with representatives from Vermont Care Partners (the Designated Agencies) to discuss advancing our process for collaboratively establishing client outcomes of well-being measured across each Designated Agency through the Mastergrant. These measures will provide data on whether clients are "better off" according to four major areas of well-being: housing, employment, community connectedness, and preventive health care.

### **Vermont Department of Health (VDH)**

#### **Substance Abuse Prevention Grant Proposal Submitted**

On March 13, VDH submitted an application to the Substance Abuse and Mental Health Services Administration to support statewide and regional substance abuse prevention interventions. The Strategic Prevention Framework Partnerships for Success (SPF-PFS) grant would, if funded, bring \$2,472,608/year for 5-years to Vermont. The goal of the grant is to reduce underage drinking, prescription drug misuse and marijuana use among 12-25 year olds across the state. It is proposed that Health Department district offices convene partners and coordinate regional plans and for community organizations to implement alcohol, marijuana and prescription drug prevention efforts.

#### **State Immunization Laws and Vaccine Immunization Exemptions**

A Robert Wood Johnson Foundation grant will allow researchers at Emory University and Johns Hopkins Bloomberg School of Public Health to determine whether adding administrative requirements to existing immunization exemption policies in states can reduce the rate of exemptions while maintaining the exemption options for parents with strongly held beliefs.

VDH staff who participated in implementation of the revised 2012 law will be interviewed. The model exemption law will not be available until mid-2016.

#### **Drinking Water Guidance Values**

VDH published updated drinking water guidance values on their website on March 9, 2015. Over 70 chemicals were reviewed for this update. After review by DEC, these guidance values are also included in the DEC's Ground Water Protection Rule and Strategy as ground water enforcement standards.

#### **Bottoms Up to Colorectal Cancer Screening**

VDH is promoting Colorectal Cancer Screening Month throughout March, through digital outreach that is grabbing some lighthearted and important attention. The social media campaign underscores the need for regular screening to prevent and detect colorectal cancer.

#### **Tobacco Control Makes Significant Gains in 2014**

The Tobacco Control Program's work in media, cessation and health systems continues to reap benefits, with several noteworthy accomplishments from 2014.

- Vermonters registering for Quit by Phone and Quit Online services increased by 61% from 2013.
- Unique visitors to the Quit Online website nearly doubled between 2013 and 2014.
- Medicaid participation in Quitline and Quit Online services in 2014 was at a record high, with Quit by Phone increasing by 52% from 2013 to 2014, and completed coaching calls increasing by 94%. Medicaid registrants to Quit Online nearly tripled between 2013 and 2014.
- Registration of 35-44 year olds for Quit Online resources increased by 151%.

- NRT orders increased by 80%.

#### Immunization Registry Access for Schools

The 2015 Immunization Registry Business Plan will be released on 3/31/15.

- 96% of public schools serving VT residents have school nurses with access to the Immunization Registry.
- 25% of private schools serving VT residents have school nurses with access to the Immunization Registry.

The General Assembly is currently voting on a Health Department proposal that would allow school administrators at schools without nurses to access the Registry. It is anticipated that this will increase reporting substantially.

#### Department of Mental Health (DMH)

##### Vermont Psychiatric Care Hospital (VPCH)

All 25-beds at VPCH remain filled this week. The 45-Level I (State Hospital beds) are on line. The Vermont Program for Quality in Health Care, Inc. which is an organization that reviews all hospitals in Vermont and New Hampshire on a bi-yearly basis and focuses on patient safety, especially processes, policy, procedures, and document procedures. They came in early March when both the CEO and Medical Director of the hospital were on vacation for a surprise visit, and only found one minor item that hospital will change, and the reviewer in the narrative of her visit, speaks very highly of the hospitals commitment to patient safety and what VPCH has done with the opportunity to redo the older facility in Waterbury from the ground up.

##### Soteria House

A five bed residential peer supported facility in Burlington will have its Open House on Thursday, March 26<sup>th</sup> from 10:00 a.m. to 1:00 p.m. The opening of this program will complete the planned and funded residential programs in Act 79.

##### VT Digger – Morgan True

A public records request for information between the State of Vermont and the Community Care Network – Rutland Mental Health Services has been made. AHS is looking into this request and will respond accordingly.

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

##### Essex Native Heidi Viens, Who is Blind, Succeeds in New Business Venture (see press below)

The Courthouse Café is the newest initiative of Vermont's Randolph-Sheppard program which is part of DAIL's Division for the Blind and Visually Impaired employment program. DBVI has more than twenty-five year history of creating and supervising business opportunities for people who are blind on state and federal locations. These business owners learn the skills necessary to run a business and use specialized technology for the blind to accomplish the tasks. This is truly a Win/Win situation where customers receive good food and customer service, the blind business owner makes a living, the business sustains itself, and the public learns what a person who is blind can do. Initiatives like this are also a powerful way to educate the public and pave the way for other individuals who seek employment in a very competitive job market.

##### Vermonters with Disabilities Push for Increased Funding

VPR's Peter Hirschfeld reported on Disability Awareness Day noting advocates concerns that proposed cuts will impact their services. He acknowledged the Department's position that the net increase of \$7M will be sufficient to meet the needs of DS consumers.

#### Immediate Jeopardy at the University of Vermont Medical Center Lifted

The Vermont State Survey Agency, in consultation with the CMS Boston Regional Office, called an immediate jeopardy at 11:30 AM Wednesday, March 18, 2015 due to unsafe medication administration practices. The Facility submitted an acceptable plan of correction Wednesday evening and the Immediate Jeopardy was lifted. The nature of this patient safety error raises concerns about whether or not the Medical Center can maintain its patient safety standards as it takes on its larger ACO role. My hope is that this is an isolated incident and not a "canary in the coal mine."

#### Investigations continue at Rutland Mental Health Services' CAP program

The Attorney General's office and DAIL's Adult Protective Service unit are continuing their investigation into the death of Derek Hoffman, first reported in November. Derek was a 32 year old man with developmental disabilities who was found dead in his bed following a fall the previous evening. No new information.

#### Department of Corrections (DOC)

##### Windsor Facility Closing & Contraband:

Seven Days and VT Digger are running stories on the potential closing of the Windsor Facility as proposed by in the latest round of budget cuts. WCAX is running a story on the efforts that the DOC has made to stem the flow of contraband into correctional facilities and some of the successes that we are seeing to date.

#### Vermont Leadership Institute – Snelling Institute

The Vermont Leadership Institute is holding its annual Criminal Justice Day on Thursday at the Springfield Facility. The Snelling Center has invited former AHS Secretary Doug Racine to moderate the day.

#### High Risk Release

Alan Benoit – DOB 8/5/79. A High Risk Law Enforcement Notification on Alan Benoit is being circulated this week. Benoit was convicted of Aggravated Sexual Assault. Benoit maxes to probation on 4/15/2015 and will be supervised out of the Springfield Probation and Parole. Benoit has provided an address in the Ludlow area and will be residing with his family/support members. Benoit will be released as compliant with treatment and will enter community based treatment once released into the community.

#### Inmate Passing

Arnold Tavares is a 50 year old offender serving a 17 month to 5 year sentence for Violating an Abuse Prevention order (felony), as well as Sex Offender Registry Violation (felony). His minimum release date is 03/23/2013 and his maximum release is 10/28/2016. Mr. Tavares refused to participate in programming and as such he would not be released until he served his maximum sentence. Mr. Tavares suffered from multiple, chronic, medical issues, which is believed to have caused his death.

#### Population

The department's incarcerated population averaged 1,938 for the previous week. The male population averaged 1,794 with 329 being presentenced. The female population averaged 144 with 34 being presentenced.

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

#### **Vermont Most Improved State in the Nation**

The Supplemental Nutrition Assistance Program (SNAP), our federal partner for the 3SquaresVT program, recently published national payment error rate data for FY14 regarding the processing of benefits. Vermont has been in sanction for the past three years for exceeding the 6% threshold, finishing FY13 at 9.81%. DCF is pleased to announce that ESD finished FY14 at 2.58% and VT is now recognized as the most improved state in the nation. This significant improvement will remove VT from federal sanction and lead to a performance bonus. It is expected that VT will receive a formal announcement in late spring at which time we should also learn the bonus amount.

#### **Reauthorization of the Child Care and Development Block Grant**

The Child Care and Development Block Grant (CCDBG) Act of 2014 was passed by Congress and signed into law by President Obama in November 2014. This is the federal funding source and guidance that underlies the Child Care Financial Assistance Program (CCFAP) and all related child care quality and professional development initiatives administered by the Child Development Division (CDD) in the Department for Children and Families (DCF) in Vermont.

This is the first time the law has been reauthorized since it was initiated in 1996. There are significant changes focused on health and safety standards, consumer education, systems integration and the quality of child care services the fund supports. CDD is working on a side-by-side comparison of what the changes mean for Vermont which will be released in April. States, including Vermont, are required to submit a CCDF State Plan, subject to federal approval, to describe how they will meet the new requirements in state child care subsidy programs and quality initiatives. We have until March 1, 2016 to develop the plan in consultation with state and local partners and stakeholders, hold a public hearing, and submit the plan for approval.

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

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

**Senate Finance:** On Wednesday Steven Costantino testified on Medicaid Coverage of Telemedicine Services.

**Senate Health & Welfare:** On Friday, Steven Costantino was confirmed by the Committee.

**House Health Care:** On Friday, Steven Costantino testified on the proposed amendment to the budgets for inpatient psychiatric care.

#### **Vermont Health Connect Project and Operations Updates**

##### **VHC Project Update**

VHC is working towards the delivery of functionality to support Changes of Circumstance (COC), Changes of Information (COI) and Reconciliation between VHC, Benaissance and the Carriers as part of Release 1. VHC is also planning for work to be completed related to Release 2 which includes

Medicaid and QHP Renewals, Notices functionality, Additional Financial Reconciliation and Billing enhancements, and CMS Integration.

*Project Schedule:* Optum and VHC are currently working with Carriers to confirm development and test efforts to confirm the automated Change of Circumstance deployment date. May 30th date is in question given

#### VHC Operations Update:

*HAEU Vacancies:* Due to the uncertainty of funding for limited service positions, HAEU continues to see employees tender their resignation at a rate of two a week for the past 3 months. This is a significant problem for processing backlogs, as we are losing our most highly trained staff. Each time we experience a vacancy, we must repost, hire, and retrain. It takes 2 to 3 months to get staff hired and trained to be able to process at the necessary rate of productivity.

*BCBS & MVP Lion's Den Colocation Pilot:* The State launched a colocation pilot with BCBS and Benaissance on Monday. The goal is to assess whether throughput is increased significantly in person, as well as to identify opportunities for streamlining business processes. This effort has been successful in removing several unnecessary steps from the business process this week. The colocation pilot with MVP will take place on March 26<sup>th</sup> and 27<sup>th</sup>.

*MVP:* It was identified several weeks ago that MVP has been processing the Interim Change Process (ICP) spreadsheets incorrectly, leading to incorrect terminations. The State has provided MVP with extracts of the 2015 data already sent, with the expectation that they will update their enrollment records to match ours. They are still analyzing these records and will report back to us next week on discrepancies. MVP has agreed not issue further terminations until this work is complete. However, they are also no longer processing renewals, which will have a negative impact on customers. They are still awaiting confirmation from their vendor that they will be able to process the ICP spreadsheet correctly in the future. Continued leadership pressure is needed here to ensure that progress is made.

*BCBS Record Reconciliation:* The State has completed review/action on nearly 1700+ BCBS cases from 2014 that showed an outstanding balance as of 12/31. 77% of this review is resulting in retroactive terminations, most commonly back to the end of the first 30 days of their grace period per federal rule. These individuals were excluded from the dunning process last year because they had an outstanding CoC. As a result, proper notification ahead of termination was not provided. DFR has signed off on a letter that will be sent to each of these individuals during the week of the 23<sup>rd</sup>, notifying of their termination due to nonpayment & letting them know that they can be reinstated if they pay all outstanding premiums. The State is working with BCBS on a solution for those who have claims. The State is willing to have BCBS reject the termination if the member has claims during that period – and to potentially do outreach to that customer around appropriate termination date.

*Verification & Renewals:* The State has begun Medicaid renewals for individuals who remain in the legacy system. A draft verification proposal was submitted to CMCS on 3.17.15, which starts the manual verification process in April (lookups in ACCESS) and May (letters). The State is working with CMCS to schedule a follow up call this week in attempt to secure final approval for the plan.

#### VHC Outreach & Education (O&E):

*VHC Assister Program Evaluation:* The VHC Assister Program, which encapsulates the Brokers, Navigators and Certified Application Counselors (CAC), is undergoing a review and program evaluation to assess effectiveness in supporting Vermont Health Connect's mission and goals. This review includes a survey of grant managers, brokers, navigators and other stakeholders. Vermont Health Connect currently has approximately 180 active Navigators and Certified Application Counselors in communities across the state. In addition, there are about 180 active Brokers. When the current, largely federally funded grant period ends in June 2015, the State will need to determine how to most effectively provide in-person help with more limited resources. The program evaluation is collecting the data needed to inform those decisions.

*Tax Filing and 1095-A Forms* – 1095-A forms have been mailed to all appropriate customers and batches of corrected 1095-A forms are mailed weekly as they are processed. However, if taxpayers are concerned about filing late, Vermont Health Connect is relaying the IRS's two suggested options: 1) File for an extension and pay estimated income tax due, OR 2) File taxes now and then amend the return with a corrected 1095-A. Because state taxes generally cannot be filed without filing federal taxes, if Vermonters decide to file for an extension, they will likely need to file for both extensions. Vermont Health Connect continues to remind Vermonters that they can find local tax help by calling 2-1-1.

*Enrollment* – Enrollment data from insurers, Vermont Health Connect, and ACCESS suggests that Vermont is continuing to reduce its second-lowest-in-the-nation uninsured rate. The number of Vermonters covered by Vermont Health Connect Qualified Health Plans (QHPs) increased by 3,500 from December to February, while the number covered by Medicaid increased by more than 3,000.

### Blueprint

A current priority for the Blueprint is determining whether to maintain the clinical data warehouse with DocSite or move it to Vermont Information Technology Leaders (VITL) (or find an alternative to both). DocSite's contract ends in June and its owner, Covisnt, has indicated that they do not plan to continue to support DocSite or to host it on their servers. Covisnt has offered to sell the State of Vermont the source code. The Blueprint team is working with VITL and top healthcare database experts to understand the total investment required – in addition to the source code – for maintenance and operation of the data warehouse. The Blueprint team has put forward a proposal for migration to a SQL database with VITL in FY2016 and is reviewing the proposal with partners in the state, at VITL and beyond.

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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:** March 20, 2015

**Secretary's Top Issues**

**Capital Bill/Vermont Ag and Environmental Lab**

This week Ag Deputy Sec LaClair and ANR Dep Sec Martin continued testimony in House Corrections and Institutions regarding the Cap Bill appropriation for the new collaborative Lab. BGS joined the conversation regarding the Lease agreement with VTC – language agreement to the Committee and the state agencies has been developed so that BGS project managers will have funds available upon bill passage to continue with project design. Committee may vote the bill out today.

**Housekeeping Bill/H. 484**

The House voted Friday morning to approve H. 484 as passed by House Ag. In addition to approving changes to existing statutory language for water quality, dairy, weights and measures, as well as accepting funds from VEDA and creating efficiencies for the Agency's Licensing and Registration Program, the proposed merger of the Working Lands Enterprise Board and the Vermont Ag and Forest Products Development Board was included. Rep Partridge reported on the Board merger earlier in the week to House Govt Operations and received a favorable nod in support. This bill will travel to the Senate and the Agency will be carefully monitoring. Rep Partridge and Eastman, who reported the bill, as well as the full House Ag Committee, provided strong support.

**Maple Tapping with the Governor at Slopeside Syrup**

The Agency organized an event with the Governor at Slopeside Syrup in Richmond to kick off the maple season. Fourth graders from Richmond Elementary, who are learning about the maple industry at Slopeside as part of their Farm to School curriculum, took part in the festivities. The Richmond kitchen director, Karyl Kent, cooked a French toast luncheon. Leaders from the maple industry joined the Governor and Agency of Ag representatives to tap a tree and acknowledge the contributions of the maple industry. Press in attendance included WPTZ, WCAX, and Vermont Public Television.

**Raw Milk and Tuberculosis Quarantines**

This week the Agency of Agriculture monitored testimony regarding Raw Milk in the House Agriculture and Forest Products Committee. Simultaneously, an assistant State Veterinarian conducted confirmatory tuberculosis testing at two farms, one in West Pawlett and the other in Enosburg Falls. Both farms have been issued quarantines for livestock and all raw milk and milk products, unless the milk is moving for pasteurization. The West Pawlett confirmatory test was negative and the quarantine was lifted on Monday. The second test was analyzed on Friday.

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FROM: Chuck Ross, Secretary of Agriculture  
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**Status of Governor's Priorities:**

**Legislative Activities and Issues**

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**March 18, 2015**

**House Agriculture and Forest Products Committee**

**Raw Milk Bill H. 426**

Andrea Stander, ED Rural VT testified before the House Agricultural Committee. The benefits of the bill are the opportunity to scale up production (value added), access to markets and ability to sell product (caps), and appropriate level of regulation in relation to the risk (milk testing and animal testing were a focus), and factual public message about raw milk. She stressed the importance of the providing a meaningful way for these small producers (which are growing in the state) to be economically sustainable. They play a role in preserving the rural landscape. Ms. Stander walked the committee through the bill and its highlights, and shared the Rural VT Raw Milk report for 2015.

(<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Agriculture/Raw%20Milk/W~Andrea%20Stander~Rural%20Vermont's%20Raw%20Milk%20Report%20to%20the%20Legislature~3-18-2015.pdf>.)

Jane Clifford Green Mountain Dairy Association, testified. She took the opportunity to mention how important the dairy industry is to Vermont's economy. The state is known for its milk quality. Testing, regulations, and management of an operation ensures that quality and there are cost- these are the costs of doing business. The market changes and a business needs to be able to be thinking how to manage to stay in business. Ms. Clifford mentioned the Pasteurized Milk Ordinance and its purpose. The Association does not support the bill- however could see that standardized testing vials for the raw milk industry as being helpful

The Committee discussed

- the risks that raw milk producers are willing to take (just over half carry insurance, a number of farmers are not testing animals as required by law, asking for reduced testing requirements).
- Ms. Stander suggested that different milk testing containers similar to the conventional dairy producer requirements (vials rather than in a container used for sales). Also in some cases it is expensive to get milk to the lab for testing.



- Access to market is a problem- caps on sales doesn't support the raw milk business model- however it was recognized that this is meant to mitigate public health risks.
- The raw milk producer community wants similar standards and market opportunities to other states.
- Education of consumer is important, how does this happen? Through the conversation with the farmer at the farmers market or the farm. People who seek raw milk are also educating themselves.
- Testing is important to assure quality of the milk, conventional farmers pay for all the testing- it is through a co-op in some cases. Maybe the co-operative model is a way to support the raw milk industry.

*Raw Milk testimony with Representatives from the NH Legislature*

*NH Representatives Tara Sad and Bob Haefner presented on NH Raw Milk legislation, and answered questions from the VT House Committee on Agriculture and Forest Products.*

- NH first raw milk bill in 1995. Allowed 20 quarts to be sold at farm, farm stand, and farmers markets. No licenses and no inspection.
- They now have a licensing program for raw milk that is inspected – so you can choose to get one or not. If you do NOT have a license there is a limit on how much you can sell (previously 20 quarts, now 80). If you have a license there is no limit. The license allows you to sell at retail.
- NH legislature has been slowly chipping away with their state health officials and gradually adding more raw milk allowances. In 2001 they allowed raw milk cheese (had to be aged 60 days and kept at 35 degrees), kefir and yogurt protections in the law.
- Claimed that in the last 4 years they have had ZERO raw milk problems on raw milk, yogurt or kefir. For cheese a licensed facility was doing a routine inspection, found some bacteria. They did not sell that batch and thus there was no associated illnesses
- Any products made with raw milk have to be labeled accordingly, and the labeling is slightly more stringent for unlicensed (un-inspected: if selling in a bottle, the bottle needs to be labeled; if filling from another container then you need to have signage). \$150 to get a license. You do not need to have a full commercial kitchen.
- Unlicensed raw milk dairies go (by in large) uninspected because they do not have money for inspectors (well, there is an initial inspection but because of under-staffing the required annual inspection does not happen).
- They recognize that there are many people who will go out of their way to get raw milk. They feel these consumers are informed, they know the farmers and know the farms are clean, etc. They put a lot of stock in the consumer seeing where the milk comes from, what the farmers are like, are their hands clean, etc.
- 119 dairy farms in NH (registered in the state). That does not include the unregistered dairies with just one, two or three cows. Most raw milk is from small farmers but not entirely. Some large scale farmers (some of who are coop members) are selling up to or over 80 quarts to make some money on the side.
- Some of the dairy farmers are dead-set against raw milk because if there is an outbreak they don't want to be painted with the same brush.
- Another problem is insurance. When they first started allowing raw milk products, Farm Family Insurance (through AgriMark?) said they wouldn't cover it. Now local agents are selling separate insurance for \$700 per year (that's a lot of quarts of milk). They do not know how many of these raw milk producers carry any insurance. They say that is scary because if there is any outbreak that farm would be dead/gone – but it would also impact other farms.
- Teo Zagar asks – for retail sales, are their additional requirements for labeling? Are retailers required to do anything special? Answer – at retail level it must be licensed, and must be labeled as raw milk at point of sale and on container.
- They feel that NH gets plenty of reminders that dairy dangers effect pasteurized milk also (and are usually from lack of consumer care) – raw milk is no less safe.

*From here testimony digressed away from raw milk and touched on other differences in the states agriculture, and agricultural laws etc.*

- They are chipping away at the fear over food safety issues.
- It used to be that you could sell up to \$20,000 of goods from a non-authorized etc. facility. They have now exceeded that from a bill they recently passed.
- They also recently passed some chicken slaughter legislation allowing on-farm slaughter of chickens and rabbits that can be sold to restaurants and retail.
- NH is also looking at a bill for on-farm bison slaughter because putting bison on trailers is traumatic.
- Talked a bit about goat slaughter – Chair Partridge used the example of the goat collaborative slaughter program. Frank Hubbard gave his example of the bucks he raises for meat (by bottle) for meat, and he thinks it is unfair for him to have to compete with the Goat Collaborative which is being “subsidized by taxpayers” (by having a Working

Lands grant). Chair Partridge points out that he is welcome to apply for a Working Lands grant – and he responded by saying that he doesn't have a professional grant writer or the political connections to get a grant. This hearing turned to a more general discussion of differences in ag laws between VT and NH (for example, what you are allowed to sell at farmers markets, how long they are allowed to be open per week (2 hours), etc). And they have a state vegetable (white potato)...

### **March 19, 2015**

#### Continuation of H. 426 – Raw Milk testimony

##### *Nate Rogers who runs Rogers diversified farm in Berlin*

- Mr. Rogers is against this bill and feels that current regulation it is extremely difficult for the product to reach consumers.
- He thinks that raw milk encourages farmers to diversify their production.
- 10 other states have raw milk allowance.
- He agrees that a 10,000 cow farm is not feasible – but with smaller dairies it is safe.
- There is lots of competition for land.
- Chair Partridge asked if there specific parts of the bill he has problems with?
- Mr. Rogers says it is mostly about getting access to consumers. “Get rid of that foolish farm visit”.
- Chair Partridge explained that when the first iteration of this bill came about it was to protect the farmers because it allowed people to see the farm and meet the farmer and it gives them the opportunity to decide if they want to trust that.
- Seems like Mr. Rogers does not particularly trust the dairy inspectors or the lab. He confirms that bio-security is a huge concern for him and one of his biggest concerns is when the vet comes.
- Rep. Allison Eastman asked a question about somatic cell counts. Nate responded that when cow is in heat or during lactation there is a higher somatic cell count, and that is not indicative of an unhealthy animal. He said that he would be ok with the somatic cell count staying where it is, but doesn't like the 1 strike part.
- Representative Teo Zagar asked how he gets milk to lab, and Mr. Rogers explained that he spends 2 hours going to Burlington every other Monday. He said that he does not feel that the Agency is really concerned about safety. He wonders why the Agency makes it so difficult to collect this date. He feels that it's not about safety, but rather he feels the Agency simply doesn't want them there.

##### *Erica Berl DVM MPH, Public Health Epidemiologist, Department of Health*

- Erica feels that these raw milk producers are bypassing one of the greatest public health measures of the 20<sup>th</sup> century, which is pasteurization.
- Facts – Dr. Berl reported many statistics and facts from pre versus post pasteurization. These facts emphasized the importance of pasteurization, and the potential devastation of outbreaks. As you expand and facilitate access to raw milk you will have more illness.
- For the on-farm visit, this gives the consumers a better idea of what they are doing, and gives them an idea for the actual risks. She has concerns about people coming from Boston, New York, or wherever coming to a market in VT and picking up a bottle of farm milk and not even looking closely or thinking about it and inadvertently drinking raw milk and/or getting sick.
- The idea that “if handled improperly raw milk could pose a threat to your health” is totally inaccurate. If the milk is contaminated no amount of proper handling can protect the consumer.
- Milk is such a perishable product that most of the time by the time the contaminant is detected it's too late.
- Also concern that keeping the milk at 40 degrees is logistically difficult at farmers markets.
- Furthermore, concern that the bill does not define “retail establishment”. Does this include restaurants?
- Rep. Rodney Graham asked how many people get sickness from cigarettes, and those are not illegal? Dr. Berl said that this is a food safety issue and totally different.

##### *Tom Bivins, Executive Director, Vermont Cheese Council*

- Vermont cheesemakers test all of their milk at multiple times all throughout the lifecycle.
- If there is bad product, either in the milk or cheese form, it is dumped.
- Rep. John Bartholomew wonders why the concern about this bill? Considering how much testing you do and that you age your cheese for 60 days? Mr. Bivins confirmed that concern is not about testing, but about small/non-official operations flying under the radar.
- Tom explains that over the aging process the bacteria loads diminish and some of those bacteria become part of the flavor and rind etc.

- There was some mention of the proposed FDA rule to extend aging time from 60 days to 90 day. VT Cheese Council feels that 60 days is sufficient.
- VT Cheese Council has 43 members, and the value of the Vermont cheese industry is \$650 million.

*Stephanie Eiring, Sunrise Farm, Enosburg Falls*

- Owns a 10 acre homestead farm in Bakersfield. They handle two cows there. She is in support of H.426.
- UVM grad with a VLS masters degree. She started milking about five years ago.
- Her neighbors are confused why she dumps her extra milk on her pastures and she explains that she doesn't have the money to jump through the regulatory requirements.
- She claimed that the current regulations are a huge financial and emotional barrier for her.
- Wants to allow a neighborly tier so people like her can sell to her neighbor with whom she has a very positive and open relationship.
- She wants to someday have a full herd and ship milk – she has so many financial constraints she cannot.
- Chair Partridge asked what are specific problems in the current law?
- Ms. Eiring indicated the tuberculosis requirement was problematic. And two call fees for the vet. And one of her cows is 1500 lbs and it's difficult to get her and her vet in the stall to handle this.
- The neighborly tier would help prevent needing to keep frozen milk and samples for every day (she doesn't intend to sell every day).

*Mateo Kehler, Owner, Cellars at Jasper Hill*

- Mateo brought in some raw milk cheese. Totally got some points with the committee.
- He gave some history of Jasper Hill, explaining that it started 12 years ago with 13 cows and now has over 250 cows. In the next ten years they anticipate building 6-8 modern farmstead cheese businesses.
- Kehler feels H.426 is a very problematic piece of regulation. He recognizes that no industry wants to be regulated, but that all need to be.
- He explained it's a fermented food with microbial colonies. Each bite of cheese has 10 billion living microbes.
- With aging, some microbes go up and some go down. For example, listeria increases with aging. E Coli decreases.
- Mr. Kehler is a huge proponent of frequent and vigorous testing. They test every lot of milk. They test their environment. They test their equipment. They test the finished product. They commit 2.5% of their gross sales to testing. It's the best money that they can spend. Smaller businesses closer to 3%, and larger companies closer to 1%.
- There are about 50 employees at Jasper Hill and it does \$50-\$60 million dollars of business.
- Mr. Kehler believes there is a very bright future for the VT cheese industry and VT brand.
- Making a point that small does *not* equal safe. And neither does large. He gives the example of a small farmer in Washington State who recently got 25 people sick from her raw milk. There are, of course, plenty of examples of large companies getting people sick too.
- Mr. Kehler gave four specific examples of how "the Agency of Agriculture has bent over backwards to help people achieve licenses and come into compliance".
- He feels that this bill will exacerbate what is happening at the FDA.

*Frank Huard, Huard Family Farm*

- Mr. Huard claims tier two people don't disagree with a thing Mateo said, they just want an even playing field.
- Mr. Huard gave statistics about how many people have died from FDA approved drugs, tainted produce, poultry, fish, pork... and claims zero deaths from raw milk.
- "Raw milk producers are not creating science experiments." Feels he would have to try hard to get somebody sick from his product.
- When he is at the farms market in the parking lot of the grocery store, wonders what is the difference with selling it at temperature in the parking lot, versus at temperature in the grocery store a few feet away.
- Emphasized how much of a contributor he is to the working landscape etc.
- Mr. Huard says the Agency of Agriculture needs to trust farmers, and visa versa.
- He quoted Deputy Secretary Diane Bothfeld as saying "there is no pasteurization between the farmers and the consumer". Frank is insulted. He feels mistrusted. Doesn't integrity count for as much as pasteurization?
- Mr. Huard said that he was making up a statistic but feels that without homogenization 90% of Americans would have chronic diarrhea. He feels pasteurized but non-homogenized milk is just as dangerous. This was a bit unclear during testimony and he moved on to other points.
- Mr. Huard claimed you make raw milk into sour milk by leaving it on your shelf – if you tried to do that with pasteurized milk you would get sick or die.
- He simply wants the flexibility to be successful.

- Rep. Dan O’Conner asks what is your biggest issue in this bill? Mr. Huard says he needs markets. We need to support and encourage raw milk dairies. He thinks there is no reason customers should have unfettered access. He does not have a problem with the testing (through Randolph would be hard for him).

*Joseph Klopfenstein, Vermont Veterinary Medical Association*

- Thinks the previous doc did a great job addressing the food safety concerns.
- 3 problems with the bill.
- **Somatic cell count increase** – Somatic cells are primarily made of white cells which are created in response to mastitis. He does agree with Mr. Rogers that there are sometimes spikes, but feels an average would be an appropriate way of measuring.
- **Does not want to relax the testing provision for TB and brucellosis** – the charge is minimal, the test is quick, and the work is tested right here at the animal health lab. Another perk is that it gets a vet on the time at least once a year and they can see the environment. Dr. Klopfenstein agrees that having the public visit isn’t helpful because the public does not know what healthy animal care looks like – but a veterinarian does. He thinks public visits are not important. “trust... but verify”
- **Warning on the label should not be removed** – He knows of several people who have been sickened by lysteriosis. He feels that people should be able to make the informed decision.
- Perplexed by statement on Rural VT website and agrees with Mateo that you must scale appropriately. Vets deal with individual cows. He gave evidence of how somatic cell counts are on average are lower with bigger farms in VT.
- Raw milk is legal in VT. He does not choose to consume it, but respects that others may choose to do so.

*Lisa McCrory, Earthwise Farm and Forest, Bethel*

- Would have brought some yogurt and cheese like Mateo Kehler, but right now hers is not legal.
- She has been running her business for over 15 years.
- They are off the grid and use horses and oxen etc. Because of that they are limited by the economies of scale.
- She thinks the neighborly tier is good.
- She wants to be allowed to sell value added products.
- She wants the label removed.

### House Judiciary

Jim Leland listened as the committee discussed changes to the enforcement provisions of Chapter 215. Many of the changes are language edits though a few are more substantive. Specifically:

- Corrective actions process will state that the recipient of a corrective action has 5 days to request a hearing. There is no reference in the existing law to how many days a recipient has to request a hearing and the committee wanted clarity there.
- Allows the Secretary to order mandatory corrective actions including ordering the owner or operator of a farm to sell or otherwise remove livestock from a farm or production area when the volume of waste produced by livestock exceed the infrastructure capacity of the farm or production area.
- Appeals to the civil division of superior court
- On the record appeals

This is in the new section 4992 of chapter 215.

Some committee members were hesitant to vote for these amendments as they felt the entire bill was misguided. The concerns centered on applying enforcement where education would be the better course. It was explained that these amendments were in addition to existing regulatory authority and that we have been enforcing AAPs since 1996. The process for reaching out to small farms and informing them of the AAP requirements and the gradual approach to enforcement was also explained. To no avail. The committee informally voted 6-3-1 on the amendments by show of hands. The votes against appeared to be more about the bill in its entirety than the specific amendments being recommended. The suggested language changes will be forwarded to the Fish and Wildlife committee for further action. The amending language,

<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Judiciary/Bills/H.35/Drafts,%20Summaries%20and%20Amendments/H.35~Michael%20O'Grady~Draft%20No.%201.2%20Section%2017-Approved%20by%20Committee~3-18-2015.pdf>

### Press, Marketing and Communications

- Henry Marckres, Chief, Consumer Protection, was interviewed by Seven Days on several areas of maple, including the large operation in Island Pond, and the coming maple season.

- The Agency organized an event with the Governor at Slopeside Syrup in Richmond to kick off the maple season. Fourth graders from Richmond Elementary, who are learning about the maple industry at Slopeside as part of their Farm to School curriculum, took part in the festivities. The Richmond kitchen director, Karyl Kent, cooked a French toast luncheon. Leaders from the maple industry joined the Governor and Agency of Ag representatives to tap a tree and acknowledge the contributions of the maple industry. Press in attendance included WPTZ, WCAX, and Vermont Public Television.
  - For photos, click here: <https://plus.google.com/photos/105292516594763113073/albums/6127298987118590289>
  - Read more about the event here: [http://agriculture.vermont.gov/ma/gov\\_shimlin\\_officially\\_opens\\_maple\\_sugar\\_season\\_at\\_slopeside\\_syrup](http://agriculture.vermont.gov/ma/gov_shimlin_officially_opens_maple_sugar_season_at_slopeside_syrup)
- Nora Doyle-Burr/Valley News requested some records related to a pesticide investigation last summer in Newbury. The incident involved complaints of drift from a farm that was spraying pumpkins. The files were sent to Ms. Doyle-Burr.
- Lisa Rathke/AP requested stats about maple production in VT and was directed to the most recent USDA NASS maple survey.
- Leon Thompson/Lancaster Farming interviewed Diane Bothfeld for a profile piece on women in agriculture.
- Zach Despart/Addision Independent interviewed Diane Bothfeld about the rationale behind the sun-setting of the Dairy of Distinction program.
- The Agency sent out a press release announcing Specialty Crop Block grant funding

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

- State Veterinarian/FSCP Division Director, Kristin Haas, attended the annual Government Relations Committee (GRC) meeting in Washington D.C. this week as 3<sup>rd</sup> vice president of the United States Animal Health Association (USAHA). The purpose of the meeting was to provide a forum for discussion between the USAHA executive board/district representatives and various federal agency representatives (USDA-APHIS, USDA Animal Care, USDA-FSIS, FDA, Animal Agriculture Coalition, Department of Homeland Security, National Institute for Food and Agriculture, Agriculture Research Services, etc) to discuss the impact of the President's budget on the animal ag sector, federal trade implications of several current animal health events, and the status of various programs that impact Vermont and the northeast. As follow-up to this meeting, Haas will be resetting some of the VAAFM priorities related to animal agriculture to focus more on avian influenza preparedness and improving VT's animal disease traceability systems. During the GRC meeting, visits to the Hill were also made to legislators on committees of jurisdiction and veterinary members of Congress who comprise the veterinary caucus.
- Assistant State Veterinarian met with Local Foods Administrator and Produce Safety Coordinator to review the Agency's draft FSMA impact survey. The draft questions will be provided at the Agency's internal FSMA meeting for group input. Also discussed was a recent survey provided by AAFDO on state/federal collaboration regarding implementation of the FSMA Produce Safety Rule – that survey needs to be completed and submitted – will be reviewed at the internal FSMA meeting.
- Assistant State Veterinarian provided records for a public information request from WCAX.
- Animal Health is monitoring recent outbreaks of Avian Influenza and will be posting information on the AH section of the website. AH is also working with external partners to provide biosecurity and disease outbreak information to poultry producers.
- Assistant State Veterinarian is in communication with the organizer of an upcoming Agritourism conference in April in Rutland regarding precautions that farms with livestock should take when inviting visitors – disposable boots, footbaths, coveralls (all measures designed to prevent disease transmission to livestock on the farm). UVM Extension has provided such information in the past but is not on the agenda.

### **Evolving Issues:**

- Animal Health staff are investigating a livestock dealer who recently sold calves with MA back tags at a VT buying station. Investigation involves USDA APHIS and the MA state veterinarian. Questions that need to be answered are where he obtained the MA backs and where he purchased the calves.
- Assistant State Veterinarian is conducting tuberculosis confirmatory testing at two farms, one in West Pawlett and the other in Enosburg Falls. Both farms have been issued quarantines for livestock and all raw milk and milk products, unless the milk is moving for pasteurization. The West Pawlett confirmatory test was negative and the quarantine was lifted on Monday. The second test will be read on Friday morning.

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

### **Agricultural Development:**

#### **Working Lands**

The Working Lands Enterprise Board met on March 17<sup>th</sup> to make decisions on the Capital and Infrastructure Area (one of three investment areas). 10 full applications for a total WLEB request of \$626,314 were received (the Board made preliminary decisions on 32 letters of intent in December). The Board selected 6 projects for working lands funding (3 agriculture, 3 forestry) for a total of \$367,400. A celebration to announce grant recipients will take place in May (TBA).

In the afternoon of the Working Lands Board Meeting, Diane Bothfeld of the Vermont Agency of Agriculture and Ken Jones of the Agency of Commerce and Community Development presented findings from the 2014 study to assess the impact of the dairy industry in Vermont. The presentation was very well received, offering valuable information on the industry, from dairy's role in Vermont agriculture and its economic impact, to challenges and upcoming opportunities.

#### **Produce Safety**

Produce Safety Coordinator published and advertised the Vermont Specialty Crop Block Grant Program (SCBGP) Fiscal Year 2015 Request for Proposals. The SCBGP is an important source of funding for Vermont specialty crop industries, including vegetables, fruits, hops, maple, and honey. This year VAAFM is expanding outreach for the program in order to gain a more varied applicant pool from organizations across Vermont.

- 2015 program goals include (1) economic impact across Vermont's working landscape, (2) environmental stewardship, and (3) farm viability and profitability.
- VAAFM plans to award approximately \$200,000 in SCBGP funds in 2015.
- More information is available at <http://bit.ly/VTSCBGP>.

Produce Safety Coordinator collaborated with the New York State Department of Agriculture & Markets on the "Foundation of Law" chapter of the National Association of State Departments of Agriculture (NASDA) *Operational Plan* for implementation of the Food Safety Modernization Act.

- This chapter will provide state agencies or departments of agriculture with a model for assessing and/or obtaining the statutory authority necessary to regulate produce safety within their states and developing the regulatory foundation of a produce safety program.
- The chapter will be reviewed by NASDA's Technical Working Group (TWG) and undergo further edits before being reviewed by NASDA's Implementation Group and FDA.

The Agency of Agriculture, Food and Markets developed a GIS layer to track primary agricultural soil that is protected under Act 250. This data represents land protected by permit condition due to the reduction in the agricultural potential of primary agricultural soils caused by development or subdivision. This land may be available for agricultural use. The layer is currently available on the Agency of Natural Resources (ANR) Natural Resources Atlas under the title "Agricultural Soil Mitigation" (under the "Geology" heading). The Agency collaborated with the Natural Resource Board and the Vermont Natural Resource Council to compile the information and create a tool for analysis and to provide a new resource for partner organizations and the agricultural economy. The compiled data is from Act 250 Permits issued since July 1, 2006. The data point includes information on the size of the area of mitigation, the Act 250 Land Use permit number, observed current use of the site, and a link to the site plan.

VAAFM said farewell to Beth Fenstermacher, Agricultural Development Coordinator. While with the Agency strides in administering the Agency's Act 250 program protecting farmland. Due to her work in FY2014, the Vermont Housing and Conservation Board has the potential to collect \$569,000 for the protection of agricultural land through the purchase of development rights on farms selected by the VHCB that contain primary agricultural soils, and facilitated the protection of approximately 128.5 acres of primary agricultural soils at the site of development. She created new and updated existing Act 250 program procedures making the Agency's review process consistent and more efficient. On behalf of the Agency, she built relationships with Act 250 district coordinators, Office of Planning and Legal Affairs and the Natural Resources Board staff, leading to better coordination across state agencies. In the last few months, Beth completed a project mapping the location of onsite mitigation farmland, which can be found on the Agency of Natural Resources' [Natural Resource Atlas](#). This work is exciting, and has potential to connect farmers with quality farmland across the state.

She took a position with the City of Concord as their Senior Planner in the Community Development and Planning Department. The Agency wishes her the best in her new position.

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

### **Meat Inspection:**

- Cooperated with Division for Public information request
- Received new HACCP plan submission for proposed new State Inspected Processing plant in the Milton area. Currently the establishment is preparing foods under VT Health Department but wants to add poultry products to their product line (Health covers production of non-meat foods guided by FDA rules – Meat products are prepared under USDA rules)
- Inquiries received concerning a possible custom cutting facility in the Hardwick area
- State Inspected processing plant in Burlington is looking to add meat and poultry stews to their Ready to Eat product lines expanding their market opportunities
- Poultry plants are gearing up to start the 2015 slaughter/process season and updating HACCP plans due to the USDA Poultry Modernization Act addressing how each step in their process flow help to reduce the risk of Microbiological contamination as well as new allowable chilling procedures
- Program worked with FSIS to provide justification for monetary needs under the 50/50 funding program and was able to get a commitment for another \$128,000 to add to the previous allocation of \$565,000 of matching funds. Program will closely monitor the budget and has another opportunity for adjustments during the fourth quarter of the federal fiscal year (June 1 through Sept 30, 2015)
- Program continues to provide extra coverage for several VT establishments under Federal inspection under the 100% funded cross-utilization contract

### **Animal Health:**

- Animal Health Field Staff
  - Filling out medical clearance forms as a precursor to FIT testing for N95 respirators. Annual FIT testing is recommended for the use of respirators and in light of the increasing outbreaks of avian influenza in the bird flight zones, it is a good idea for staff to be prepared to use the respirators if VT has an outbreak.
  - Met with a cervid producer in the Derby area to plan for their annual herd inventory reconciliation.

## **Agricultural Resource Management:**

For March 9-12, 2015, the Agricultural Resource Management Specialists (ARM Field Agents) and their supervisor attended a Regional PIRT (Pesticide Inspector Residential Training) in Northampton, MA for training on professional conduct, how to conduct inspections, write reports, testify, gather evidence, and lots of other relevant topics. This was different from trainings these folks have attended in the past, in that it was not strictly pesticide related, or conducted by a pesticide regulatory agency, like the US EPA. Instead, this training was put on by CLEAR (The Council on Licensure, Enforcement, and Regulation) with the instructor's experience and background ranging from pesticide and dental association inspectors up to Administrative Law Judge.

### **Public Records Requests**

Nora Doyle-Burr, staff writer with the Valley News in West Lebanon, NH, has requested a copy of the report of an inspection ARM Field Agent Doug Johnstone conducted into an alleged pesticide drift from pumpkin fields in Newbury. A copy of the report was provided to her. [Date of request = 3/17; report sent on 3/18]

A Large Farm Operation in Richford has requested copies of all complaints received by the Agency concerning their farm from June 2014 to the present. Copies have been made and sent to the farm. [Date of request = 3/17; records mailed 3/19 PM]

### **Water Quality Program**

A medium Farm in Middlesex will receive a Final Order for violations of the MFO General Permit. The Farm received a Notice of Violation for applying manure within the setbacks to surface water. The Farm did not request a hearing or pay the penalty. The final order imposes the penalty, with payment due within 30 days.

A small farm in Milton will receive a Final Order for violations of the AAPS. The Farm was sent a Notice of Violations for stacking manure within the setbacks to surface water and property lines. The farm did not request a hearing and did not pay the penalty. The Final order imposes the penalty, with payment due within 30 days and a hearing will be set to discuss the imposition of an ongoing penalty for every day that the manure is not moved to a compliant location.



An agreement was reached with a Large Farm in Richford in regards to a Notice of Violation issued to the Farm for violations of the LFO Rules / field application of manure. A pre-hearing was held on March 10, and an Assurance of Discontinuance was negotiated, with a final agreement reached on March 17, eliminating the need for a formal hearing.

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

- Staff conducted a manure spreading/hauling concern in Addison County. The complainant was upset with seeing manure truck on the road in March while there is still a spreading ban. A visit to the site was conducted and we verified that the LFO (in Addison County) was transferring manure to a remote pit located several miles from their facilities for use this coming cropping season. No manure was being applied to land.
- Staff reinvestigated a manure pile in Brandon and determined that the pile was not manure as suggested by the complainant and was instead spoiled feed and unused/spoiled bedding.
- Staff are coordinating enforcement efforts, both in house and with the Attorney General's Office, for several ongoing and future enforcement actions on MFOs and LFOs for water quality compliance concerns. Additionally, staff members participated in settlement agreement conversations related to an enforcement action on a LFO.
- Staff are drafting reports and memos related to inspections and enforcement cases and following up as needed.
- Staff called into the Central Lake Champlain Basin Partners meeting to discuss water quality initiatives within the central Lake Champlain Basin.
- Staff are processing and reviewing LFO annual reports for compliance.
- Staff are continuing to review LFO nutrient management plans (NMPs) and will be meeting with NRCS in the near future to discuss the quality of NMPs we have received as part of LFO annual reporting. NRCS certifies the technical service providers (TSPs) that are able to provide NMP services to farms in VT and has the ability to work with TSPs to improve their planning services.
- Staff are continuing to process LFO permit applications and permit amendments. There are several farms that have submitted permit applications for building, expansion and general operation.
- Staff met with a LFO's technical service provider to discuss a LFO amendment and NMPs.
- Staff are working on preparing farm data as part of the water quality (WQ) section's efforts in the development of the new WQ database. MFO and LFO data is getting edited and enhanced so that the USAHerds database can be updated and so that other farm based spatial data can be integrated into USAHerds and the WQ database. Testing of the WQ database was proposed to begin again the week of 3/23 and has been delayed, so we are waiting for an updated schedule.

#### **Small Farm Operation Programs:**

- Small Farm Inspector John Robers visited at least 6 farms in the East Enosburg area doing preliminary data gathering for small farms.
- Mr. Roberts delivered two SFO inspection reports to two farmers near St. Albans and spent time discussing the findings and helping the farmers get help for potential risks that need fixing.
- Mr. Roberts spent time with a Jersey cow farmer in Fairfield persuading him to sign up with NRCS to get assistance to address some outstanding risks.

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

- Staff attended the Farmer's Watershed Alliance Annual meeting.
- Staff met with a SFO in the St Albans NRCS office and discussed manure storage concerns and also had them sign up for NMP assistance through EQIP.
- Staff provided VACD staff with CREP planning guidance. Staff also discussed CREP and EQIP options at length with VLT planner unfamiliar with WQ programs.
- Staff attended a FSA County Committee Meeting to meet with landowner of terminated CREP contract and discuss penalty waiver options FSA has for their contract, and explain State's pro-rated refund of incentive payment.
- Staff met with a SFO in Franklin County to discuss implications of invasive plant control on their certified organic pasture.
- Staff had a pre-meeting discussion with lead contractor for the upcoming Friends of the Northern lake "ditch working group", which will be re-writing ANR's Ditch maintenance fact sheet for use by farms and contractors.

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

- Had a meeting with members of the Energy Action Network to talk about approaches to the 90% renewable by 2050 Comprehensive Energy Plan.



- Secretary Ross gave an evening presentation to UVM graduate students participating in a program at the Rubenstein School.
- Secretary Ross and Deputy Secretary of ANR Trey Martin presented together at the State House to recognize Clean Water Day.
- Joined other AAFM employees and Governor Shumlin participated in a tree-tapping at Slopeside Syrup in Richmond. Details of that event are above.
- Presented and defended the AAFM budget in front of the Senate Appropriations Committee.
- Participated in a RAND Report follow-up meeting with Governor's staff and other agency leadership.
- Met with a UVM graduate student and a UVM professor and advisor to discuss water issues and Vermont relationships with New Zealand.
- Participated in a meeting with ACCD and VEIC about the EnSave program.
- Interviewed with Mount Mansfield Media to be part of a movie/TV show about water quality issues in VT.
- Attended the Leahy Summit on Flood Resiliency at the Echo Center in Burlington and gave remarks at the dinner reception.

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**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**

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

**Date: March 20, 2015**

**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**H.35 (Clean Water Bill):** This bill continues to advance through the House with the latest step being unanimous approval by the House Ways and Means Committee. The Ways and Means Committee reduced AAFM and DEC fee levels, approved different revenue sources for the AAFM fees and the Clean Water Fund, and restored the current use penalty for farmers failing to follow water quality requirements. The House Judiciary Committee has also reviewed portions of the bill and is supporting passage. The next step in the House will be the Appropriations Committee. Senate committees have also started hearings on the bill. It continues to be “all hands on deck” to get the bill done this session.

**Non-radiological Waste Clean Up at VY Site:** Trey participated in the Governor’s meeting on Tuesday with Entergy executives and reiterated Vermont’s position that non-radiological waste remediation activities must be authorized by the State pursuant to state law and following a formal regulatory process. Our discussion bore fruit. On Thursday, DEC waste management division staff met with Entergy staff to define the scope of the State’s request for site characterization request and provide guidance regarding remediation activities. DEC staff reported that the meeting was productive. Entergy representatives declared their commitment to work with ANR more collaboratively, and they acknowledged that their non-responsiveness to our comments on the Site Assessment Study and PSDAR prompted our need to send out a formal request.

**BJ Wholesale Club, Rutland – 9L and Environmental Court Appeal:** Even before a final Act 250 decision has been issued for the BJ’s Wholesale Club application, an opponent of the project has filed two interlocutory appeals in Environmental Court. The Court held an initial status conference earlier this week on the appeals, which were filed by David Grayck on behalf

of BAI (the corporate entity that owns the Rutland Mall), who opposes the BJ's Club application before Act 250. The statement of questions identifies issues regarding the Act 250 District Commission's rulings on preliminary legal issues and the scope of review under Criterion 9L. Included within the statement of questions was also a request for a stay. OPLA land use attorney participated on the call with the Court and indicated that ANR is still in the process of evaluating the statement of questions and that we had not yet determined the extent of the Agency's participation in the proceedings.

Based on discussion with the parties, and weighing the pros and cons of how to proceed, Judge Walsh decided that it would be best to wait for the District Commission to conclude its process and issue a ruling on the Partial Findings under 9L. Both the Applicant and BAI support that approach. After the District Commission's ruling is issued, the Applicant has been directed to notify the Court and then another status conference will be scheduled later so that we can resume with addressing the issues on appeal and any other issues that arise.

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## **EVERYTHING ELSE:**

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

**Solid Waste Fees.** DEC's Solid Waste Program Director, was asked to testify in House Natural Resources and Energy next Wednesday on the Solid Waste Infrastructure Advisory Committee (SWIAC) recommendation that the current Solid Waste Franchise Fee be replaced with a Solid Waste Service Fee. She will provide technical assistance by reporting on revenue that could be generated under different scenarios- 3% v 6% tax, just on trash v. recycling/organics, etc. The need for funding is real, and we appreciate SWIAC's work. That said, we are not proposing that ANR take a position on this proposal at this time. It needs to be more fully considered and fleshed out.

SWIAC was formed by the legislature last year to review the infrastructure and costs needed to implement the Universal Recycling law, and where potential revenue to cover infrastructure costs would come from. Existing revenue comes from the Solid Waste Franchise Fee at \$6/ton and generates \$3.5M/year. That revenue currently funds solid waste management in the state, with 17% passed through to the solid waste management districts. The shift to a Solid Waste Service Fee would expand sales tax to cover solid waste, recycling and organics services in Vermont. The Committee developed this concept based on other state's models (MN, WA). The Committee consisted of solid waste haulers, districts, independent towns and industry associations. The vote was 8 to 1.

**S.123 (Permit Process Improvement):** This bill incorporating DEC's proposed changes to the permit notice and appeals process has been introduced by Senator Snelling and is co-sponsored by Senators Bray and Rodgers.

**H.33 (Surface Waters that are Public Drinking Water Sources):** This bill has now been tabled for the rest of the session. During the House Fish and Wildlife Committee's final hearing,

DEC staff testified that the City of Montpelier's treatment system is protective of public health and that additional restrictions on use of Berlin Pond are not necessary to protect Montpelier's drinking water. There is a good write-up in VTDigger on this bill, available at: <http://vtdigger.org/2015/03/17/lawmakers-drop-bill-allowing-towns-to-regulate-drinking-water-supplies/>.

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

**What is Your Watermark:** Both Secretary Markowitz and Commissioner Mears have been interviewed by Mount Mansfield Media as part of a documentary on the water quality issues in the Lake Champlain watershed. This film will be released on World Water Day (March 22) via the web. The film's makers have interviewed a wide range of Vermonters about clean water and Lake Champlain, with the goal of informing and inspiring future actions to protect the lake.

**Let's Go Fishing 2015 Instructor Training Opportunities:** If you love to fish and want to pass on the angling tradition to young people and their families, consider becoming a VT "Let's Go Fishing" Volunteer Instructor. Instructors in the "Let's Go Fishing" Program organize and volunteer at fishing clinics in their communities to teach young people and their families about water ecology while instilling the life-long skill of fishing.

**Deer, Moose Hearings to be Streamed Online:** Hunters, landowners and anyone else interested in VT's deer and moose who are unable to attend the hearings in person may watch the March 23 hearing on Vermont PBS's live web stream, available at: [www.vermontpbs.org/outdoorjournal](http://www.vermontpbs.org/outdoorjournal)

**Wood Stove Emissions in Vermont:** Commissioner Snyder was quoted in an article that appeared in the Times-Argus last week regarding home wood stove heating in Vermont and its effect on air quality, available at: <http://www.timesargus.com/article/20150309/NEWS03/703099950>

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

**TDI NE Clean Link - state flood hazard and river corridor permit:** OPLA facilitated a meeting Tuesday amongst representatives from TDI, their environmental consultant VHB and staff from DEC Rivers program to discuss issues related to the state stream alteration permit and the new state flood hazard and river corridor permit. The SFH&RC permit is required under the new state floodway rule that went into effect March 1. The DEC Rivers program administers this new permit and has expressed concern that the TDI cable may not be buried deep enough for the width of the river corridor at a number of stream crossing; adequate depths below stream channel for the width of the corridor are a requirement of the new permit.

The new rule gives DEC jurisdiction over 52 stream and river crossings along the land portion of the project. The program is concerned that if a river or stream were to blow out a culvert or road,

as was the case at several locations during TS Irene and other recent flood event, the cable would be exposed and potential impacted by floodwater or debris. Burying the cable to the desired depths reduces this risk, but would also raise project costs and may be challenging from an engineering perspective. TDI/VHB will now conduct a more detailed assessment of the site conditions at each stream crossing to determine whether the current design can be altered if mitigating factors exist that would limit risk. Once this analysis is complete TDI will regroup with program staff to focus on the crossings that may still present compliance issues.

**Ozone Transport Meeting:** Commissioner Mears traveled to Washington DC this week in order to attend a meeting of states engaged in the effort to resolve long-standing disputes over the contribution of mid-west and southeast states (upwind states) to ground-level ozone (smog) in the northeast states. Upwind states made new commitments to efforts to get power plants to reduce their emissions of air pollution. The meeting was one of a series of meetings resulting from the Section 176A petition filed by Vermont and other northeast and mid-Atlantic states that would require EPA to impose more stringent air pollution controls in the upwind states. The upwind states want to avoid having EPA make a decision on that petition.

**ECOS meeting (Environmental commissioners of the states):** I attended the ECOS meeting in Washington, DC at the beginning of the week. We spend a half a day in a private session with EPA administrator Gina McCarthy and her senior staff. It was a productive discussion wherein she was clear about not backing away from the GHG rulemaking or the Waters of the US rule, both of which should be coming out sometime this spring or summer. We also discussed taking a position on the new TOSCA bill that was introduced in Congress (I sent a letter opposing the bill because of its over-broad preemption of state action). I also presented a panel on the White House Task Force on Climate Preparedness and Resilience and the group agreed to look for opportunities to engage the federal agencies in implementing the recommendations from that report.

**Lean Week:** DEC is holding another “Lean Week” next week (March 23 – 27) with three new events, including our first ever inter-agency event with VTrans. The three events are (1) stream alteration (“title 19”) approval process for VTrans projects, (2) coordination of the Ecosystem Restoration Program grants process with tactical basin planning, and (3) drinking water and clean water construction procurement process. All are invited to hear the final presentations on the outcomes of each event next Fri, March 27 which will be held from 1:00 – 2:30 pm in the Thrush and Wren Conference Rooms at National Life.

**Vermont RCPP (Regional Conservation Partnership Program) Grant:** The work plan and budget for the State’s RCPP (Regional Conservation Partnership Program) grant was submitted to national USDA/NRCS. Approval is expected by March 25, and final contract to be signed by March 30. This grant includes \$16M of funds for agricultural water quality improvements over the next 5 years, with \$20M of match. Related to this, ANR is working with AAFM and the Vermont Housing and Conservation Board to conduct three water quality training sessions for partners in April. Partner outreach to farmers is critical to RCPP and a part of our match. The sessions will be in Rutland, White River Junction and St. Albans.

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of Planning and Legal Affairs (OPLA)**

**S. Burlington Landfill 1.5mw Net Metered Solar:** OPLA coordinated Monday a meeting among the City of South Burlington, Encore Redevelopment and staff from DEC solid waste and stormwater programs to discuss a potential 2 MW net metered solar facility proposed for the closed S. Burlington landfill, located just north of the Burlington airport. OPLA has been coordinating ANR's review of the proposal and identified stormwater management and maintenance of the landfill's cap as critical issues, so the meeting was intended to put program staff, landowner and developer together to begin to address those issues in detail. The meeting was constructive and Encore plans to file state stormwater permits and an amendment to the landfill closure permit prior to or simultaneous with their CPG application later in April. Due to a loophole in the PSB's net metering rule (Rule 5.100), Encore will pursue an expedited regulatory process for this 2 MW project that was developed and initially intended for solar projects no larger than 500kw. That process provides parties only a 21-day comment period after a petition is filed to address substantive issues, so OPLA has encourage Encore to demonstrate substantial progress toward obtaining their DEC permits prior to filing with the Board.

**GMP Methane Digester legislative proposal:** PSD, VAAFM and OPLA staff met Tuesday to review statutory language proposed by GMP that would amend Section 248 to clarify the PSB's jurisdiction over methane digester facilities owned and operated by GMP. Last year the legislature refined Sec. 248 to clarify the Board's oversight of digesters located on farm that are owned and operated by farmers, but there is less clarity around the Board's role in permitting facilities that are not considered a farm structure. GMP plans to construct and operate at least one methane digester in St. Albans and may support the development of over a dozen similar facilities in the Champlain Valley in coming years. The agencies are conducting further internal review and hope to respond to GMP with comments early next week.

**New Applications Week of March 16:** OPLA received 11 new Act 250 application and 3 new Section 248 applications.

### **Environmental Conservation (DEC)**

**International Business Machines (Essex):** A final Clean Air Act Permit to Operate renewal was issued to IBM. When IBM completes the sale of the facility to Global Foundaries, a transfer of ownership form will be required to be submitted.

**Municipal Assistance:** Environmental Assistance staff worked with teachers from the Wilmington School District to consolidate and dispose of the old chemicals left over after a recent school consolidation. DEC helped segregate solid and hazardous waste, and left school representatives with a list of all chemicals to be disposed of through the Windham County Solid Waste District. Staff will continue to work with the school district moving forward, in an effort to insure it has a management plan in place to avoid the long term problem of storing years of unwanted chemicals.

**Two Hazardous Waste Emergency Permits Issued:** We issued a Hazardous Waste Emergency Permit for the stabilization of a potentially unstable container (500 milliliters) of Ethyl Ether from ENPRO Services of Vermont, Inc. Ethyl Ether is highly flammable, a severe fire and explosion hazard when exposed to heat or flame and is a central nervous system depressant by inhalation and skin absorption. Treatment and stabilization will occur between March 12 - June 12.

We also issued a Hazardous Waste Emergency Permit for the stabilization of a potentially unstable container (200 grams) of Dinitrophenol from the Rutland County Solid Waste District. Dinitrophenol is a severe explosion hazard, can be absorbed by skin and can be fatal by inhalation (dust). Treatment and stabilization is tentatively scheduled for the week of April 13-17 in consideration of spring recess at the neighboring Rutland High School/Stafford Technical Center.

**Multi-Gen Burlington, VT:** Notification of the chemical PCE in indoor air at the Multi-Gen facility in Burlington, which houses a daycare, was sent out to parents of the children that attend the daycare. VDH has determined that the current level of PCE in indoor air is not a significant health threat. Additional indoor air sampling is scheduled. DEC is requesting that Champlain Housing Trust (owner of the building) install a mitigation system for the indoor air impacts.

**Hartford Transfer Station HHW/CEGW Pre-application Meeting:** Staff from the Hazardous Waste and Solid Waste Management Program met with representatives from the Town of Hartford to discuss opening a permanent household hazardous waste and conditionally exempt generator waste collection and storage facility at the Hartford Transfer station. It was a chance for staff to explain the applicable regulations and to answer any questions Hartford had in advance of them submitting a permit application. If permitted, the facility would be a good resource, benefitting the residents and businesses of many towns in the upper valley, and would provide a convenient disposal option to keep household hazardous waste and conditionally exempt generator waste out of the landfill.

**Hydro-Coaticook, Averill Lakes and Norton Pond:** DEC staff attended the Public Service Board prehearing regarding water level management of the Averill lakes and Norton Pond by the hydro project owned by the Quebec municipality, Coaticook. The current range of acceptable water levels for the lakes was set by order of the Vermont Public Service Commission (now the Vermont Public Service Board) in 1953 as authorized by the Vermont Legislature during its 1953 session (30 V.S.A. § 404). Lake residents have petitioned the PSB to revise the maximum and minimum lake level, stating that current management is resulting in high water levels that increase shoreline erosion and low water levels that interrupt recreation. The PSB has given Coaticook, Lake Residents, and Agency till March 31 to work out and file a schedule of the proceeding. Additionally, the Agency will be filing a statement of the current impacts of the water level management on the aquatic resources.

## **Fish & Wildlife (FWD)**

**Deer Wintering Yard and Gravel Pit:** Markowski/Elnicki ZGravel Pit provides gravel for the Rutland Southern Vermont Regional Airport runway expansion project. They asked for an Act 250 permit amendment, requesting authorization for gravel excavation, processing and trucking from December - February and an increase of annual extraction rate. Note that at the end of February the NRB issued a notice of violation for operating during the winter months in violation of their Act 250 permit. We care about this because there is a significant deer wintering yard adjacent to the gravel pit, and the operational limits in their Act 250 permit relate, in part, to protecting this function. We have kept VTRANS in the loop, and checked to be sure the deer wintering yard was, indeed, still active before we filed a request for hearing and a memo opposing the request for amendment.

**Roxbury Hatchery Update:** The formal deadline to receive an answer from FEMA National Headquarters on the Roxbury Fish Hatchery second appeal for codes and standards funding on damage from Tropical Storm Irene occurred on March 10. FEMA has not yet issued a decision on the Roxbury Hatchery appeal and has not given the State any indication as to when they plan on issuing a decision.

**Late Confessions:** After seeing a picture of a hunter posing with an antlerless deer in Milton, Warden Currier determined the hunter had a permit for zone "A." When confronted and interviewed, the hunter gave a full confession to taking the deer in a closed zone. Warden Taddei also received a late confession of a doe shot in a closed zone.

**Snowmobiles:** Warden Reed was able to gain a confession from the individual who eluded her two weeks ago. Numerous other patrols led to inspections, tickets and warnings throughout the state. Another individual attempted to elude Senior Warden Stedman after he was caught on radar by the US Forest Service going too fast. Excellent area knowledge ensured the offender was headed off and ticketed. High numbers of violations overall showing throughout the state with reports of numerous groups of "naked" sleds encountered. Trails still reported as excellent to good dependent on location and elevation.

**Bear Den Work:** Staff visited several bear den sites to change/adjust collars on the Deerfield Wind Bear Study animals. Staff have successfully made it to four dens this spring and still have four more to check before the bears get up and start moving around. Incidentally, this is a good time to take bird feeders down before they wake up!

**Winter Creel Survey:** Staff continued with Winter Creel work on Lake Champlain. Due to some issues, permanent staff had to cover the northern sections of creel this week. One interesting observation after spending the entire weekend on the ice was the strong angler support of this project. The majority of anglers are happy to see the FWD out collecting this information. This even occurred at a gas station, where a person stopped by and commented about how great it was to see the survey being done.



**Boat Ramp to be installed thanks to TDI:** Staff have been working with TDI New England over the past few months to license a route for the project's underground electric cable through the Korean War Veterans Access Area in Alburgh. The license was executed this week and will allow TDI to install an underground access and cable connection point at the access area. This location for the TDI facility will also allow them to conduct horizontal directional drilling operations, which will create fewer impacts to the lake bottom in the extreme northern portion of the lake. It is expected the access may be closed during construction times, which would total between 12-14 weeks. In return, TDI has committed up to \$350,000 to fund the construction of a two lane boat ramp and dock to be constructed by the FWD.

### **Forest, Parks and Recreation (FPR)**

**Wind Blown Energy v. Moose Mountain Forestry, Green Mountain Power and ANR (Confidential – Attorney Client Privileged):** This litigation involves a boundary dispute between Wind Blown Energy, an abutter to MMF land leased by GMP for the Lowell Mountain Wind Project. ANR holds mitigation easement interests that are impacted by this boundary dispute. ANR sought defense from Stewart Title Co., which insured the easement interests. Stewart is in the process of retaining counsel for the defense of ANR's easement interests. Wind Blown is seeking to access the parcel to conduct survey work. ANR staff will likely accompany the surveyors to ensure protection of the critical habitat that is protected by the easements. ANR's answer to the complaint is due March 20, unless an additional extension is allowed due to lack of representation by Stewart Title as of March 17.

**Ski Lease Administration:** The Department's annual winter ski area meetings wrapped up this week with meetings at Smugglers' Notch and Stowe. The Department has signed a Consent and Acknowledgement document for Okemo Ski Area granting TD Bank a leasehold mortgage and security interest in its leasehold interest in the Okemo ski lease. This consent document is required by the bank as part of Okemo's refinancing efforts and does not alter or affect the terms of the ski lease. We learned this week that the owner of Okemo Ski Area (CNL Lifestyles Group), plans to sell all of its ski resorts holdings (including Okemo) by the end of 2015. We do not expect any future change in ownership at Okemo to affect the day-to-day management and operations of the ski area.

**Forest Legacy:** We have received funding from the USDA Forest Service to develop a documentary video on the Forest Legacy Program, and will be interviewing videographers this week who are interested in working on this project. The documentary is being developed to commemorate the 25<sup>th</sup> anniversary of the Forest Legacy Program. This national forest land conservation program got its start in Vermont and was established with the support and initiative of Senator Leahy. The Department will be hosting the 2015 annual Forest Legacy Program Coordinators meeting during the week of May 11 in Stowe. We continue to work on several Forest Legacy fee and easement acquisition projects including 5 Peaks property, Molly's Falls Pond property and other Groton Forest parcels, Backus parcel, Dowsville Forest, and Windham Regional Forest parcels.

**Other:** We are coordinating with certain ski areas to provide the Tax Department with information regarding the insured value of buildings and structures within ski lease areas that under the terms of the lease are considered state property. This information will be used to develop annual PILOT (Payment in Lieu of Taxes) payments for state buildings. We are continuing to work closely with VTel regarding a proposal at the summit of Killington Peak. We are coordinating with both VTrans and the National Park Service regarding a bridge project on Rt. 100 in Killington that impacts lands encumbered with federal Land and Water Conservation Funds at Gifford Woods State Park.

**USFS Audit:** The US Forest Service is at FPR headquarters in Montpelier this week to assess compliance with Federal grant financial management requirements.

**FEMA Approval:** District III forestry staff received notification from FEMA that their request for a project improvement has been retroactively granted. The request was for a change in the scope of work that allowed a 40-foot truck bridge to be installed in place of a twice-dislodged 10-foot culvert on the Honey Hollow Road in Camel's Hump State Park. The bridge was funded through cooperation with the US Fish and Wildlife Service and the Winooski Natural Resources Conservation District. District staff are pleased to potentially close the book on the FEMA disaster declaration of July 2013.

### **Natural Resources Board (NRB)**

**B & M Realty:** The NRB participated in the Environmental Trial on B&M Realty's proposed development in Hartford. B&M Realty is challenging the District Commission's denial of the permit for the project based on traffic and non-compliance with the Regional Plan. The NRB is supporting the Commission's denial of the decision. The RPC also supports the denial in court.

**Rule Changes:** The NRB is holding its final hearing on its proposed rule changes in Rutland this week.

**Economic Development Bill:** The NRB continues to work with ACCD and ANR on language to insert in the Economic Development bill to fast track the permitting of priority housing projects in designated centers on land already subject to Act 250. The NRB testified on the land use provisions of the Economic Development bill in Senate Natural Resources, supporting proposed language on 9L that requires outreach and the NRB to revise its 9L procedure, and opposing Act 250 exemptions in newly designated Enterprise Zones and for industrial parks with Act 250 umbrella permits.

**Limlaw:** The NRB issued an NOAV to the Limlaw wood chipping operation in Topsham. The operator constructed improvements at the site that required an Act 250 permit without obtaining a permit.

**The Alchemist:** The NRB continues to work on Alchemist Waterbury violation issue. I anticipate that a demand letter detailing what will be necessary to resolve the violation will go out to the owner of the site and the Alchemist operator next week.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: March 20, 2015

Subject: Weekly Report

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**Governor Level Issues:**

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

**Entergy:** After our meeting on Tuesday, I called Mike Twomey and we are setting up a meeting to discuss outstanding issues. Meanwhile, we have filings yesterday to NRC on Entergy's request to eliminate the 30-day notice on NDT withdrawals.

**Therriens & First Wind:** I understand Steve Therrien saw you at a Press event last week. I've spoken to him and Luann again, and several times over the last month. Although I engaged with First Wind to try to resolve this beginning last Summer, FW reneged on what I thought was an agreed-upon tenant for me to engage the parties from the beginning – First Wind's willingness to purchase the whole property. I also asked FW to consider siting a solar project on the property to enhance its value to them, and they were to consider that. Next thing I saw was FW's letter to the Therrien's saying they had made an offer for 2 acres and the house, Therrien's rejected it, and therefore there was nothing more to talk about. Last month when I met with Jigar Shah, he offered to help, but after exchanging a couple of e-mails with him, I have not heard anything from him. A last idea I have is that we ask a

solar developer or VEC to consider a solar project on the Therrien's property that benefits the Therriens themselves (i.e. they retain ownership). Spoke to Aly yesterday and relayed all this.

**TDI:** Nothing new to report this week, although I am talking to VTrans. They are looking for \$5M/yr lease from TDI for use of right of way, which is 10 times what VT Gas is paying. I think TDI is offering \$2M/yr and from what I'm hearing they might be willing to go to about \$3-3.5M but \$5M is not realistic. Meanwhile, I'm working on leveraging the dark fiber that's going to be installed to help with Telecom and broadband.

**NE Governor's April 23<sup>rd</sup> Regional Meeting:** I'll be meeting with NE counterparts on Monday to discuss Regional Initiative and Governor's Summit on the 23<sup>rd</sup> of April. CONEG has asked for agenda items we're interested in and what Vermont has to offer. I recommend in addition to the Regional infrastructure main topic, we include discussion of transmission cost estimation practices and cost discipline that VELCO and we have advanced with them, and Non-Transmission Alternatives (NTAs) and how that saves the region money. In terms of what Vermont has to offer – I have consistently said we'd be willing to host (but not pay for) transmission IF there were a significant benefit to Vermont for an environmentally sound project. Vermont is also emphasizing NTAs, microgrids, distributed generation, and battery storage, all of which could help the region in meeting our energy and carbon reduction goals.

#### **Legislative:**

**H. 40** – Darren spoke with Chris Bray this week and H. 40 will not be taken up by Senate Natural Resources until the week of March 30<sup>th</sup> due to water quality and Act 250 issues taking up time in committee. In the meantime Senate Transportation has asked for a briefing on it.

**Siting** – Darren is testifying again in House Natural Resources on siting on March 24<sup>th</sup> and the focus of the hearing is on what the Department has heard in terms of complaints from towns and consumers. Tony Klein has also asked for language around some of the Department's siting concepts (such as the 5 megawatt town solar park idea). The public siting hearing with Senate and House Natural Resources is scheduled for 6pm on March 24<sup>th</sup>, and the Department will have staff present to take notes, but is not planning to actively participate.

**General:** I am meeting this afternoon with Tim Ashe and Mark MacDonald on various senate Finance initiatives and to understand what they intend to work on. I anticipate they will raise Alt Reg issues, Telecom, and E-911 – but we'll see....

#### **Meetings this Week:**

Mar 16 – PSD/VEC/Suncommon meeting; PSD/EVT meeting  
Mar 17 – Chris Entergy meeting at 5<sup>th</sup> Floor; Darren meeting with Don Rendall  
Mar 18 – Darren meeting with Senator Snelling  
Mar 19 – Darren meeting with Tom Garden and partners with Blue Wave Capital; Darren meeting with George Twigg, Congressman Welch’s Office  
Mar 20 – Darren testifies on H. 40 in Senate Transportation

**Meetings next Week:**

Mar 23 – Chris in Boston at NESCOE/GIG; Darren at UVM Power from the North conference  
Mar 24 – Chris VY monthly meeting; Darren testifies on siting in HNRE  
Mar 25 – Chris VCRD board meeting  
Mar 26 – Chris NDCAP meeting  
Mar 27 – Chris VEDA board meeting

**Media:** Darren spoke with Terri at Seven Days about siting for story she is writing for next Weds paper.

**Everything Else:**

***PERD***

**Public Service Board Dockets**

- D 7676 – Staff reviewed the Board’s Proposal for Decision in this docket. Staff are drafting comments that are due on 3/20. Comments will address issues related to not requiring VGS EE funds to go through the Fiscal Agent and be housed in the Electric Energy Efficiency fund, waiting until the VGS EEU transition period is over until a decision is made about running the electric and natural gas DRP’s concurrently, and questions related to VGS’s development of an aggressive energy efficiency program as required by the CPG in Docket 7970.
- Docket 8395 – Board issued Order approving the majority of GMP’s 2015 Annual Plan, except the electric vehicle charging station investments: \$150,000 to install electric vehicle charging stations in designated downtown areas. The Board requested information about who will own the charging stations to understand the potential implications of the program under GMP’s existing tariff and for ratepayer equity now and in the future. If the towns or private entities own the charging stations, applicable GMP tariff rates will presumably apply to such owners. On the other hand, if GMP will own and manage the charging stations, some consideration needs to be given to whether services to electric vehicle customers (either now or in the future) should be tariffed as well as to possible equity issues among ratepayers. Accordingly, the Board will wait to make a final determination regarding the funding of the electric vehicle charging station project until after GMP provides this information by April 7. The Department still plans on filing an evaluation plan on April 3<sup>rd</sup>.

### Clean Energy Development Fund

- Approved an invoice for SSREIP incentive payments totaling \$53,421 for 30 PV projects with a total capacity of 227.9kW, plus one pellet heating system (consisting of two separate boilers) for \$5,000.
- Meet with the City of Montpelier and VEDA to discuss repayment of their CEDF-ARRA loan for \$750,000. The payment terms of this loan require that the City's distribution system be cash positive before principle payments need to be made. Now that the city is receiving revenue from the sale of heat and issuing quarterly cash flow reports to CEDF there was a need to clarify how the net cash positive calculation will be made. It was decided that the loan documentation would have to be amended to provide clearer language on when and how the net cash flow calculations will be made.
- The SBE building will be sold at a public auction on 4/17/2015. The SBE loan is in default. CEDF foreclosed on the building as our security interest for the loan. VEDA and CEDF are confident that there will be a buyer for the building that will either pay-off the balance on SBE's loan or that will take over SBE's loan including the unpaid interest.
- Windham Solar Finance Program
  - Prepared and presented draft program design to fund manager.
  - Convened meeting with selected financial institution to review program design, proposed interest rates and credit enhancement package.
  - Scheduled meeting with Windham County solar installers for Thursday, March 19, 2015 from 1:30 to 3:00 pm at the Brattleboro State Office Building. This meeting will provide input on the program design from installers to help streamline the customer experience.

### Renewable Energy Items

- Attended EAN Technology Innovation work group meeting, where the latest version of the energy dashboard was discussed, as was the RPC energy planning project. Provided feedback on Atlas and scheduled meeting with VSJF to discuss.
- Met with Scott Sawyer of VSJF, Linda McGinnis of EAN, and other Dept. staff to review new VT Energy Atlas, which will exist going forward as a tab on EAN's energy dashboard website. Provided a number of revision suggestions to hopefully make the Atlas more useful to stakeholders (including us).
- Responded to REV request for net metering information, including the rate of solar net metering deployment by utility and number of solar complaints the Department had received.
- Provided Vermont Council on World Affairs with list of potential renewable energy project site visits and climate change speakers.
- Provided hydro net metering information to a solar developer looking to help projects coming off their PURPA contracts to group net meter.

### Net Metering

- The Public Service Board has officially turned over the role of coordinating updates to the interconnection rule 5.500 to the Department. This should allow us to better fulfill

the requirements of our DOE SEP grant, and to address interconnection issues across all sizes and technologies of generator (not just net metered). The Department will convene the first working group discussion, to be focused on scoping for the upcoming effort, on Thursday 3/19.

<b><u>Net Metering Activity 3/7/15 –3/13/15</u></b>				
	Registrations	Applications	45 Day Notice	CPGs Granted
<b>Count</b>	13	0	0	22
<b>kWAC</b>	78.000	0	0	1126.63
<b>Ave Size kW</b>	6.500	0	0	51.210
<b>Cumulative Capacity of ALL Formal Notices Submitted**</b>				
<b>Year Total to Date</b>		<b>Total Since 1999</b>		
<b>2014 kW</b>	<b>2015 kW</b>	<b>1999 – 2015 kW</b>		<b>% of 15% Cap</b>
2,623.12	12,683.26	88,938.57		~ 59.3

***\*\*NOTE: This table includes all systems over 150 kW that go through the full 248 process. It also includes systems for which 45 day notices have been filed, in addition to those for which formal 248 applications have been filed.***

#### Vermont Gas Systems

- Met with VGS to discuss ongoing analysis and data needs for the second remand case.
- Met with VGS to discuss their estimates for planned growth over the next year (both Phase 1 related and other growth).

#### Heating Fuel

- Since last reporting Crude Oil prices fell slightly from last week now at \$47.39 v. \$49.58. The natural gas market also declined to \$2.577 v. \$2.841 a week ago.

#### ***Engineering***

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

Systems maintenance and testing to support Spent Fuel Pool integrity continued during the reporting period. No notifications were received during this time regarding any issue that would adversely impact Spent Fuel Pool integrity. Demolition of now non-essential structures at the VY site continues. Active break-up of concrete debris from the former on-site, low level rad-waste containers resumed during the reporting period and continues. (So far, the debris has not been moved from the former rad-waste container location on the VY site.) Demolition of the South Warehouse was completed on Friday; debris removal from the warehouse's

location continues.

#### VY Acknowledges Receipt of ANR Request for Information and Records Letter

On March 11, VY informed the State Nuclear Engineer of receipt of a March 6 Agency of Natural Resources (ANR) Certified Letter requesting information and records regarding the several recent structure removals at the VY site. ANR intends to assure that any non-radiological remediation identified or completed with these demolitions is properly documented and complies with applicable State regulations. The letter also reiterated ANR's request for detailed responses to questions included in ANR's previous comments on the VY Site Assessment Study (SAS) and Post-Shutdown Decommissioning Activities Report (PSDAR). The letter requires responses within 2 weeks of its receipt (i.e. March 25). VY has indicated that it intends to fully respond to these requests, and will make a serious effort to respond to all questions by the deadline. However, VY noted that its previous responses to SAS and PSDAR questions focused only on comments directed at the PSDAR, since the NRC's open comment period for the PSDAR ends on March 19. The immediate answer to some questions will be that Entergy is still working to determine the most appropriate resolution. Joe Lynch (VY Government Affairs Manager) is coordinating VY's response to the ANR letter and has suggested that a more appropriate long-term resolution to these questions would be to resume the monthly discussions between Entergy and several appropriate State Agencies that were previously held at the Governor Hunt House.

#### VY Reports Several Recent Letters to the NRC Went Undelivered

On Friday (3/13), VY notified the State Nuclear Engineer that several technical and plant licensing-related letters that were recently sent to the NRC were returned to VY due to insufficient postage. Additionally, at least one of these letters was sent to the NRC without attached documents that were essential to the letter's content. VY requested that the State Nuclear Engineer confirm whether hard copies of these letters were received at the Public Service Department offices in Montpelier. In response, the State Nuclear Engineer has provided a list of the letters received through March 17. It appears that all letters improperly mailed to the NRC were correctly mailed to the Public Service Department.

#### State Nuclear Engineer Receives Additional Information on NRC License Exemption Process

On March 12, the State Nuclear Engineer teleconferenced with several NRC Headquarters and Region 1 officials to identify steps that the State can use to voice concerns regarding VY's recently approved Emergency Planning Zone (EPZ) Licensing Exemption Requests. The NRC reiterated that granting an Exemption is not a final approval its implementation. The NRC must still approve an accompanying License Amendment Request. (Essentially, an Exemption is a facility-specific "rewrite" of NRC regulations, without which, a Licensing Amendment Request could not fully comply with NRC regulations.) While there are typically no public comment or intervention petition periods for an Exemption Request, technical concerns can be raised through written comment letters or by requesting a meeting with appropriate NRC officials. Such comments / meetings are facilitated through the NRC Region 1 State Liaison's Office. Exemption Requests also require an Environmental Impact Evaluation (which has not begun for the VY EPZ Exemptions) which can include a public comment period (an option that



the State Nuclear Engineer strongly recommended). Exemptions cannot be implemented until the NRC's Safety Evaluation Report (SER) and Environmental Impact Evaluation are published in the Federal Register along with the final version of the Exemption.

#### State Nuclear Engineer Notified of Trespassing Incident on VY Site

On Monday (3/16), the State Nuclear Engineer was informed of a Trespassing Incident that occurred at VY on Saturday morning. A middle-aged woman was observed walking near the VY cooling towers after driving a car onto the VY site. Investigating VY Security Officers questioned the woman and the Windham County Sheriff's Department escorted the woman offsite. The woman was issued a "Notice Against Trespass." The woman was apparently part of a scheduled protest commemorating the fourth anniversary of the Fukushima incident. However, the protest was subsequently cancelled due to Saturday's heavy rain. Vital plant facilities such as the Reactor Building and the Dry Cask Storage Pad are within VY's "Protected Area" which are guarded by several layers of defense and require multiple security checks to access. (The now unnecessary cooling towers are not within this Protected Area.) At no point did the trespasser breach any of the Protected Area's defenses.

#### PSD Follow-Up to March 11 VY Hostile Action Drill

On March 11, PSD Engineering Staff participated in a VY Hostile Action Emergency Drill, in preparation for the required, FEMA-graded Hostile Action Exercise to be conducted on May 13. While much of the feedback from the drill was positive, the drill demonstrated a need for improved communications between the Incident Command Post for the Hostile Action, VY's Emergency Operations Facility (EOF) in Brattleboro and the State Emergency Operations Center in Waterbury. In discussion areas for improvement, PSD Engineering Staff has agreed to focus on asking questions regarding reported information to assure what is accurate and what is unconfirmed, and to assure that this "quality of information" is reported with the information itself. Additionally, the State Nuclear Engineer has agreed to pursue a more clear means of conveying Spent Fuel Pool water level information with VY, since this information heavily relies on visual examination that is difficult to simulate during a drill.

#### 2015 Vermont Gas Systems ANGP Project Activity

The Department Gas Engineer monitored installation, via directional drilling, of a transmission pipeline segment under I-89 (north and south lanes, as well as Hurricane Ln), just south of the Williston exit. Company plans to visually inspect this short length of pipeline for damage due to pulling through the drilled tunnel did not include inspection of the first welded joint and its field-applied protective coatings. These concerns were expressed to company representatives and VGS modified the applicable inspection protocol. The "first" weld joint has not yet been inspected, at the time of this report; however coating damage on the leading portion of the installation is not acceptable. The company is making plans to facilitate enhanced visual inspection via additional excavation and further pulling of the pipeline section (north to south, toward Hurricane Ln.)

#### Div. of Fire Safety Coordination

The Department Gas Engineer met with the Div. of Fire Safety (DFS) Hazmat Chief to coordinate

gas safety actions. Plans were made to produce collaborative public safety messages related to propane and fuel oil tanks affected by natural disaster(s). This type of activity was legislatively mandated post Storm Irene in 30 V.S.A. § 34 (Act 138, 2012). PSD and DFS will also collaborate during the DFS permit process for the compressed natural gas facility in Swanton which received a CPG in PSB Docket 8303.

#### U.S. Department of Homeland Security - Responding to Power Outage Emergencies

Engineering participated in a webinar sponsored by the U.S. Department of Homeland Security (DHS) on power outage emergencies titled “Communicating with International Partners During Emergencies.” Among the issues presented were that border region stakeholders have limited ability to communicate, share information, and collaborate during critical incidents due to disparate systems and procedures and the lack of interagency agreements. There is a Canada-U.S. Enhanced Resiliency Experiment (CAUSE) in a multi-year series of joint experiments to demonstrate how voice and data communications interoperability greatly enhance regional and cross border operations and resiliency. Another group working on these issues is the International Emergency Management Group (IEMG), which follows from Resolution 23-5 resolved at the 23rd Annual Conference of New England Governors and Eastern Canadian Premiers. DEMHS is part of this group.

#### Vermont Electric Cooperative (VEC)/SunCommon Dispute

PSD hosted VEC and SunCommon to mediate a dispute regarding required interconnection equipment for solar projects less than (but close to) 150 kW. The dispute centers around who will pay for remote monitoring and disconnection equipment (VEC or the developer). SunCommon argues that VEC’s tariff does not explicitly allow VEC to require this equipment, which is “prohibitively expensive” for projects under 150 kW. VEC agreed to draw a bright line at 150 kW, and not require the developer to pay for remote monitoring and disconnection equipment under 150 kW, until VEC receives approval for an amended tariff.

#### Docket 8400 TDI New England Clean Power Link

Engineering prepared discovery for this case during this reporting period. Engineering’s discovery questions centered on clarifying the results of the sound analysis for the converter station, clarifying the post-CPG process envisioned by TDI for review of the final design, and requesting an update for when the System Impact Study will be completed.

#### 8310 Pentachlorophenol Investigation Meeting

A draft report and draft best management practices were reviewed during this meeting. The group is making good progress, with a collaborative atmosphere between utilities and other stakeholders. Next steps are to continue to finalize the report and best management practices.

#### Weekly Summary of Underground Damage Prevention Activities

Underground Facility Damage Reports (UFDR) received: 8

NOPV Objected to by Violator: 3

PSB Orders issued: (All penalties were as PSD recommended): 8

## ***Regional Policy***

### **Transmission Reliability Projects**

- On March 17 the NEPOOL Reliability Committee determined that VELCO's Connecticut River Corridor Transmission Project "will not have a significant adverse effect on the stability, reliability or operating characteristics of the transmission facilities of the applicant, the transmission facilities of another Transmission Owner or the system of a Market Participant." The project involves rebuilding a 115 kV line from Coolidge to Ascutney, installing a reactive device at the Ascutney substation, installing a capacitor bank at the Hartford substation, and doing a significant rebuild at the Chelsea substation. The upgrades were identified as part of the Vermont-New Hampshire Needs Assessment conducted by ISO-NE over the past few years. The NEPOOL vote is advisory, however, ISO-NE is expected to provide the final authorization soon to construct the project. VELCO expects to file a petition under Section 248 in late June.
- The Massachusetts Attorney General's Office has circulated a draft filing for FERC in which it is arguing that New Hampshire Transmission should not be allowed to recover planning costs through the Regional Network Service charge for a proposed merchant transmission solution to a reliability need in another Transmission Owner's service territory. New Hampshire Transmission's SeaLink transmission project was proposed on New Hampshire Transmission's own initiative and evaluated by ISO-NE as part of the Greater Boston Needs Assessment, and is an alternative to a reliability solution being proposed by the incumbent Transmission Owners for the Greater Boston area. DPS staff is reviewing to determine whether it is appropriate to sign onto the MA AG filing.

### **Order 1000**

Placeholder for Order 1000 compliance order – scheduled to be issued March 19 and will very likely determine the default cost allocation which is currently in dispute between the states.

## ***Finance and Economics***

### **Electric**

Burlington Electric Department (BED) - Tariff 8557 Proposed Electric Vehicle Charging Station Rate; BED proposes a tariff to charge users of EV charging stations. The tariff is a temporary tariff until BED completes its rate design study later this year. The tariff includes an energy charge, applicable taxes, and an overtime parking fee, which recovers the variable costs of operation plus a contribution to BED's fixed costs. BED estimates EV charging station revenues of \$5,800 for 2015. We have had several meetings with BED during the development of the tariff and have forwarded our recommendation that it be approved as filed to PA. The Department recommendation is due March 16, 2015.

Public Service Board: The PSB issued a request for comments regarding 'untariffed services' that are being offered by BED, SED, GMP, Morrisville, WEC and VGS. Our comments were originally due on February 27, however, we have asked for an extension to March 20 to file our comments. This week we completed a review of the filings and prepared comments and

suggested next steps that were forwarded to PA. Since untariffed services are inconsistent with established rate making practice and policy we recommend these services be subject to a Board approved tariff, or eliminated as a utility service. Essentially, as a policy matter we are recommending that any service provided under 'cost of service' rate regulation be tariffed.

Stowe Electric Department (SED): Tariff 8553-Rate Design- Stowe filed for approval of its updated/new rate designs that include updated cost allocations, consolidation of customer rate classes and new optional Time of Use and Critical Peak Pricing rates. This rate redesign is the first in Vermont to use load data generated by AMI (Smart Meters). Finance & Economics reviewed the rate design and the detailed electronic spreadsheets supporting the cost allocations and no concerns or issues were identified. The PA Division has determined that additional review was warranted since Stowe's last rate design was 30 years ago. The Department filed a recommendation to open an investigation on March 16, 2015.

Swanton: PSB Docket 8398-Rate Design Filing – This is Swanton's rate class cost of service-rate design filing. A prehearing conference has been held; the Hearing Officer has asked the parties to address several questions that we have responded to; staff is reviewing the filing and supporting detail; and, this week rolling discovery has begun with staff developing information requests.

VEC 90 Day Notice – Rule 5.202: VEC has advised the Board of its intention to execute a PPA with Coronal Municipal Energy Services (CMES) for 2.5 MW of solar capacity, energy and renewable attributes for a term of 28 years. VEC had applied for a CPG to develop the projects, but will assign those CPG's to CMES who will construct, own, and maintain the project after commissioning. VEC will offer shares of the output through a community net metering program and VEC's renewable power supply portfolio. We plan to file an acknowledgment of the filing including any potential issues within the next 30 days.

#### Natural Gas

VGS – Tariff 8558 – Purchase Gas Adjustment (PGA) Filing: VGS filed its second quarter Purchase Gas Adjustment (PGA) for a 1.4 percent decrease to the natural gas charge which results in an overall .7 percent decrease in firm rates to be effective with bills rendered on and after May 6, 2015. The tariff adjusts for an over collection of gas revenues of \$852,568. The rate decrease was largely the net result of higher TCPL tolls which were offset by lower wholesale gas costs. Finance & Economics is scheduled to forward a recommendation to Legal by March 25, 2015.

VGS—System Expansion Reliability Fund (SERF) - Department staff is working with VGS on the efficient use of rate payer provided expansion funding. The parties are working jointly to build a 'model' that will delineate the least cost rate payer impact of various options. PA is assessing the probability of a successful outcome regarding a possible IRS private letter ruling. We are evaluating the initial results of the SERF modeling project.

#### Telecom and Cable

VTA Transition to PSD: Staff has begun a review of VTA's financial condition/status; existing obligations/contracts; and, other related documents in preparation for transitioning VTA operations to the department. A joint meeting to discuss and plan for the transition is scheduled for March 19.

Stowe Cable: Docket No. 8428 - Joint Petition of Stowe Cable Holdings, LLC, Stowe Cable Systems, LLC, Stowe Cablevision, Inc., and Jeffersonville Cable Television Corporation for approval of the transfer of assets, issuance of Certificate of Public Good, and related transactions concerning cable television systems service for Stowe and Jeffersonville, Vermont. Staff is reviewing the filing; has requested and received additional information; and has begun drafting testimony that is due March 20. We are considering asking for an extension on filing the testimony.

#### Water Companies

Snowdance Summit Water Company – Preliminary 2014 Annual Report – The PA division has requested that we review a preliminary Annual Return from Snowdance Summit Water Company. Staff found a significant mismatch between revenue reported for Gross Revenue Tax (GRT) reporting and revenue reported on its income statement. PA will work with the company to resolve the discrepancy.

#### ***Public Advocacy***

VGS Addison Expansion—Docket 7970—A status conference was held on March 18. Rising Tide packed the room, but security had been arranged in advance. They did not cause a disturbance. A procedural schedule that had been circulated earlier and discussed among the parties was agreed to - with one exception - and presented to the Board for its consideration. The date for the technical hearings is the outstanding issue, with Vermont Gas wanting to proceed the first week in June and some other parties requesting the last week in June. The Board indicated that a procedural order resolving the schedule and outlining the scope of the remand based upon written comments would be forthcoming.

Work continues with the landowner group and VGS concerning right of way issues. The landowner group has still not provided any additional documents or comments on the pipeline lawyer's drafts despite repeated commitments to do so. The Department had hoped to post final Model Forms on our website on March 13, which was the agreed upon day to conclude. The issue regarding public record protection for the original landowner documents submitted was resolved. We continue to process landowners' requests for payment/reimbursement.

VGS Interruptible CNG Tariff – No Docket – VGS has reached out to the Department to discuss a planned tariff change aimed at attracting regional CNG delivery companies the utilize VGS's system during summer months, when there is excess capacity. VGS indicates that CNG filling stations are developing in neighboring states and that the market for CNG is increasing. In an effort to draw additional CNG companies (e.g., NG Advantage) to VGS facilities, VGS would like to offer a steep discount for incremental business from April through October. The Department has indicated general receptiveness to the idea, subject to VGS demonstrating that the service

will cover VGS's marginal costs and make a contribution to fixed costs. VGS will provide additional information on this point.

VGS Rule 5.409 Violation Penalty Case – Docket No. 8328 – On March 17, the Department filed a letter with the Board seeking to admit Commissioner Recchia's testimony by stipulation or as non-evidentiary responses to Board questions. The Commissioner has a conflict during the technical hearing scheduled for March 25 at 9:30.

VY EPZ Proceeding – NRC 50-271-LA-2 – The State (Department) made a number of filings in two different proceedings related to the EPZ. First, the State filed with the NRC Commissioners a petition for reconsideration of its March 2 approval of Entergy's exemption requests related to the EPZ. Second, the State filed a motion with the Atomic Safety and Licensing Board to stay the related license amendment proceeding pending Commission reconsideration of the exemption request approval. The ASLB denied the motion to stay. The State then filed its response to Entergy and NRC Staff opposition to the State's LAR petition. The Commission is currently considering the petition for reconsideration, and the ASLB now has full briefing on contention admissibility in the LAR proceeding. The ASLB will likely schedule oral argument in the LAR proceeding within a month.

FairPoint Service Quality Investigation – Docket 8390 – The Department submitted initial prefiled testimony in the proceeding. The testimony identifies and focuses on three major problem areas: residential troubles cleared within 24 hours, issuance of bill credits as a result of service outages, and network deficiencies that led to the November 28, 2014 outage. Non-petitioner discovery requests are due to the Department by March 23. The Department also continues to seek information requested from but not provided by FairPoint during the initial two rounds of discovery.

Stowe Rate Design – Tariff No. 8553 – The Department recommended that the Board open an investigation into Stowe's proposed rate design. This is the first rate design case filed by Stowe in approx. 30 years.

VEPPI – VEC Wheeling Dispute – No Docket – A dispute has arisen as to the manner in which VEC is charging VEPPI for wheeling services provided for a standard offer resource. The other DUs do not support the wheeling charge methodology employed by VEC. The Department's comments have focused less on the substance and more on process concerns regarding the manner in which the issue was brought to the Board. Last week, the Board issued a brief letter to VEPPI authorizing it to pay VEC's charges and indicating that it does not intend to take further action. There is still a general disagreement among the DUs as to how to charge standard offer resources for wheeling services. They are continuing to discuss the matter and the Department will need to re-engage with the DUs on the issue.

Untariffed Services – No Docket – In late 2014, the Board asked the DUs to describe any services provided that are not under a tariff. The DUs responded and the Board asked for the Department's comments. The Department has drafted a letter to file on March 20 that

generally responds to the Board's questions consistent with the following broad principle: As a general matter, the Department believes that all services offered by a utility should fall into one of three categories: (1) tariffed services treated above the line; (2) non-tariffed services treated below the line; or (3) some hybrid of the (1) and (2) that is specifically authorized under a utility's alternative regulation plan.

GMP Actual O&M Costs – Docket No. 8389 – GMP and the Department met to discuss the proper capitalization of storm recovery costs, consistent with the terms of an MOU filed in this matter. The meeting was productive and GMP will file a proposal in one week, responsive to the Department's concerns. The goal is for GMP and the Department to agree on an appropriate capitalization methodology so that this will not be an issue for future storm costs.

Cold River Solar – Docket 8188 – The Board has issued an order approving the 2.3 MW solar project and companion CPG. The Order/CPG contains a preconstruction requirement for the developer to obtain a certification from an electrician or electrical engineer stating that the proposed seven foot game fence complies with the National Electric Code and the National Electric Safety Code with supporting analysis. The Board has also required that the developer fully fund the decommissioning trust fund without netting out salvage value, resulting in a \$170,000 decommissioning fund rather than the developer's proposed decommissioning fund based on a \$50,000 per MW formula. On aesthetics the PSB reiterated that it does not consider neighbors to be "average persons" for purposes of its Quechee analysis, distinguishing *In re Halnon*.

New England Clean Power Link Project – Docket 8400 – The PSB granted party status to 16 individuals and other entities, including a number of regional planning commissions, towns, utilities, state agencies, abutters and CLF. The PSD, CLF, ANR, NRPC and the Farris each submitted first round discovery questions on the petitioner. CLF's discovery filing included requests for admission. In furtherance of our 30 V.S.A § 218c(7) obligations, the PSD has arranged a joint meeting with the Benson Selectboard and the Fairhaven Selectboard on April 6<sup>th</sup>. The Castleton Selectboard is the only remaining town the PSD is attempting to schedule to meet. The petitioner's responses to discovery requests are due by March 30<sup>th</sup>.

Act 99 Net Metering Workshop - No docket – All three working groups, reviewing Rate Structure, General Process (which includes application process and Board procedures to review the projects) and Interconnection issues will meet on 3/19, however the Interconnection working group will disband and join a different working group who are working on a revision of PSB Rule 5.500 on all interconnection issues, rather than just those associated with net metering.

Natural Gas EEU – Docket 7676 – The Department has conferred with parties concerning the Hearing Officer's Proposal for Decision (PFD) in this matter. The Department will generally support the PFD as written. We have learned that VGS is likely to try and convince the Board to defer a decision between the "book and defer" treatment of energy efficiency costs currently employed by VGS and the Board proposed "pay as you go" method. PSD believes the Board will

not be swayed by any future arguments on this issue and will support the Board position. PSD is still working on determining whether all parties will support our proposal that the transition plan be developed in an uncontested proceeding. Comments on the PFD are due March 20, 2015.

Salisbury Farm/VGS Methane Digester Project—no docket—The Department has been meeting over many months with the developer of this project. His petition will be supported by his testimony, as well as VGS's. This week, Department staff will meet with the developer and VGS together for the first time in anticipation of the filing of a 248(j) petition.

Woodstock Aqueduct Company – Tariff 8556 – In a letter to the PSB, the PSD recommended the PSB open an investigation.

GMP IRP – Docket 8397 – The PSD, GMP and VEIC resolved all outstanding issues and filed an MOU with the PSB.

NGRID Transmission Line Construction/Removal Waterford and Barnet– Docket 8444 – The PSD participated in an uneventful prehearing. An April 9<sup>th</sup> site visit and public hearing is anticipated.

Champlain Valley Solar – Docket 8248 – In a letter to the PSB, the PSD reported no objection to the petitioner's request for a three-month extension to its SPEED Standard Power Purchase Agreement.

VEC Substation Expansion and Rebuild in East Berkshire – Docket 8450 – A prehearing conference has been scheduled for March 30<sup>th</sup>.

Vermont Gas-Plouffe condemnation-Docket 7819- A proposed schedule for the compensation phase is due to the Hearing Officer on March 20. The Department is encouraging settlement talks between the landowners and VGS.

Vermont Gas NOPVs—no docket—The Public Advocacy division continues to work with the Gas Engineer to draft NOPVs of various aspects of pipeline safety. A warning letter regarding the welding program was previously sent and has been responded to by VGS; Engineering is reviewing. A second letter regarding control room deficiencies is in the review stage. Two others are being drafted.

Other NOPVs-no docket—The Public Advocacy division continues to work with the Engineering division regarding the interpretation of statutes and Board rules as it relates to the issuance of NOPVs to propane companies for the violation of Dig Safe rules.

### ***Telecommunications***

VTA Transition - PSD staff to continue to review contracts and financials associated with the VTA in anticipation of the transition. It is likely the PSD will retain an accountant to perform an



audit of the financials as thus far they appear to present several questions.

PSD is in the process of posting one connectivity position that will be responsible for management of the VTA contracts as well as various other functions. In addition, the PSD will offer a contract to the current VTA employee responsible for the various fiber project build-outs that will not be completed by July 1.

PSD is also aware of a potential legal issue between the VTA and Sovernet. PSD has advised the VTA that its retained counsel should handle the dispute but the VTA claims the attorney it retained has a conflict. PSD is verifying whether an assistant attorney general will be available to represent the VTA in the contract dispute.

Connectivity RFP – Wednesday is the last day the Department will accept responses to the Connectivity request for proposals the Department issued in February. Division staff formulated a simple matrix for evaluating responses. The matrix uses the statutory criteria as a guide.

Comcast Mapping Meeting – Division Staff met with Comcast representatives to discuss the erroneous FCC map. The FCC map, which was released in January, does not properly represent Comcast's broadband service availability. The Map shows Comcast as offering service at a bandwidth under 25/3 Mbps. At the meeting, Staff explained how the error occurred. The error occurred because VCGI did not correctly enter Comcast speed tier data into its submissions to the Federal Government. Unfortunately, VCGI was unable explain why the error occurred. Comcast would like acknowledgment from the state of the error.

Fairpoint Complaint for Relief Against Comcast — Fairpoint filed a complaint for relief with the Board against Comcast and Charter on Wednesday, March 18. The complaint alleges that Comcast is underpaying pole attachment fees to Fairpoint. Fairpoint alleges that Comcast has underpaid by \$2,481,196.88 from March 19, 2009 to the present and Charter has underpaid by \$93,851.07 from July 12, 2013 to the present. DPS staff are reviewing Fairpoint's petition.

Stowe Cable CPG Petition — DPS received discovery responses from the Petitioners. DPS witnesses are preparing pre-filed testimony.

Wireless Telecommunications Facilities (248a) Petitions — DPS submitted recommendation letters to the Board in response to the following applications:

- VTel limited size and scope application to construct a 90' tower in Chelsea;
- Sprint application for *de minimis* modification to a 150' tower in Williamstown;
- T-Mobile application for *de minimis* modification to a 120' tower in South Royalton;
- AT&T application for *de minimis* modification to a 80' tower in Bridgewater;
- AT&T application for *de minimis* modification to a 164' tower in Newbury.

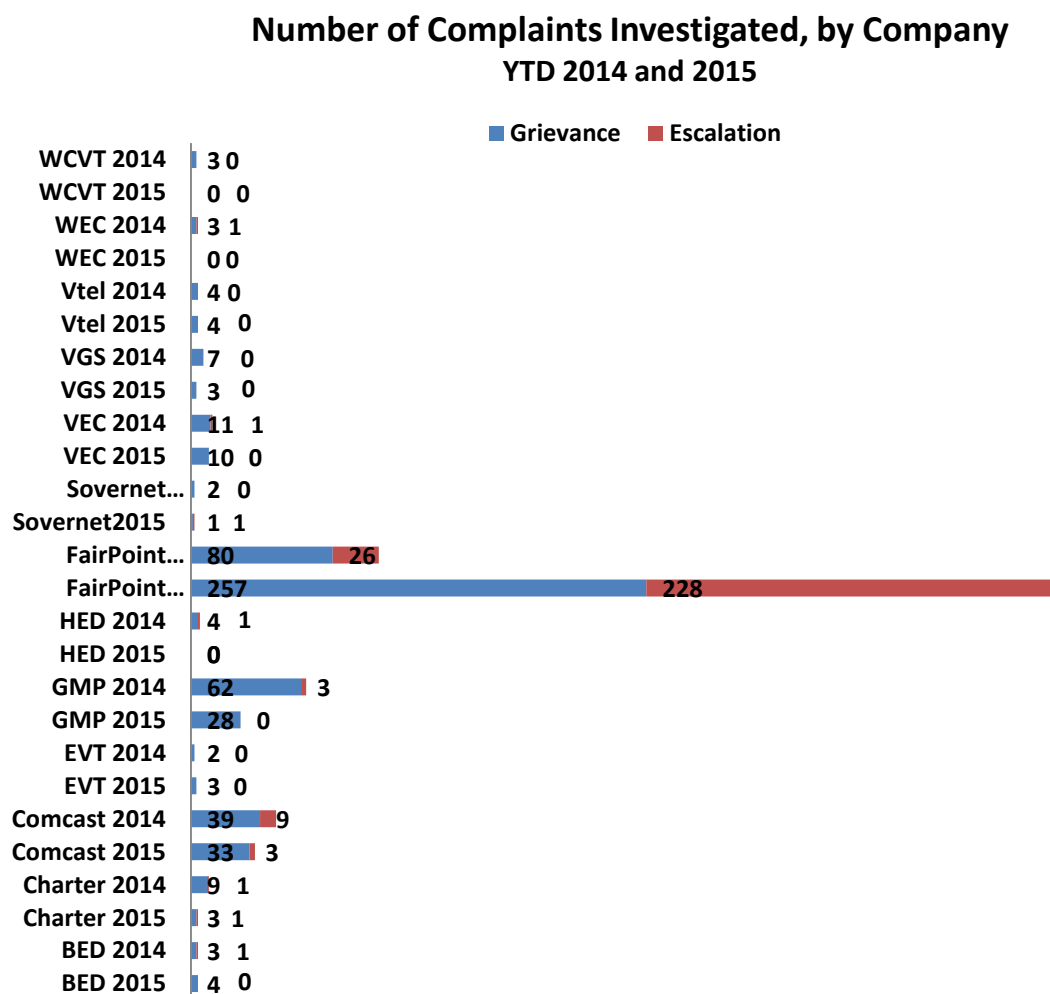
DPS has retained an aesthetics expert to review VTel's proposed 90 foot tower in Fayston. VTel submitted a 45 day notice for a limited size and scope project in December, but has not yet filed a full application. The Town of Fayston opposes the project and has retained legal counsel to

represent the Town in the docket. DPS staff discussed the project with the Town's outside counsel. The Town is attempting to schedule a public meeting with VTel and has requested that the Department attend the meeting if/when it is scheduled.

The Town of Cabot Selectboard and Planning commission have scheduled a public meeting with VTel to discuss a proposed 90 foot tower in Cabot for Wednesday, April 8. The Town has requested that DPS attend the hearing. VTel filed a 45 day notice for the project on February 12.

VTel also filed a request that the Board waive the 45 day notice requirement for a limited size and scope project involving two existing towers on Burke Mountain. VTel is proposing to install new antennas on the towers. DPS staff contacted VTel's outside counsel to discuss the requested waiver and note that the 45 day notice period cannot be waived by the Board. VTel is considering whether to withdraw the waiver request.

### **CAPI**







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

**To:** The Honorable Peter Shumlin  
**From:** Keith Flynn, Commissioner of Public Safety  
**Date:** March 20, 2015  
**Subject:** Weekly Report

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## **Vermont State Police**

A Troop

23 Total arrests, 8 DUI arrests

Troopers responded to a firing range in Charlotte to assist BCI with the investigation of an accidental discharge. A subject accidentally shot his friend in the hip while re-configuring his handgun after using it in a modification "rifle" set up.

Troopers from BCI & Field Force were dispatched to a robbery that occurred at the TD Bank on Main Street in the village of Enosburg, arrested Jacob Rheame on charges of robbery.

Welfare check of a disappearance of a 24 year old that left a disturbing note to his family. Subject was located in FL.

Trooper on patrol in Duxbury when a call was made for a possible burglary into a residence. Trooper was given a vehicle description and on the way to the call located the vehicle and apprehended the driver and obtained a confession for the crime. Several charges stemmed from that stop including felony possession of marijuana.

Bank Robbery at TD Bank in Enosburg, closed with arrest of 30 year old male who is addicted to heroin.

Grand Larceny involving a migrant farm worker as the victim, victim lost \$2800.00 to US citizen who was supposed to send Western Union to his family in Mexico. Det. Sgt. Katz met with victim and translator, but victim reluctant to go forward because he was worried about retaliation. Investigation revealed that he would be protected as a victim, but others could be called in on farm by the US citizen as illegal and deported.

## B Troop

17 Total arrests, 5 DUI arrests

3 reported burglaries in Newark; 2 residences and 1 camp. Troops are working on a suspect. Troopers dealt with MH patient Jeremy Gardner again. Gardner assaulted his caregivers and then attempted to assault Troopers as well as Gardner received injuries.

Search warrant on Joshua Kunz residence in Lyndonville for child pornography and subsequently arrested Kunz on the charges.

Arrested a subject in Brownington for Fraud. Subject had stolen his friends ATM card and took money from account and then used the money to purchase heroin.

6 mental health cases this week. Caller reporting male who wanted to die and was going to die by VSP hand in a collision by driving into a cruiser. Reports received of this male swerving at cars in traffic. Troops got him stopped and after short standoff was taken into custody, processed for DUI. Later that night male poured gas all over himself (second time in a year) and his propane tanks and threatened to light himself on fire. Troops with help of fire department get him into custody.

Correctional Center case. (Allegation of Guard using excessive force on inmate...inmate complained) Occurred in Stj facility, however inmate is currently in Chittenden Correctional Center.

## C Troop

21 Total arrests, 8 DUI arrests

Tpr. got into a pursuit which started in Vergennes from a gas drive off, Tpr. broke off pursuit and the suspect was later located by Middlesex troopers. Operator struck a cruiser, multiple charges.

Responded to Vergennes for a bank robbery, two K-9 units responded as well.

Sex Offense. It was a reported a 12 year old female was sexually abused by her mother's friend when she was 6 years of age. City of Rutland. Victim interviewed.

Sex Offense. It was a reported a 15 year old female was sexually abused by her mother's boyfriend. Town of Brandon. Victim and Offender interviewed.

Sexual contact with DOC worker and inmate in Bennington

## D Troop

15 Total arrests, 2 DUI arrests

Stopped a vehicle on I91 in Rockingham; consent search done; arrested two for felony possession of heroin and trafficking of heroin.

Suspicious letter, followed up on suspicious letter received in Brattleboro regarding an anonymous victim alleging she has been sexually assaulted and tortured. Determined this alleged victim has mental health issues, no crime committed.

Concerns from Chester/Andover school about possible sexual abuse with three siblings from Springfield. DCF had been involved already with the family and there are no substantiated details or disclosures to act upon at all.

## **MAJOR CRIMES**

Johnson Homicide (Westminster):

Numerous follow up interviews

Filed 10 facebook search warrants with SA

Filed search warrant for defendant's clothing held by DOC with SA

Search warrants granted for 5 cellphones, 1 ipad and a video camera-processing has begun on most of these items with the help of Computer Crimes Unit. MCU will have to manually process at least 3 phones

Monitoring of Facebook communications continue to be monitored by VIC

## **DEMHS**

DEMHS Director's office was notified by the State Nuclear Engineer (PSD) of a security incident that occurred on VY grounds this past Saturday. A woman was caught trespassing on the grounds near the cooling towers. This is the first notification DEMHS has received, despite the ongoing agreement with VY regarding notification of security related events. On Monday (3/16), VY notified the State Nuclear Engineer that a female was observed walking in the vicinity of the cooling towers. VY Security Officers were dispatched to investigate and question the woman. The Windham County Sheriff's Department responded to escort the woman offsite. The woman was issued a "Notice Against Trespass." The woman was apparently part of a protest that had been scheduled for Saturday morning to commemorate the fourth anniversary of Fukushima, however the protest was cancelled. Of note, as part of staffing reductions at VY, following its permanent shutdown, the guard shack at the Main Gate is no longer staffed full time. As part of this change, the VY Main Gate is frequently left open to allow access on-site parking and several "non-vital" plant facilities (including the cooling towers, which are no longer needed now that the plant is not generating power). Vital plant facilities such as the Reactor Building and the Independent Spent Fuel Storage Facility are within VY's "Protected Area" which are guarded by several layers of defense and require multiple security checks to access. We are told that at no point did the trespasser challenge or breach any of these defensive layers. In reviewing this incident, VY has also noted that there are currently not any "No Trespassing" signs on the access road to plant, a condition that will be rectified soon.

The FEMA/State agreement for Disaster DR4207 (December snowstorm) is at the Governor's office for signature. This agreement provides the conduit for disaster relief funding.

The town of Plymouth, VT is now using VT ALERT as its primary all hazards notification system.

Legislative Contact:

Director joined DPS General Counsel testifying on H. 264 regarding Warming Shelters.

Director attended the Public Hearing on PSAP Consolidation.

## **Fire Safety**

The Division received \$21 Million in new plan review construction valuation collecting \$113,000.00 in permit fee revenue.

We continue to work with the owner of the Bennington Furniture Store located in Rutland. This building owner is defiant and next to impossible to work with. I had the Rutland Regional Manager meet with him on Monday to discuss the status. I am waiting for a letter from the owner to see if we can work something out.

The director met with BGS and the Sgt at Arms to look at a couple of the larger rooms at the State House where you can assemble more than 50 people. We are going to work over the summer with some people to raise awareness to fire safety in the State House including coordinated fire drills and a plan to address some basic safety objectives.

## **Administration**

Rep. Fagan is submitting an inordinate amount of questions about the DPS budget. It is very difficult to keep up with them as they are coming in a variety of emails. Many of them are operational suggestions relating to cutting work units or tasks within Public Safety. The time it takes to respond to his question is ever increasing. Often his questions are repetitive and asked in a slightly different manner from the previous question.

## **Laboratory/Criminal Justice Services**

The lab has completed all of the policy review and re-writes for the accreditation process. We are in good shape to sit for re-accreditation in May. The lab had gotten an extension of accreditation in December until June 30<sup>th</sup>, However, due to the negative publicity caused by this extension the accreditation body (ASCLAD) has asked us to move up our processes so that they could review them well in advance of the June 30<sup>th</sup> deadline.

## **PSAP Consolidation**

Radio and telephone testing occurred this week in Williston. The Department was testing the technical capabilities of being able to receive 911 calls and dispatch Derby calls out of Williston. This test went well with no technical problems noted. We will conduct a second test within the next week or two and then make a notification to the VSEA as appropriate based on the contract. The move of Derby into Williston is moving forward.



**State of Vermont**  
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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Justin Johnson**

**DATE: March 20, 2015**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Of Special Interest to 5<sup>th</sup> Floor from BGS Directors**

Montpelier 109 State Street Security Upgrade: The upgrade is near completion. There will be tenant training classes.

Montpelier 115 State Street State House Plantings: Spring Tulip Planting (\$1,300); Summer Annuals (\$15,800); Fall Annuals (\$4,200); Lawn Application (5) times a year (\$7,000)

Westminster Public Safety Facility New Construction: We are working with DFS and the design team in an effort to resolve the issues with the DFS construction permit.

Randolph AG/LAB: Sandy and Mike will be meeting via conference call with the design team to review their initial reaction to the conceptual design review comments. Soil Boring work is wrapping up and a report will be issued shortly thereafter. Initial reaction is somewhat favorable except for finding higher than expected groundwater in some locations. Work is proceeding on the review of alternate sites and once we receive the evaluations we will share internally before we present to the neighbor. Good meeting on financing opportunities for the campus wide woodchip heat plant for VTC. Financial advisors will get back to us in a couple of weeks. This did raise the question regarding simply tying into the existing oil-fired boiler rather than building our own stand-alone woodchip boiler system, that may only be used for a limited period of time depending on if and when the campus wide facility is built. Finally, plans are in place to hold a public informational meeting on Tuesday, March 31, 2015 in Randolph to introduce the project to the community.



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

Stable. Capital Bill in markup. Have briefed Jim Reardon about deviation from Governor's proposed budget.

## **FINANCE AND MANAGEMENT**

### **Issue Updates:**

Plans to achieve the reduction in force targets have been received and will be reviewed by the budget staff.

## **HEALTH CARE REFORM**

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

All Payer Model: The federal government announced a new Medicare ACO program, Next Generation, which would allow participating ACOs to take on more financial risk, including options for either population based payments or capitation financial models. The announcement created uncertainty for the All Payer Model/All Payer Waiver project around the statehouse, but the GMCB and the administration is aligned that we need to investigate all options moving forward. The GMCB, however, still seems to think that they may not need the same level of staffing and has not moved on the contract. Health Care Reform staff believes that the federal announcement does not substantially change the path forward. State staff should analyze how an all payer model would work under both a scenario that uses the new federal program and a scenario that does not use the new federal program to determine the best option for the State.

VHCIP/SIM: SIM rolled out its year two work plans, after significant vetting, to all of its work groups in the past two weeks. These will set the trajectory for our activities throughout 2015. The SIM Medicaid team is still working through the State Plan Amendment for Year One of the Medicaid Shared Savings Program having just submitted what we hope is the final response related to the financial calculations in the program. The SIM financial team is also still working with CMMI on our 2014 carryover and 2015 contract approval requests. We hope to obtain approval in the next two weeks. The SIM team is also working with AHS around how to incorporate payment reforms that relate to specific AHS providers/programs, like the Excellence in Mental Health Act, Integrated Family Services and Home Health. SIM is doing a mid-project risk assessment and will probably do some recalibrating halfway through the year to make sure we meet our federal milestones.

### **Legislature:**

Robin Lunge was in House Health Care the week of March 10 for discussion of the committee consensus and money bills. As of today, March 19, H.481 is in House Ways and Means and they likely will not take it up until next week. H.487 was sent to House Appropriations 3/18. The Senate Health and Welfare committee passed their committee bill, S.139, and it was sent to Senate Appropriations 3/17. Senate Finance has a draft of a committee bill that will likely be passed out of committee this week.

Our priorities are in the following bills:

H.481 roughly mirrors our funding priorities, gives GMCB authority to oversee VITL and gives GMCB direction to do the public utility model inquiry. It also removes the sunset for the HIT Fund. This bill has a new HCR task force and the study of universal primary care.

H.487 has direct enrollment language for individuals.

S.139 has language related to our funding priority for changing home health into a prospective payment system.

Senate Finance has our VITL language and direct enrollment language. Robin is expecting them to add the public employee study of how to avoid the Cadillac Tax.

We will need to monitor the following:

1. There are variations of the public employee study in the Education bill (just teachers) and Robin is expecting a similar version for state employees in Approps (although she is hoping to get them to do the broader study instead). Ideally, we'd get one uniform version passed by the end of the session.
2. Between the task force, universal primary care, and the public employee study, Robin is about maxed out for next summer. If additional studies are added, she am going to need to either ask for funding or say no.
3. S.139 re-establishes HAOC & MHOC, so we now have 3 interim oversight committees with overlapping jurisdiction, which creates a lot of duplicative work.

We are putting together a short summary of each of the major bills.

Michael Costa continues to work with the Tax Department on major revenue bills, including the Payroll Tax, Sugar Sweetened Beverage Tax, and various income tax proposals.

### **Press:**

Robin Lunge spoke with Nancy Remsen re: cost-sharing. This was to explain how it worked and what the proposals are.

## **HUMAN RESOURCES**

### **Legislative Update:**

HAC Representative Toll requested additional information re: economic impact of employees in a paid relief from duty status and ways to reduce time in that status to possibly save money. Provided her with requested numbers and strategies we use through training and our investigative process to minimize time employees are out on RFD.

HAC asked several questions about our employee wellness program that seemed geared towards looking for areas to cut. Responded that we are required to have a wellness program under the terms of our agreement with the union, and that we leverage money from BCBS to pay for our program; money that must be specifically used for wellness or we don't receive it.

S.72 – binding arbitration for state employees – has moved to House General. We are supportive and are collaborating with VSEA and Legislative Counsel to make sure the language works for us. Scheduled to testify before the committee next week.

Engaged in discussions with Sarah London re: the “ban the box” legislation – essentially prohibiting employers from asking whether someone has been arrested on an employment application. Been approached by Rep. Stevens to have the Governor do this re: State employees by executive order.

Testified in House Gov Ops alongside Steve Klein re: possible ideas for labor cost savings. The committee seemed particularly keen on crafting language that would require parties to the bargaining agreement to reopen the agreement if our benefit plan hit the Cadillac tax amount. Also interested in relooking how we calculate overtime in our CBA. HGO ideas were shared with HAC who were also interested in exploring further. General gist was to put forth ideas that would create areas for discussion in the next round of collective bargaining which starts late summer.

### **Media Contacts:**

Given a heads up from Mike Donoghue that he will be requesting information on overtime hours for various law enforcement chiefs. His target is an employee at DLC who codes a significant amount of overtime every pay period. We have contacted Commissioner Hogan to apprise.

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

Meeting with Treasurer Pearce regarding possible statutory changes to language re: periodic relook of disability retirement approvals. DHR has been discussing with Treasurer and the retirement board since the fall and all agree this is a move in the right direction.

Working with staff to make sure we are up to speed in providing information to appointing authorities on RIF. We will be doing regular conference calls as appointing authorities put together their plans to reach the 10.8m target.

Met with health care reform staff to discuss exploring moving state employees, teachers and possibly municipal employees into a public employee health benefits pool. Health Care leading the effort in collaboration with DHR and DFR.

Meeting with AoA on employer mandate/share responsibility under the ACA, to include reporting, monitoring, and compliance issues. Bottom line – it is complicated and expensive. Working on staffing plan, possible IT partners or possible combination of both.

We have had several requests from Agencies/Departments to meet with them to discuss the results of the employee engagement survey as they relate to their organizations. This is a positive step.

Assisting the Governor’s office on a revision of DHR policy Number 11.7 - ELECTRONIC COMMUNICATIONS AND INTERNET USE.

The BCBS implementation audit has been finalized. Short version: they are doing their job well and CTI didn't really find any huge red flags.

## **INFORMATION AND INNOVATION**

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

#### **Healthcare**

- The first draft of the hosting contract was sent to Optum on Wednesday. We hope to have a signed contract within the next 2 weeks.
- Security vulnerability scanning is configured and preliminary scans on DVHA networks will commence next week (Monday).
  - NuHarbor will be working to remediate results from these scans with appropriate DII/AHS individuals.
- The current CGI logging platform is inaccessible by our 24x7 incident handling contractor (Hurricane Labs). We continue to work through avenues in hopes of moving the infrastructure quickly to obtain better incident review.
- CMS has defined guidance on the data center move, and we will ensure the move is approached as directed by CMS.

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

- H. 371 - An act relating to creating a Joint Legislative Information Technology Oversight Committee calls for examination of any IT project, proposal, contract, and service with an estimated cost of greater than \$2M. The legislature may contract with consultants to do this. We feel we could include the legislative committee in the independent review process that we accomplish at the \$1M threshold and maybe preclude them from paying money to get the same questions answered at the \$2M level.
- Received and responded to a memo from the legislative IT committee, who were concerned about the executive branch's filtering of streaming media like Pandora and Netflix. DII has put blocks on a limited number of specific movie, music, and entertainment file sharing applications because those services have taken up vast amounts of bandwidth – costing money and disrupting services to Vermonters and interfering with state employees' ability to do their work. These blocks are implemented on the internet connection, which currently does not allow us the capability to exempt a specific building or branch of government.
- Responded to HAC's request for potential cuts with a list of items, and their associated impacts. This is the same list provided internally within the administration.
- Sent a request to Senators Ashe, Kitchel, Flory and Westman asking for an opportunity to meet and discuss S.129.

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

- Spoke briefly with Hillary Niles this afternoon who was looking for clarifications on some questions about DII services. I directed her to our service catalog, including our rate sheets that are on our website.
- Spoke with April Burbank with BFP and she had basic questions about private vs. state provided email. Her first question was there a policy and I responded there was a clear

expectation but I'd need to check to see if that expectation was backed up in our HR policy. She asked what the expectation was based on and I responded that state funds were used to put systems in place that enable state workers to do their jobs effectively and that I thought everyone in state government tried to use taxpayer funds efficiently. We talked about retention when the employee left and I talked about the review process to allow departments to retain information necessary to meet their retention. We talked about no automatic deletions but we did have automatic archiving. She also asked about legislative email, but I said that was a separate system and she would have to ask them.

### **Evolving Issues:**

#### **Web:**

- Training is now scheduled for 3/18 for HIT staff on data.vermont.gov so they can edit their own data set. Their project is to create a data survey of Health data across the enterprise.
- The NewEngland511.gov domain has been approved and now will be registered for use by AOT.

#### **Projects:**

- **DII VoIP:**
  - Five finalists selected to move forward to the next round, presentations & reference checking.
  - A Best and Final Offer (BAFO) request is being distributed to each vendor.
  - We expect reference checks to be completed by 3/27.
  - The independent review proposals are due this Friday, 3/20.
  - Initiating an internal assessment of all State toll free services. This analysis is needed in preparation for VoIP implementation. Through this assessment, there will be opportunities to consolidate number of toll free services, which will also reduce costs for this service.
- **ANR / DEC– Loans & Grants Tracking System (LGTS):** Met with Winslow Ladue and Mark Smith and they identified a risk that they do not have a document management solution selected for accessing the scanned records. They intend to “go live” in two months. The solution was intended to be SharePoint, but Winslow was notified by ANR IT that is no longer an option as of a week ago. We will be coordinating a meeting with Jennifer Loughran, LGTS project team members, and another member of DEC who just released an RFP for a SharePoint or Generic Content Management Solution. There may be an opportunity for collaboration here.
- **LAN/WAN Consolidation:**
  - (ANR) Performed site survey at ANR location in Essex. We will not need to replace existing network hardware at this location because these devices meet our standards. However, significant data cabling is required to meet minimum specifications established by DII & industry standards. Will utilize State telecom technicians for this work to minimize allocation costs. Comcast identified 14 State Park locations that they can provide broadband services for zero cost to the State. Meeting with Jim Porter (PSD) to discuss specific sites Comcast can service is still pending.

## **LIBRARIES**

Nothing to report.

## **TAXES**

### **Legislative Update**

#### **Miscellaneous Tax Bill:**

##### ***“Non-Revenue/Current Use Bill”***

In Senate, no action. We sent a letter pointing out things we would like back in – including delay on the trigger of our Amazon law and municipal parking garage exemptions.

#### **Revenue Issues:**

##### ***“Revenue Bill”***

Ways & Means voting tomorrow – expected to be our proposal plus 2 1/2X standard, including limits on the Charitable deduction because otherwise it does not raise enough revenue and is not “progressive” enough. Committee has not really discussed the disruption caused by retroactivity, particularly to charity budgets (also, since withholding will not reflect higher rates, many taxpayers will face big tax bills next April).

##### ***Division of Revenue***

Senator Ashe has delegated Senator Sorotkin to investigate the Division of Revenue idea. We have compiled information, and are meeting with him next week.

##### ***Water Quality***

Without much testimony, W&M decided it was concerned about collection of parcel fee of any type, and settled on small increase on the property transfer tax. We already are one of the highest PTT states – although we may be able to show that VT does not have other transaction fees, such as mortgage taxes (applied at time of loan or refinance). In meantime, Senate Ag continues to look at a per parcel fee, and heard the concerns of the towns that support the fee but do not want to collect it.

##### ***Health Care Bill***

W&M to take up next week. SSB does not appear to have votes. The scuttlebutt generally is that the fact that the price increase cannot be guaranteed is a dealbreaker.

##### ***Estate Tax***

Senator Lyons is pushing Finance to pass free standing bill – vote expected Friday afternoon.

##### ***Cloud***

S. 97 still sitting in W&M.

##### ***Education Finance***

Somewhat lost in the noise, the main part of the Ed Bill that W&M looked at was the rates. The Dec. 1 letter had suggested 2 cents on both rates, the committee instead went with a flat rate on the homestead

side and 3 cents on the nonresidential rate. There is also confusion (and probably oblivion by many legislators) that last year they advanced the increase on income sensitivity to 1.94%, which will be in effect both this year and next. It has come to our attention that some of the Department's materials were not clear on this, so some homeowners may be surprised at a slightly lower adjustment off their property tax bills this summer.

Rep. Ancel also pushed through the yield instead of rate proposal, over the skepticism of many of her members who find it confusing at best. In fact, it has gotten very confusing since now there are two separate yield numbers proposed (a distinct yield on income sensitivity). Seems to defeat purported purpose of showing the availability of revenue from year to year.

### **Operations:**

#### ***Tax Season***

We are running slightly ahead of the number of returns received as of this point last year. We are holding over 7000 refunds, although we are now keeping current on our daily review, even with the additional flags that we have installed. We have identified over 200 fraudulent returns, over \$450,000 which is ahead of last year.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
Date: March 20, 2015  
RE: Boards and Commissions Update

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**Appointments Made 3/18/2015:**

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

APPOINTED: Mary Noble, Milton

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

APPOINTED: Kathy Chapman, Corinth

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

APPOINTED: Karen Evans, Plymouth

**Unorganized Towns:**

**Buel's Gore:**

REAPPOINTED: Jacob Perkinson, Burlington

**Town of Glastenbury:**

REAPPOINTED: Rickey Harrington, Glastenbury

**Town of Somerset:**

REAPPOINTED: James Olivier, Putney

**Lottery Commission:**

APPOINTED: Lindsay Kurrle, Middlesex

**Green Mountain Care Board Nominating Committee:**

APPOINTED: David Coen, Shelburne

REAPPOINTED: Tom Torti, Essex

REAPPOINTED: Deb Richter, MD, Montpelier (Health Care Expert)

**District #5 Environmental Commission:**

APPOINTED: Ginny Callan, E. Montpelier (Member)

APPOINTED: John Hall, E. Montpelier (Alternate Member)

**District #9 Environmental Commission:**

REAPPOINTED: Elizabeth Ready, Lincoln (Alternate)



**Vermont Community Development Board:**

APPOINTED: Ebony Nyoni, St. Albans

REAPPOINTED: Sarah Carpenter, Burlington

REAPPOINTED: Angus Chaney, Brandon

**Human Services Board:**

REAPPOINTED: Mary Skinner, Middlesex

**International Trade and State Sovereignty Commission:**

APPOINTED: Jon Erickson, So. Burlington (VNRC recommendation)

**Endangered Species Committee:**

REAPPOINTED: Paul Wieczoreck, Hinesburg (Ag. Activities)

**Plumbers Examining Board:**

REAPPOINTED: Steven Goodrich, North Bennington (Master Plumber)

**Interagency coordinating Council for Families, Infants and Toddlers:**

APPOINTED: Joanne Mattsson, Castleton

**Rail Advisory Council:**

REAPPOINTED: Herbert Russell, Rutland

**Travel Information Council:**

REAPPOINTED: Lisa Lang, Fayston (Lodging)

**Medical Practice Board:**

APPOINTED: Richard Clattenburg, MD, Perkinsville

**DAIL Advisory Board:**

APPOINTED: Nancy Metz, West Newbury

**Governor's Committee on the Employment of People with Disabilities:**

APPOINTED: Cheryl Connor, Bridport (Business)

**Funeral Service Board:**

APPOINTED: James Minor, Sr., Fairfax (Professional)

**Children and Family Council for Prevention Programs:**

APPOINTED: Stuart Berry, Mt. Holly (Personal Experience)

REAPPOINTED: Kreig Pinkham, Northfield (Youth Service Bureau)

**Governor's Council on Physical Fitness & Sports:**

APPOINTED: Corey Cenate, So. Burlington

**Citizen's Advisory Council on Lake Champlain's Future:**

REAPPOINTED: Robert Fischer, Barre  
REAPPOINTED: Alexander MacDonald, Lincoln  
REAPPOINTED: Denise Smith, St. Albans  
REAPPOINTED: James Ehlers, Colchester

**Vermont Economic Progress Council:**

APPOINTED: Shawn Straffin, West Burke  
REAPPOINTED: John Davis, Williston  
REAPPOINTED: Emma Marvin, Hyde Park  
REAPPOINTED: Stephan Morse, Newfane  
REAPPOINTED: Frederick Kenney, Jericho (EXECUTIVE DIRECTOR)

**ON HOLD:**

**Liquor Control Board:      HOLD**

APPOINT: Jeffrey Harkness, Shelburne ????

**Texas Low-level Radioactive Waste Disposal Compact Commission: HOLD**

REAPPOINT: Jane Sanders, Burlington (Alternate)  
REAPPOINT: Peter Bradford, Peru  
REAPPOINT: Richard Saudeck, E. Montpelier

**NOTES:**

**James Ehlers** – We had a conversation about attendance. He didn't agree that he misses many meetings or is there when the meeting begins but then leaves, then again he has 3 children under the age of 5 and one on the way! He said that the Lake was his top priority and he believes his role on the Council is important.

**Elizabeth Ready** – We had a conversation about not having 2 Executive Directors of homeless shelters on the VT State Housing Authority. She understood and said she thought Linda Ryan was doing a great job!

**Tim Weed** – Left a voice message but haven't been able to pitch the District #2 Environmental Commission to him yet.