

# WEEKLY REPORTS

Checklist  
11/21/14

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 – Harry Chen

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 – Jeb Spaulding

Susan Spaulding

- ☐ Boards and Commissions – Susan Spaulding (**no report this week**)
- ☒ Department of Liquor Control – Mike Hogan

**To: Governor Peter Shumlin**  
**From: Patricia Moulton, Secretary - Agency of Commerce and Community Development**  
**Date: November 21, 2014**  
**Re: Weekly Report**

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**PATRICIA MOULTON, SECRETARY:**

**EB5:** The beat goes on with ANC bio. We are allegedly receiving today the first batch of information requested in the in our November 7 letter. We followed up with a second letter requesting a second batch of information request. Bill is applying great pressure to start construction on the building claiming "125 jobs are sitting waiting to start work." We have told him the sooner he gets the information to us, the sooner we can proceed.

We continue to get complaints from Tony Sutton, investor, regarding the Tram Haus project. We are fairly certain anything he sends us he is also feeding to VT digger. Have not seen anything this week from dinner.

**Legislation:** We are working on an "Invest in VT" or "economic development" or "working families" package. Finding the right name is important. It is not a "jobs bill" as it includes working families initiatives, as well as business climate and commercial/industrial development. We will be ready to present concepts and specific ideas when we meet with you on December 4.

**Healthcare business meetings:** We are making progress with one-on-one meetings with businesses to review healthcare financing options and learn their employer response. Today we are meeting with Jerry Tarrant at MyWebGrocer and Bram Kleppner of Danforth pewter. We have a meeting with Burlington Labs next week. We are working on setting up meetings with National Life; Mike Comeau of the Richmond, Johnson, Waterbury markets; Bill Strizler of Smugglers Notch and KSE. Dick Marron at Town and Country Resort respectfully declined to participate. I am holding on Pal Borofsky due to distance.

**Windham County Economic Development Program:** I spoke with Kate O'Connor who agrees that if we go out with only a few projects, there are those in town government who would clearly support that. I also had a conversation with a couple of other trusted source. The consensus is the list of projects is not good. They advocated cutting the list off at a certain point, or coming out with the handful of projects we want to fund with very clear reasons as to why we wouldn't fund others. All agreed that spending the 1.975 million because we had this process is not a good investment of funds, and we should be prepared to take the heat. I am a bit concerned that VEPC and others who've been deeply involved in reviewing applications and meeting deadlines (in state government) for this process may get frustrated that we didn't make the call earlier. Arguably we knew three months ago what the list of projects and could have pulled the plug then. However I think there's a defensible argument for letting the process work to see where we needed to tweak the process.

**Vermont College of Fine Arts:** We are hearing whining from VCFA re: our historic preservation review. They spent three months in denial about needing an Act 250 permit, they did not involve us in any planning on the redesign of their historic buildings and now they are panicked. Noelle and Laura Treischmann, SHIPO are working closely with their folks negotiating options. VCFA indicates they have a \$1 million dollar grant in the wings waiting for a decision. We are doing the best we can but wished they were clearer on the process, their consultants should have known about this process!

**Lucy Leriche, Deputy Secretary:** Lucy is in Austria on the biomass, renewable energy investigation with Chris Recchia and Mike Snyder.

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

- **SOV Website Template:** Presentations of the new template this week included the statewide marketing group, which includes communications staff from throughout state government. A dozen+ agencies and departments were represented and both the look and feel changes and added functionality/flexibility of the new template were

very well received. Agencies are enthusiastically lining up to upgrade their sites, with many expressing (despite the hard work involved), that the transition can't come soon enough!

- **Content Audit Guidelines:** With so many state agencies, including ACCD, tackling web redesign projects in anticipation of the release of the new state web template, Heather has been developing content audit guidelines along with a style guide and other training materials to assist staff in this process. These materials have so far been shared with the Department of Liquor Control, the Department of Taxes and the Department for Children and Families, in addition to ACCD, and in time will include an online training site as well.

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

- **Middlebury College:** Lisa met with Dave Donahue, assistant to the President and Andrew McLean to share economic development priorities (CEDs) and discuss ways Middlebury could work more closely with the state to boost Vermont's economy on 11/13. Discussed setting up small meeting with key education leaders and prominent businesses to see how the college and other institutions can work more closely with businesses via internships and apprenticeships, special programs, research and tech transfer. Will work with Andrew McLean to set this up for January. Also discussed potential for accelerator program on entrepreneurship and ways to keep Middlebury grads in Vermont. Shared Great Jobs in Vermont campaign.
- **VCET/Incubators:** Spoke with David Bradbury about VCET's "One Vermont" application for EDA Innovation grants and how the state could work in tandem to help. VCET's application looks at creating a seed capital fund to help businesses outside of Chittenden County grow and considers options of creating new VCET or other incubator outposts in Bennington, Brattleboro and White River Junction. Also traded phone calls with Mark Puryear who is working with Ben Hauben to map out an incubator in Manchester and with Generator's Lars Torres who is eager to unite several of the co-working spaces around the state. Suggestion: we put together a co-working/incubator/accelerator "summit" to share best practices, identify what real needs are among emerging businesses and identify regional leaders who can move projects forward.
- **Communications:** Worked with PTAC team to release good news that PTAC has helped Vermont businesses achieve a near-record \$103 million in contracts, a 300% increase since 2012. Also working with Vermont Global Trade Partnership and Vermont Training Program to identify success stories. Ken Horseman and Shelley Pembroke are at work updating ThinkVermont.com and an email blast has helped to raise our e-newsletter subscriptions from around 2,000 to close to 4,500.

#### **BUSINESS SUPPORT ♦ Ken Horseman, Senior Economic Development Specialist**

- **Vermont Peanut Butter – Morrisville:** After two years of struggling to perfect a new processing machine to create squeezable packets, the company has the machines up and running. Hopes are very high for this new packaging. They are focusing on ramping up distribution primarily in the northeast U.S. Employment is steady and business is growing slowly. They are pursuing additional financing with LEDC, VEDA, and VSJF. Appropriate referrals will be made.
- **Hawkeye International - Hyde Park:** The company has struggled financially but business seems to have picked up to the point where they can see light at the end of the tunnel. There are some debt issues with which they are confronting. After a review of several areas of possible assistance some promising resources were presented. Appropriate referrals will be made to assist the company going forward.

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

- Paul Frederick, Wood Utilization Forester, DFPR, and I visited with Dave DuCharme (**Lamoille Valley Lumber**) and Kevin Hastings (**Amoskeag Woodworking**) to discuss their business plans and financing options. Ongoing engagement and assistance to be provided.
- Attended the inaugural meeting of the **New England Funders Network**, a group of grantmaking and community foundations focused on effective **rural community and economic development**. Discussing ways to achieve greater coordination between state and local economic development offices and private foundations.

#### **VERMONT EB-5 REGIONAL CENTER ♦ Brent Raymond, Director**

- Brent Raymond, Secretary Moulton and John Kessler continue to receive and monitor Jay Peak Tram Haus investor complaints.
- Brent Raymond continues to be copied on correspondence from Mr. Gary Dong, a China agent in Shenzhen who has concerns with investors he has placed into Q-Burke project due to VTDigger articles regarding Jay Peak Tram

Haus Lodge. I continue to monitor and respond to Mr. Dong because he is the Vice Chairman of the Regional Emigration Agent Council.

- Brent Raymond is monitoring correspondence between Bill Stenger and a Jay Peak Penthouse EB-5 project investor who is inquiring regarding timing and details of exit strategy, as well as seeking information regarding VTDigger reports regarding Tram Haus Lodge.
- Brent Raymond was interviewed by reporter Joseph Gresser of the Chronicle regarding AnC Bio project.
- Brent Raymond has been in regular communications with principals and legal counsel for Timber Creek at Okemo development and begun reviewing initial market studies and other materials. Also placed Ted Rossi in contact with China contacts for him to meet with at the end of November to obtain market insights should the project be approved.
- Brent Raymond had a conference call with Senator Leahy Judiciary staff regarding EB-5.

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

##### **VEGI**

- Continued working with Cabot Hosiery, Northfield, Flex-a-Seal, Essex, National Hanger, Bennington, Gerry Ghazi and Precyse Solutions, and 1366 Technologies on Initial Applications.
- Continued working with VT Meat Packing (Black River Produce/Lorentz partnership), Blodgett, and Twincraft on Final Applications.
- Briefed Charlene Lewey at ELLO regarding VEGI program.
- Phonecon with Kiersten and Tim Nolan of PCOVT, St Johnsbury and contact with CAI Consultants in relation to potential expansion/JV with BHS Composites, Montreal into Vermont.

##### **TIF**

- Finalizing TIF District rule drafting and preparing to begin ICAR/LCAR process.
- Working with Burlington regarding Phase 1 filing for the Downtown TIF District. November filing for March ballot item.

#### **VERMONT GLOBAL TRADE PARTNERSHIP ♦ Becky Fu, International Trade & Foreign Investment Specialist: (as reported by Brent Raymond)**

- Brent Raymond created a PowerPoint and presented VGTP presentation at the Doing Business with Friends – Canada and Vermont conference sponsored by the Consulate General of Canada, Boston and UVM.
- Brent Raymond is assisting with planning of 12/04/14 International Trade & State Sovereignty Commission meeting.
- Brent Raymond is communicating and planning logistics for meeting with Japan Consulate General, New York meeting at Burlington International Airport.

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

##### **Companies PTAC is currently working with:**

- |  |  |
|--|--|
| – Alexander Unlimited - Waterbury                                    | – Nedde Real Estate - S. Burlington        |
| – All Seasons Construction - Springfield                             | – Olivia's Crouton's - New Haven           |
| – Arrow Tech Associates - South Burlington                           | – R G Gosselin Incorporated – Derby        |
| – Colleen Mari Painting & Property Care (CMP Property Care) - Warren | – Ride-Away - Essex Jct.                   |
| – Cope And Associates Inc. - Williston                               | – The Royal Group - South Burlington       |
| – F. W. Cowen & Sons, Inc. - Canaan                                  | – Speaker Solutions LLC - Newfane          |
| – Gates Electric Inc. - Newport                                      | – SSG Advisors LLC - Burlington            |
| – JP Sicard Inc. - Barton  | – Stephens Precision - Bradford            |
| – Mike's Electric Inc. - North Troy                                  | – Sweet Rowen Farmstead, LLC - West Glover |
| – Mobile Medical International – St. Johnsbury                       | – Total Security - Irasburg                |
|  | – Triple T Trucking - Brattleboro          |

- **PTAC News:** Great news from the Vermont Procurement Technical Assistance Center (VT PTAC). *Vermont businesses earn \$103 million in government contracts.* Read the full article <http://vtdigger.org/2014/11/19/vermont-businesses-earn-103-million-government-contracts/>

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

- **Kalow Technologies:** Beth Demers talked with Eric Lapp, Compliance Manager at the Rutland based Kalow Technologies, about a potential VTP grant for employee training. Several management members of Kalow attended a Lean 101 and would like to pursue lean manufacturing company wide.
- **Mansfield Heliflight:** Beth Demers received a call from Jess Gringas (formerly of the VT Chamber) who is now working at the Milton based Mansfield Heliflight. The company is looking at the commercial market and inquired about the VTP to assist with training. Jess is working on a draft application.
- **Critical Process Systems Group:** Beth Demers spoke with Dave Rogerson, of Critical Process Systems Group (CPSG) in Colchester. CPSG is the parent company for VT based Fab-Tech and NEHP. CPSG also owns Composite USA (MD based) and Diversified Fluid Solutions (ID based). CPSG is looking at new productivity gains and responding to the market demand for welders.  
**Vermont Manufacturing Services, Inc.:** Beth Demers spoke with Aaron Ashton, General Manager, of the Rutland based Vermont Manufacturing Service. The company is looking at obtaining its ISO-9000 certification and inquired about how the VTP could assist with employee training. Beth gave an overview of the VTP and the application process.
- **Edlund:** Beth Demers met with Nathan Howard, COO, Brian Cavanaugh, President, and Tammy, Director of HR from the Burlington based Edlund Co. The company has recently invested nearly \$1M in new equipment including punch presses, punch brakes, and a new to the market laser cutter. The company is growing into markets which include clients like McDonalds and Burger King. This growth has required the hiring and training of new employees. The company is having a very difficult time finding both entry level employees, technicians, and engineers. Beth discussed a number of different training provider options. Beth will follow up with a more concise outline for Edlund.
- **Cx Associates:** Beth Demers received a Vermont Training Program application from the Burlington based Cx Associates. The environmental engineering firm specializes in retrofitting hospital HVAC systems for efficiency. This is a growing market which Cx Associates is looking to grow into. The application includes on-the-job and classroom training for employees.

## **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **Commissioner MacKay and Deputy Commissioner Hollar**

#### **Commissioner MacKay**

- Noelle is attending back to back conferences this week and on vacation next week; therefore she will update us with conference details in the December 5<sup>th</sup> weekly.
  - The Rockefeller Foundation – National Disaster Resilience Competition Summit - DC
  - New England Smart Growth Leadership Forum - Boston

#### **Deputy Commissioner Hollar**

- **Statewide Housing Conference:** Thoroughly enjoyed the conference which was attended by more than 450 housing advocates, developers, funders, service providers, municipal officials and others. The Governors remarks were well received. Had the privilege of introducing the keynote speaker, Barry Zigas, who has decades of national housing experience and dazzled, entertained and perhaps dumfounded the assembled with housing stats. Many, many thanks to Shaun who helped organize three workshops and helped juggle last minute adjustments. DHCD's staff, programs and initiatives were well represented. Housing Hero awards were presented to Martha Heath and Susan Bartlett for their steady support of VHCB and AHS housing programs over the years.
- **CONFIDENTIAL - Farringtons Mobile Home Park:** Farringtons is a dense park of very affordable housing on a valuable piece of land in North Burlington. The owners notified residents on Wednesday and we expect to receive the formal sale notice by the end of the week with an asking price of \$5 million. Under the mobile home park statutes, which DHCD administers, residents have 45 days to decide if they want to enter into negotiations with the owners to purchase as a cooperative or ask a nonprofit to do so on their behalf. We are setting up a meeting with residents for the first week of December to explain the process and their rights under the law. Responded to ongoing questions about the process from the owners' representative. Have been in communication with the Champlain Housing Trust, the City of Burlington, and which says it wants the property to remain a park. Answered questions from Seven Days about Act 252 and the mobile home sale requirements. WCAX and legislators watching closely.

- **CONFIDENTIAL - CDBG and Federal Budget:** A conversation with Kate Ash of Senator Leahy's office confirmed that they are looking closely at the track record of federal programs, including the Community Development Block Grant, in anticipation of very difficult budget negotiations. In essence, they are trying to decide which ones they should prioritize and throw their weight behind. Provided detailed information on projects funded CDBG in the last several years as well as an explanation of administrative costs. Recommend the Governor's Office determine what his priorities are based on levels of threat for different federal agency budgets and relay to the entire delegation.
- **CONFIDENTIAL - St. Johnsbury Bylaws:** Noelle and Jen met with St. Johnsbury Town Manager John Hall, a member of the Selectboard and chair of the planning commission. The Town included a provision limiting the number of affordable housing units in new developments to 40% of the total. This is a significant and clear violation of state law and places the Town at great risk of losing all HUD funding. The Town's goal is to create more mixed income housing and attract private development. In a long and productive conversation, explained we share that goal but that it cannot be done by restricting affordable units. Explained other tools and strategies. Pledged to help but highlighted the seriousness of the problem and stressed that it would not be good for the Town for this to become a public debate or for it to be sued by Fair Housing advocates. Town left the meeting planning to strike the offending provisions. Will follow up.
- **CONFIDENTIAL - St. Albans Public Housing Authority:** The Board of the St. Albans Housing Authority recently contacted the Vermont State Housing Authority to see if it would take over the management of its Section 8 voucher program which is currently administered by the Burlington Housing Authority. Running the voucher program is the only significant remaining function of the small housing authority and the board is considering dissolving. This was not well received by BHA which has said it will stop managing the vouchers for St. Albans at the end of the year, in any event. VSHA is meeting with the Town of St. Albans and the authority this week to see if an agreement can be worked out and the vouchers transitioned without any disruption to the assisted households.

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

### **Partnerships**

- **ANR – Municipal Day:** While overall numbers of participants were down (about 100) from last year, our 2-part series on Building Strong Communities filled the room. The first session focused on funding programs that ACCD and VTrans offer to help municipalities and the second focused on case studies showing how municipalities use the programs to develop and implement their plans. Both case studies - Waitsfield's efforts to bring wastewater treatment to the village and St. Alban's downtown revitalization – offered thought-provoking content. Chip Sawyer, in particular, gave an inspiring overview of St. Alban's efforts to improve the city's physical and economic conditions and showed how ACCD and VTrans programs helped them get things done.
- **ANR-VTrans – Brownfields:** The Department is again partnering with DEC and VTrans on an EPA grant application to target brownfield funding to clean and redevelop contaminated buildings in downtowns and villages. If funded, the grant expands on DEC's and DHCD's ongoing efforts to coordinate activities and target funding to support downtown and village center revitalization. Next steps include finalizing the grant application and submitting it to EPA next month.
- **EDA – Vermont Economic Resilience Initiative (VERI):** ACCD and ANR staff met with Bear Creek Environmental and partners to review preliminary flood hazard mitigation strategies for five area rivers - Gunner's Brook (Barre), Tyler Branch (Enosburg), Neshobe River (Brandon), Whetstone Brook (Brattleboro) and the Ottauquechee River (Woodstock). Through river corridor analyses, geomorphic assessments, and public input at the community forums, the river scientists have identified flood and erosion risks along these waterways, as well as businesses, infrastructure or property that may be negatively impacted in future flooding events. The team ranked the identified risks and they tried to quantify the relative costs and ease of implementation for each proposed mitigation strategy. These strategies will be further refined in December and the final results will be presented to the target communities in January.

### **Downtown and Village Tax Credits**

- **Brattleboro:** Caitlin met with a woman (Roberta Wilmore, assistant to Bob Johnson of Omega Optical) who is in the early stages of planning a co-working space in Brattleboro. The project will involve converting a former church in the Designated Downtown (which Bob owns) into open office space. They

discussed how federal and state tax credits could help finance the project. While in Brattleboro, Caitlin also got a tour of the completed Brooks House project.

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

##### **Community Development Block Grant – Disaster Recovery**

- CDBG-DR2 – Achieved another milestone by drawing the first grant funds from the CDBG-DR2 allocation - \$250,000 for the Ladd Hall in Waterbury. The original hope was to draw the entire \$1,000,000, but ran into some glitches with fidelity bonding and collateralization on the bank account. Will continue to work on that before next month's draw. Accomplishing this draw will be seen by HUD as significant progress.

##### **KPMG Audit**

- KPMG Auditors are on site to audit our federal programs. The Grants Management Team has been busily responding to their requests for information and answering questions about the nine projects in their scope of review and more. This includes updating the Process Memos, going over NSP grants, Canal House Loans, VHCBA Audits, and Program Income questions. KPMG will take the OIG Audit Report and the HUD CDBG-DR Monitoring Report into consideration. It can be fully expected these findings will be echoed in the State Single Audit. Cassie has been demonstrating the changes we have instituted since last year when they were here, how we are continuing to enhance our procedures and are always open for constructive suggestions.

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

- **Judith Ehrlich moving to VTrans:** The Division's esteemed Director of Operations, Judith Ehrlich, will be leaving us for the Agency of Transportation on November 30 after 14 years. She will finish two projects, working part-time with the Division until December 27. Judith has accepted the position of Historic Preservation Officer in the Environmental/Hydraulics Section of the Agency of Transportation. We are so very excited for her and thrilled we shall be continuing to work together in this new capacity. Congratulations Judith.
- **Vermont Housing:** Jamie and Laura were among the several ACCD staff attending the Vermont Statewide Housing Conference. One takeaway for the Division was the negative connotation of Historic Preservation when rehabilitating existing buildings. The Division will proactively work to educate the housing development community that historic preservation is a beneficial partner, not a hindrance.

##### **State Architectural Historian**

- **Windsor Village Historic District:** The updated and expanded Windsor Village Historic District has been formally listed in the National Register of Historic Places. The district now includes 344 historic resources and documents the commercial, industrial, religious, institutional and residential buildings that make up the village. This nomination was first begun in 1997, and it has been a long and complicated process to finally get it listed.

##### **Environmental Review**

- **NEWPORT:** Jamie and Dale participated in a teleconference sponsored by the District 7 Coordinator with representatives from the developer and all affected State agencies regarding the proposed Newport Renaissance project. The applicant is looking to split the development of this project into two phases and focus first on the demolition of an entire block in Newport within the historic district to make room for the new development and construction that will take place in a later phase. Consultation is ongoing. The Division is concerned the demolition will occur without plans and funding for the new construction.
- **VTel:** Laura, Dale and Jamie participated in a teleconference with Dr. Laura Dean, Federal Preservation Officer for USDA-RUS and representatives from VTel regarding a proposed antenna collocation in the steeple of the highly significant Middlebury Congregational Church. The Division has significant concerns with the proposed project that seeks to remove historic arch-top windows in the steeple and replace with fiberglass replicas to enhance VTel's signal. The parties agreed to further technical and visual analysis, as well as engaging the community in discussions as part of the §106 process. Consultation is ongoing. The Division has heard from a number of citizens, who also have concerns about the removal of the windows and installation of equipment that will affect the integrity of the building and be visible through the new Plexiglas windows.
- **ROXBURY:** Laura and Jamie conducted a site visit to the Roxbury Fish Hatchery in Roxbury to discuss the proposed plans for upgrades to the F&W facility that was damaged in Tropical Storm Irene. Roxbury



was the first hatchery in Vermont, built in the late 19<sup>th</sup> century and is listed in the National Register of Historic Places. The project seeks to build two new structures to house tanks for propagation, in place of the series of ponds that previously served this purpose. The ponds were destroyed in Tropical Storm Irene and the facility also needs to come into compliance for discharge of waste water. These new facilities will allow for compliance and enhanced operations. Plans for honoring the hatchery's history include a Historic Roadside Marker.

- **Solar Installations:** Tuesday morning Yvonne completed a site visit for a proposed solar panel installation in Jericho. The project area is on a high terrace along the Browns River that has a high potential for archaeological sites. During the site visit, Yvonne was able to establish that the installation would be in an area that is previously disturbed and the installation will not affect any archaeological sites.

#### **HOUSING ♦ Arthur Hamlin, Housing Program Coordinator / Shaun Gilpin, Housing Policy Specialist**

- The Landlord Education Project is officially underway. This effort, mandated by the legislature in 2014, aims to provide education materials and outreach targeted to property owners who rent three or fewer units, typically referred to as Vermont's "Mom-and-Pop" landlords. DHCD has contracted with the CVOEO Vermont Tenants Program and the Vermont Apartment Owners Association to conduct a study of what information is most in need for small-scale landlords and those interested in creating or purchasing rental units. The partnership will result in a suite of materials that can be provided and presented to current or aspiring landlords to explain the laws relating to the landlord-tenant relationship and best practices for ensuring a good landlord-tenant relationship and safe, quality rental units. Educating small-scale, on-site landlords on best practices is one way that we can encourage more responsibly managed rental units throughout the state. As part of the kickoff of the effort, which begins with a widespread, online survey to assess needs and gaps.

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

##### **CDBG-Disaster Work**

- **Central Vermont Community Land Trust** (grant for South Main Apartments project to rehabilitate and construct an addition to the historic Ladd Hall office building in the Waterbury Office Complex for 27 units of affordable housing) - The first requisition for this grant was intended to be for the full \$1 million but the request was reduced to \$250,000 as meeting the fidelity coverage requirements in time was not possible. Despite a lot of staff effort, the special conditions were not met in time for the regular processing of the requisition, and if the outstanding issue of having the bank's certification that the Payment and Performance bonds are acceptable is received, the requisition will be processed out of cycle.

##### **Other Work**

- **5 Year HUD Consolidated Plan:** The online survey has been completed and will be posted to our VCDP, Housing and ConPlan websites by the end of the week. Also, 7 Outreach meetings have been finalized and are being promoted by our regional partners. Promotion efforts will occur approximately 2 weeks before each meetings.

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

- **Boston Ski Show:** The [Boston Ski Show](#) was last week and it appears Vermont had a huge presence. [Okemo](#) took their new "bubble" chair and it was a big hit, along with the always popular [Long Trail](#) and [Vermont Spirits](#) participation in the booth. [Stowe](#) and [Okemo](#) have joined [Killington](#) by being open, and it appears [Jay](#), [Mount Snow](#) and [Bolton](#) are close behind.

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

- **ThisIsVT App Launch:** VDTM will launch the beta version of the ThisIsVT mobile app this week. It takes ten days for the application to receive approval from the App Store. VDTM and the [Vermont Chamber](#) will beta test the application before beginning promotion of the app. This will give the team time to find any issues relating to the system.
- **Travel Recreation Council:** Cook and Greg Gerdel presented the preliminary 2013 Vermont Tourism Benchmark at the [Travel and Recreation Council](#) meeting on Thursday for feedback from the Council. With an adjustment to the calculation methodology, there are slight changes to the results of this year's data. Ken Jones of ACCD is recalibrating past reports to reflect the new methodology in previous reports.
  - **Adara performance update: SUMMARY:**
    - \$30k in hotel revenue has been directly attributed to this campaign (+100% jump in one week). These are hotel sales associated to first party data provider hotel partners only.



- Total Campaign spend to date is \$10k and with a \$30k in hotel sales gained
- **This is now showing a 3 to 1 ROI**
- 465 travelers who have seen the campaign have confirmed bookings or have traveled to Vermont during the campaign period.
- 286 travelers stayed in hotels.

#### **COMMUNICATIONS ♦ Laura Peterson, Director of Communications**

- **Social Media:** Did you know it's the first annual [Vermont Cider Week](#)? Laura has been busy promoting cider events through VDTM's social media channels.

#### **MARKETING ♦ Patrick MacCormack, Digital Marketing Coordinator**

- **Consumer eNewsletter:** VDTM send out November [eNewsletter](#) to over 70k consumers. This month's edition featured articles highlighting: Craft Vermont, Putney Craft Tour, Shop Small – Shop Local in Vermont downtowns, 13<sup>th</sup> Annual Holiday Artisan's Market, Thanksgiving Weekend at Billings Farm, Vermont Cider Week and a Winter Preview. In just over a week, almost 10k opens have been recorded and over 600 clicks have taken place, which is around average for this timeframe. Numbers are expected to continue to increase.

#### **RESEARCH & STATISTICS ♦ Greg Gerdel, Research & Operations Chief**

- **Tourism Strong Nationally and in Vermont:** Under Secretary of Commerce for International Trade Stefan M. Selig announced that total travel and tourism-related spending grew by 9.1 percent and employment rose 2.2 percent during the second quarter of 2014. Today's data show that job growth in the travel and tourism industry has increased for the 17th consecutive quarter, now accounting for more than 7.7 million American jobs. In Vermont taxable receipts for commercial room rentals were up 11.3 percent for the second quarter, according to preliminary reports by the Vermont Tax Department. This followed modest, but substantial growth of 4.2 percent during the first quarter of 2014 when fickle January weather hampered skier visitation. Gains in Leisure and Hospitality employment in Vermont were more modest than the national average: for August, Vermont's busiest tourism month, the Department of Labor and Industry reported employment in the sector at 36,100, up just 0.6 percent from the previous year. "The new data confirms how important the travel and tourism industry is to the U.S. economy," Selig said. "Not only is tourism spending increasing, but job growth has increased for the 17th consecutive quarter. Travel and tourism continues to be a bright spot in the economy, and the Obama administration continues to support travel-friendly policies." The same can be said for this year's performance by Vermont's Leisure and Hospitality sector.

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

- **Show Leads and Reports:** Christiane has forwarded leads and reports to tourism businesses interested in motorcoach groups and international travels.
- **Familiarization Trip from Japan:** Christiane is working with [Shoko Hirao](#) on a Japanese familiarization trip. Approximately 11 people from [Brand USA](#), [Discover New England Tokyo](#), [Japan Airlines](#), and seven tour companies will travel to Vermont in mid-December to experience Vermont in winter.

Memorandum

To: Governor Peter Shumlin

From: Annie Noonan, VDOL Commissioner

Re: Weekly Report - week ending 11-21-14

Unemployment and Wage Division

UI Press Release was issued this morning, holding steady at 4.4%, placing Vermont 10th nationally (Kansas and Colorado placed ahead of us). Mat Barewicz thinks that the "new months" data sets will keep Vermont stable or even reduce our rate next and upcoming months, (similar to the trend we saw last year).

Rank State Rate

1 NORTH DAKOTA 2.8

2 SOUTH DAKOTA 3.3

3 NEBRASKA 3.4

4 UTAH 3.6

5 MINNESOTA 3.9

6 HAWAII 4.1

6 IDAHO 4.1

8 NEW HAMPSHIRE 4.2

9 COLORADO 4.3

10 KANSAS 4.4

10 VERMONT 4.4

We paid out 342 more claimants last week (3,760 for week ending 11/15/14 compared to 3,418 for the prior week), but most of that is as a result of Ethan Allen first reducing its workweek from 40 to 30 hours a week at both Beecher Falls and Orleans locations, and now in a full shutdown. They will resume work on December 1st.

UI Newspapers: As you know, the LCAR voted unanimously to reject our proposed rule on newspaper carriers being eligible for UI. The 2006 internal department bulletin that disallowed them UI was contrary to the law, and promulgated in spite of some VDOL staff members pointing out to VDOL management that it was, essentially, thumbing its nose at the law and the legislative intent. Since LCAR ruled against our rule, and time has run out, we now face a whole new battle. The Vermont AFL-CIO and Working Vermont just sent me a letter asking for the Department to move forward over the objection of LCAR. I will need to bring them in to discuss the decision we made on this. I am sure they will be unhappy, but I will figure out how to move forward. One of the things they could do to help is to get better people appointed to LCAR now that there are several vacancies. Interestingly, Dick Marek, who had nothing to lose by sticking with VDOL, said he believed VDOL's proposed rule was right, supported by the report from Leg Council, etc., and then voted against it. Of course, there were 13 newspaper editors sitting in the room staring at the committee, and it was the Thursday before the Tuesday election. No pressure there, right...

Fairpoint: VDOL has approved nearly 300 UI claims for the strikers. They will be required to perform work search and participate in REA (reemployment eligibility assessment) sessions at our regional offices. We will schedule those meetings starting December 1. I am going to ask Mike Spillane and Mike O'Day to meet with me in Montpelier next week to discuss how the whole UI system and requirements work so they can inform their members. VDOL suspects that Fairpoint will appeal at some point.

I asked AHS Secretary Harry Chen to look into the issue of Food Stamp eligibility for these folks, since most of them have no money coming in (there is no strike fund, other than what is being collected by some of the other unions for them). Here is an email from AHS to its ESD workers that was issued today:

**From:** Cameron, Aletha **Sent:** Thursday, November 20, 2014 11:07 AM

**To:** AHS - ESD - Field Managers ONLY; AHS - ESD - Eligibility Supervisors ONLY

**Subject:** RE: 3SVT & Strikers

*The 3SVT Team has been flooded with questions regarding the Fairpoint Strikers and that some of them are now receiving unemployment. Despite receiving unemployment benefits, Fairpoint Strikers still need to have been eligible for 3SVT prior to the strike to qualify. They would still have to fit the regulations at 273.1g and have been receiving 3SVT the day before the strike or would have been eligible if they applied the day before the strike (if the strike had not happened). It is true that this could now exempt them from work registration, however, they would still be ineligible for 3SVT. Thanks for your patience while we figured this out.*

Vermont Yankee sent the WARN letter to VDOL (attached in relevant part). VDOL has already done multiple Rapid Response (RR) sessions for the workers, 2 job fairs, and involved NH and MA in presenting the RR specific to their states. As you may know, we filed a Trade (TAA) petition for VY, with the help of the Public Service Department (Chris Recchia gave us very good information to use), and we are hopeful the petition will be approved. It was critical to get the petition filed ASAP since Congress is talking about eliminating TAA, which I don't think will happen, but it may be so delayed that petitions filed after 12/31/14 will not be considered for months or longer. Here is the Entergy letter, minus the list of affected workers:

*As announced in August 2013, Vermont Yankee Nuclear Power Station ("Vermont Yankee"), owned by Entergy Nuclear Vermont Yankee, LLC and located at 546 Governor Hunt Road, Vernon, Vermont 05354, is permanently ceasing operations and is being decommissioned. This will result in the permanent elimination of Vermont Yankee positions in early 2015. Specifically, 149 employees will experience an employment loss on January 19, 2015 and 13 employees will experience an employment loss on February 12, 2015. Additionally beginning in March 2015 and continuing through June 2015, four employees will experience employment loss.*

*VDOL is trying to get the lists from VY for the NH and MA employees too.*

*Morgan Sailer Carlisle is our point person on the VY Project and VY really likes her, so we believe that this will occur soon.*

Workforce Development Division (WDD) and State Workforce Investment Board (SWIB)

The issue VDOL raised to USDOL (Secretary Perez) about the WIOA privatization of AJC continues to be a fight. Senator Sanders staff set me up in a conference call with the Senate

HELP committee staffers to discuss, and David Cohen from Bernie's office has been working the issue hard for VDOL. I was asked to provide a suggested revision, which I gave to David Cohen, primarily focusing on the ability for a state to seek a waiver, based upon several factors, including passing federal performance measures and demonstrating partnerships with the required partner agencies. I was also asked to contact my counterparts from other states, and have identified many Labor Commissioners who are similarly concerned with the provision, particularly Connecticut, Delaware, and Massachusetts. However, it appears that the privatization issue was part of the US House Republicans demands in order to reauthorize the Workforce Investment Act (WIA). I have advised Commissioner Jim Reardon of this problem during my budget meeting with him last week as this could impact VDOL in FY16, and possibly mean a significant RIF of VDOL staff. I am relatively distraught over this matter, particularly knowing that I have about 100 staff who may lose their job, and since it makes zero sense to dismantle existing, functioning structures that the federal dollars paid for over the years. The best we can hope for is some wiggle-room during USDOL rule-making that may give us an advantage that we can work.

WD Division will be audited by feds on-site the entire week of December 1. It appears that they have scheduled me throughout the week to meet with them. We are preparing file and staff for the review.

The upcoming reconstituted State Workforce Investment Board is scheduled to meet on December 3rd at Cap Plaza. Frank Cioffi has stepped in as Chair since Jim Pratt is still very ill and unable to perform his role as SWIB Chair. I will (very soon) be sending over a list for your "blessing" and approval for the appointees. Due to S.220/Act 199 and the new federal WIOA regulations, we had to revise the Board membership, which went smoothly and includes most of the prior active members.

We are partnering with AHS on another grant - this time it's the USDA Food Stamp grant, and since VDOL is currently (since July 1 of this year) doing the Able Bodied Adults Without Dependents (ABAWD) grant work, trying to pull AHS out of federal sanctions that they got in, we were asked to be part of the grant writing. VDOL Regional Manager Barb Smith, who oversees the ABAWD staff at VDOL was our key rep on the work-team. We are still trying to get AHS to finalize the ABAWD grant agreement that we are working under now, and a bit concerned about the delay given the situation they put VDOL in relating to the Reach Up program.

We continue to stay in touch with CCV on the IBM/Global Foundries work they are proposing. I asked Penne Cirarldi and Joyce Judy to send me the TAACCCT4 Statement of Work (SOW) that they are submitted to USDOL. It does focus on IBM/GF training, but still seems to presume that the employer will put up money for the training. I told Penne that Janet Bombardier was clear in her position that company money would not be available for the "pipeline" training, and I told Penne to write the participant tuition costs into the SOW. I have been trying to work with Dan Smith on VTC's end of the TAACCCT4 proposal, etc., but have not been able to pin him down for a meeting. It is my opinion that the \$11M funding in TAACCCT grants that have come into Vermont have been used for infrastructure and creating the class of 2018, and not for job training for Vermonters - to the detriment of the many trade and dislocated workers and unemployed adults and youth. Unfortunately, USDOL gave no authority to the state DOL's to hold the TAACCCT recipients accountable, yet, in a monthly call between VDOL and USDOL last month, USDOL asked me why the Vermont TAACCCT grants were doing so little towards

employment. I reminded them that we have no jurisdiction to enforce employment goals in these grants. Sorry for the rambling tirade...

Work continues for job placement assistance to Rutland Plywood workers. Wendy Morse, VDOL regional manager in Rutland/Bennington/Middlebury reached out to the company owner to see what else we can be doing to assist them, and is in regular contact with their HR person Theresa Miele. As you know, many of their workers were from DOC, and they face special employment barriers. VDOL helped DOC successfully write a USDOL grant for placement assistance for that population.

The \$1.5M Long Term Unemployed Job Training grant is moving ahead well. We will be interviewing and hiring the 2 Limited Service staff (2 years only), and have a great lead partner on the grant with Lisa Dame of VtHitec.

Speaking of HiTec, the Precyse training is moving forward, with the guarantee of new jobs at \$45-55K a year for Vermonters. We were also asked by DHMC to continue the job training/placement of medical coders, and we are reaching out to UVM Medical Center to discuss their participation in a similar program.

We are hoping to hire a new Regional Manager for the Burlington District Office in the next 2 weeks.

I have been working with many interested stakeholders on some key issues that have been part of the hold-overs from either rule-making or legislative issues:

Prevailing Wage, Independent Contractors (already held 4 meetings), Worker Comp rules (out for comment), and we are finalizing revised Employment Security Board Rules to submit to ICAR, but will first meet with Legal Aid to review with them.

And...finally, Gov, I want you to know that I am very proud of you, all the time, and don't want you to be discouraged. I learned a long time ago that there are many people who reflect an attitude of 'what did you do for me today?', seldom realizing that you actually made decisions that very day that positively impacted their lives. The Irish have a wonderful saying: "Onoracha an obair an fear", which translates, "The work honors the man", and that will be your legacy.

Anne M. Noonan  
Commissioner, Vermont Department of Labor  
Please excuse typographical errors - Sent from my iPad

**State of Vermont**  
**Department of Financial Regulation**  
89 Main Street  
Montpelier, VT 05620-3101

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

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: November 21, 2014**  
**Re: Weekly Report**

*Susan L. Donegan*

**Legal Division:**

This week an agreement was reached with UBS Financial Services that settles an investigation into allegations that the firm failed to properly supervise several investments made by Vermonters over the past five years. The settlement includes \$275,000 in administrative penalties (to the general fund) and \$50,000 to reimburse to the department for the cost of the investigation. Since the investors settled their claims through arbitration, no separate restitution was ordered. UBS has already taken steps to correct the erroneous procedures.

Also, this week Cigna and Cigna Behavioral Health have agreed to a nearly \$400,000 settlement stemming from an investigation that examined claims filed over the past 14 years. The department's investigation revealed that Cigna and Cigna Behavioral Health had been using physicians as mental health review agents who were not licensed as such. Cigna will pay \$342,500 in administrative penalties to the general fund and reimburse DFR \$50,000 for the cost of the investigation. Cigna has agreed to stop using unlicensed agents. No consumers were directly harmed so no remediation was ordered.

**Banking Division:**

Geoffrey R. Hesslink has been named president and CEO of Merchants Bank. The announcement was made by Michael Tuttle, president and CEO of Merchants Bancshares, after a meeting of the Board of Directors yesterday. Hesslink has work for the bank since 1995 and is currently executive vice president and chief operating officer for the bank. He is a University of Vermont graduate and has completed a management training program at Manufacturers Hanover Trust Co. Tuttle will continue in his current position with a new focus on strategic initiatives for the company. Hesslink will take over the day-to-day operation of the bank on January 1, 2015.



### **Insurance Division:**

Commissioner Susan Donegan and staff from the Insurance Division attended the National Association of Insurance Commissioners' (NAIC) Fall Regulatory Meeting in Washington, D.C. this week. The Commissioner was elected secretary/treasurer for the Northeast Zone Committee which is comprised of Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Pennsylvania, District of Columbia and Delaware. The Northeast Zone is an influential committee at the NAIC by virtue of its significant market share of traditional and captive insurers. As an officer of the zone, the Commissioner will also serve on the NAIC's Executive Committee which provides oversight to the organization. The Commissioner was also invited to give a presentation regarding Vermont's Legacy Insurance Management Act (LIMA) to members of trade associations that are in the run-off and solvency resolution business.

### **Securities Division:**

In an article on green energy published October 6, 2014, by the Lewis and Clark Law School in Portland, Ore., Vermont is lauded for its recent SUN Exemption legislation.

It reads:

"Vermont's 'Vermont Solar/Utility No-Action' (charismatically abbreviated "SUN") community solar exemption gets right what Oregon's statute does not. Rather than exempt only solar cooperatives and impose a blanket set of restrictions on them, the SUN exemption recognizes that different groups of investors deserve different levels of consumer protection. The SUN exemption breaks down the potential groups into four sub-categories, each comprising a different set of potential investors. For example, a potential group of investors expecting to enter into long-term agreements without a termination right rightly deserves a substantial amount of information before making a decision. The SUN act therefore places significant disclosure requirements and advertising restrictions on the "Financing Exemption" group. On the other hand, a small group of neighbors, friends, or family (e.g. cooperative) wanting to invest in a community solar project may need less protection. Vermont's "de minimis" exemption therefore provides such a group with a blanket, self-executing exemption that requires no disclosures.

Vermont is a state with a significant amount of support for, and investment in, renewable energy. If this relatively new exemption proves successful in spurring more community solar development there, its well-crafted model should serve as an example for other states.

Ideally, the SEC and states should craft exemptions similar to Vermont's, recognizing that not all community solar models are cut from the same cloth. Until then, though, those seeking to form community solar entities will likely have to continue navigating the gnarly weeds of securities filings requirements and exemption regulations."

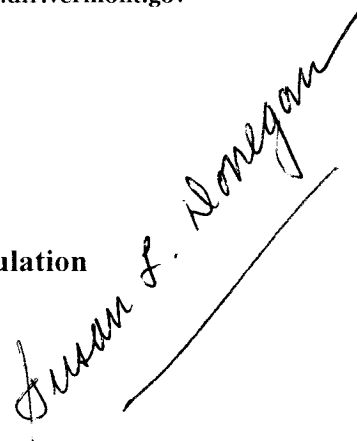


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**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: November 21, 2014**  
**Re: Weekly Report - Addendum**



**EB5 Compliance Program**

A Memorandum of Understanding (MOU) between the Agency of Commerce and Community Development and DFR is in final draft form, which will assign EB5 project approval and on-going compliance functions to DFR. Sarah London has reviewed the draft written by DFR. The next step is for ACCD to review this proposed program with the U.S. Citizens and Immigration Services (USCIS) in order for USCIS to approve the delegation of functions. Once necessary approvals are secured, DFR will initiate the hiring process to add an examiner and an analyst to the Securities Division staff. DFR will also utilize existing staff members from its Legal and Banking divisions, as needed (for example, bank secrecy review is a skill that exists in the Banking Division). DFR will absorb the cost of these new positions until sufficient fees are generated by the EB5 program. Jim Reardon has reviewed these new positions as part of DFR's budget projections. The draft MOU is being sent to Secretary Moulton and her staff today.





219 North Main Street, Suite 402, Barre, VT 05641  
(p) 802-479-1030 | (f) 802-479-1835

**CONFIDENTIAL AND PRIVILEGED  
MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: November 21, 2014

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**Sorry – this one is a little quick.**

**Press Contacts:**

- Hilary Niles, VT Digger, spent both days at the GMImperative summit as an embedded reporter.
- David Moats and Josh O’Gorman of the Rutland Herald covered the GMImperative summit.
- Keith McGilvery of WCAX interviewed Secretary Holcombe at the GMImperative summit.
- Stewart Ledbetter of WPTZ covered the GMImperative summit.
- Anne Hammerle of GNAT TV in Sunderland asked for information about Home Study students in her viewership area.
- Mike Murphy of Ricochet Media in Canada spoke to Brad James about the impact on the Education Fund with the change in valuation of Trans Canada property.
- Catherine Gewertz of Education Week spoke with Jill Remick regarding Secretary Holcombe’s letter about testing (SBAC) recently shared at CCSSO.
- The Barton Chronicle spoke with Toni Marra regarding Early College and Dual Enrollment.

**Public Presentations/Meetings:**

**Monday and Tuesday:** The Green Mt. Imperative Summit (Burlington)

**Wednesday:** The School Safety Conference (Burlington)

**Wednesday:** The State Board of Education (Hardwick)

**Wednesday:** the Legislative Orientation (gave the stock talk)

**Thursday:** Legislative Breakfast at the Stafford Technical Center (Rutland)

**Thursday:** Green Mt. Valley Union High School (Chester)

## **Emerging Issues:**

### *Schoolwide Integrated Framework for Transformation (SWIFT)*

As part of the Agency's effort to support early intervention and social emotional learning, approximately 90 educators from the 4 supervisory unions who are partnering with the national SWIFT Center attended a Professional Learning Institute last Thursday and Friday. Participants included teachers, principals, curriculum coordinators, special education administrators and superintendents. The theme of the institute was good first instruction. Session topics included academic instruction, behavioral instruction, co-teaching and appropriate use of paraprofessionals. Our hope is this kind of initiative will lower special education costs in the long run in VT, as it did in other states.

### *Human Resources*

We have met with Maribeth Spellman. Our perception is that the challenges at HR are severe, and we hope you can support her in any way possible. We are completely brought to our knees by middle level HR managers who seem to feel they work for themselves or for the union, and not for Agencies or the state of VT. We need Maribeth to succeed, so that we can address some of our own significant employee challenges.

### *PK media strategy*

Aly and I are working on talking points on PK. Expect a bulletin to go out Monday or Tuesday to the field. No media release or press conference. We will send you talking points as soon as they are complete.

### *Governance*

On Monday, I would like to discuss how you (the Gov) want to position yourself with respect to the governance conversation in the legislature. This is going to move. One thought might be to put a proposal or some guiding principles on the table as a starting point for a conversation, with an acknowledgement that a plan will need to be improved and modified in the course of legislative debate. I will have some suggestions fleshed out by the time we meet.

Rebecca

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**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Nov 21, 2014**  
**Re: Weekly Report**

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

none

**Legislative Issues/Contacts:**

none

**Press Issues/Releases/Contacts:**

Had a Megabucks jackpot winner Wed night for \$2.45M. Ticket sold in Middlebury. No one claimed yet.

**Significant Events/Meetings:**

none

**Evolving Issues:**

none

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**Summary of Key Agency Department Activity:**

Wrapped up work on new vending machines and games that go live on Sunday. The one week delay was worthwhile, and all fingers are crossed.

Our selected website vendor came back with too high of a price so we sent them back with a not-to-exceed amount and to tell us what would not be included at that price. If this proved insufficient we will move on to the next vendor down the list.

Sales are still going well this year – up over 5% to last year and instant tickets sales up over 10%. While we are comfortable with our sales projection for Powerball it assumes some jackpot runs at higher levels (over \$200 M) – only one of which has occurred in Nov. We are down to last year and budget by \$1.2 M in sales. Last year and our forecast had three runs planned through Oct. We are making up for these sales with a lower profit item and are just a few hundred thousand behind in profit.

**Executive Director's Commentary:**

Still looking for a replacement commissioner and expect to have one more retire in March of 2015. No announcement from that person yet but that is my expectation.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, November 21, 2014**

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

**NOTES FOR GOVERNOR**

**Winter Operations**

Concern about winter budgets in the Districts because of 20-40% higher salt costs has dominated discussion among our District Administrators and General Managers. Constraining salt use has always been an issue but it has not been the policy of the Agency to constrain salt use because of budgetary problems. The legislature has been very reliable about backfilling operating budgets in the BAA to ensure that the roads are kept safe for travel. That said, there is some evidence that in certain districts less salt and brine can be deployed without compromising safety and that will be my advice to our Highways Division.

On another matter, we have responded to the EMAC request from the state of New York by identifying and readying three large truck-mounted snowblowers from our state airports. At this point, NY has not actually followed up on the request but we are ready if they do.

**Governor's Highway Safety Program**

The relocation of this program from Public Safety to Transportation has been discussed off and on for years and now it looks like it will happen. Keith Flynn is trying to reduce his General Fund costs and it appears that the merging of this program with our Highway Safety effort is a good way to go to accomplish that and a better coordination of the full complement of activities, including the administering of 70 individual federal grants. The funders, NHSTA and FHWA, have long favored this approach and VTrans, particularly Rob Ide and his DMV, is happy to work toward the staff restructuring needed to make it happen. There is an opening at the top of the GHSP created by Ted Minall's departure to NHTSA so we are looking forward to filling that position. There is a hiring certificate already but no interviews have happened. Keith has already announced that the program is being transferred to VTrans.

### **Burlington Development Support**

Deputy Secretary Minter attended a press conference along with the Governor in Burlington to demonstrate our Agency support for the new Town Center Mall redevelopment project. Our success in the CCTA multi-modal center development has been a critical part of enabling this development to proceed, and supports our wider vision of enhancing economic activity, transit-oriented development and community vitality.

### **DMV Moves Back to 1<sup>st</sup> Floor**

The renovations are complete and DMV, with significant BGS and VTrans IT support, will move back over the Thanksgiving weekend. The DMV Montpelier counters will close at 4:30 PM on Wednesday, 11/26 and not reopen until Monday, 12/01. Announcements about this schedule have been placed online at the DMV website, Facebook, Twitter and Google.

### **VGS Pipeline in Circ ROW**

As you know, the gas pipeline is being installed in the Circ ROW from Colchester to Williston. What I haven't mentioned is that we have a lease agreement with VGS based on our analysis of market value that pays VTrans \$110,000 per year with an annual adjustment for CPI. The agreement is retroactive to May 27, 2014.

### **NOTES FOR STAFF**

#### **Sign, Sign Everywhere a Sign**

The latest controversy over signs is brought to us by the "Vermont Mattress Depot" in Williston which is using the same tactic recently employed by the "Vermont Furniture Outlet" of Colchester, namely, placing dozens if not hundreds of signs advertising their store in the Highway ROW all over Chittenden County. These signs are deployed late on Fridays and picked up Sunday nights. (Apparently, furniture stores only go out of business on weekends).

The Vermont State Police cited the previous offender and we will follow the same protocol with "Vermont Mattress Depot". They have been warned, they will next get a letter from the AAG and if they persist we will notify Capt. White at VSP.

#### **The Controversy Over Asphalt Binders**

A few months ago I mentioned that we were suspicious of the use of Recycled Engine Oil Bottoms (REOB) as an element of Performance Grade Asphalt Binders because of a degradation of performance of asphalt on certain recent paving jobs. In fact, Vermont along with Maine, Massachusetts and New Hampshire stopped using the material as a precaution.

In late July the manufacturer, Bitumar USA, Inc. filed suits against all four states with the objective of setting aside those decisions. This is important to us because Bitumar's Montreal plant provides asphalt cement to virtually all of Vermont's paving contractors. We had learned of this problem in May and suspended use of the material. Bitumar



objected in all four states but were unsuccessful in getting the ban overturned in each state, except Vermont, where Judge Helen Toor issued a preliminary injunction ordering VTrans to suspend its ban on REOB until further order of the court.

However, we have now learned that Bitumar has stipulated to dismiss with prejudice the Vermont case and, further, has joined in requesting the court to dissolve the preliminary injunction Judge Toor granted this past summer. A mediation session scheduled for December 19 on the matter has been cancelled.

#### **Agreement with City of Vergennes**

Good sense has prevailed and the City Attorney for Vergennes has agreed to a sewer hook-up for the Welcome Center/Train Station at the Park and Ride on Rt. 22A near the intersection of Rt. 7. Previously, the City had insisted that the City retain the right to seize the state property for non-payment of the sewer bill. Our AAG's successfully beat that back.

#### **Colchester Exit 16 Transportation Impact Fee Update**

VTrans Policy and Planning with the CCRPC staff will be reviewing and updating the transportation impact fee for the Exit 16 area to make it consistent with the requirements of Act 145. The current fee, which was established by the Act 250 District Commission in 2012 prior to Act 145 is approximately \$2,350 per PM peak hour vehicle trip.

Developers in the area and the Town of Colchester have expressed concern over this amount. There are existing safety and congestion issues at Exit 16 and Act 145 requires that the cost to address existing issues cannot be included in the fee. We also need to consider the increased cost estimate for the Exit 16 Double Diamond Interchange and other intersection improvements along US 7.

#### **Motor Vehicle Crash Facts: 2014 Fatal/Fatality data received to-date**

Fatal Crashes **November 12 – November 17, 2014:**

- 11/12/14: Barton, US 5. Single pickup truck ran off road at intersection. Driver fatality, no seatbelt used. Alcohol suspected.

**2014 Fatalities: 40 Total – 31** vehicle operators (7 motorcycles; 1 snowmobile; 1 ATV), **4** passenger and **5** pedestrians.

As of <b>November 17 in each calendar year:</b>		
<u>Year</u>	<u>Fatalities (people)</u>	<u>Fatal Crashes</u>
2014	40	38
2013	57	52
2012	70	63
2011	48	43

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

**To:** Peter E. Shumlin, Governor  
**From:** Harry L. Chen, M.D., Acting Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** November 21, 2014

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**Highlights:**

**AHS CO:**

Green Mountain Imperative Summit – Discussed contributing factors to increasing local school budgets pg. 2  
Consumer Payroll – AHS and others worked to solve \$1.9M shortfall in Workers Compensation Ins. pg. 2  
Department Transfers to AHC CO – Policy staff from DVHA and DCF transferred pg. 2  
HSE “Jumbo” Implementation Advance Planning Document pg. 2

**VDH:**

Entergy Nuclear Vermont Yankee – Preliminary Detection of Strontium pg. 3  
Public Health Laboratory – Delay in the move and opening of new location in Colchester pg. 3  
Ebola Monitoring – VDH monitoring two individuals at low risk for Ebola pg. 3  
Salmonella Outbreak – VDH and others investigating outbreak in 10 northeastern U.S. states pg. 3  
Regulated Drug Rule – Rule to be updated on a yearly basis starting in March pg. 3

**DMH:**

Vermont Psychiatric Care Hospital – Hiring of temporary staff continues – Currently at 21 patients pg. 3  
Sens. Ayer and Pugh – Notified of Licensing & Protection Survey at Retreat – No findings indicated pg. 4  
Poverty Council – Charlie Biss to testify today pg. 4  
Emergency Evaluations – Second Certifications continue to be completed electronically pg. 4  
Middlesex Secure Residential – Permanent replacement plan for facility due to HIC in January pg. 4

**DAIL:**

Vermont Leaders Attend TriState Roundtable on Aging in New Hampshire pg. 4

**DOC:**

Corrections Oversight Committee heard testimony on sex offender registry and State Auditor’s Report pg. 5  
Savaria Criminal Case: Staff Sexual Misconduct pg. 5  
Police Involved Shooting pg. 5  
Southeast State Correctional Facility (Windsor) Superintendent Position pg. 5

**DCF:**

ESD Makes Substantial Improvement in the Payment Error Rate for the 3SquaresVT Program pg. 5  
ESD Collaborating with Advocacy Partners Regarding the Americans with Disabilities Act pg. 6  
Family Services Celebrated National Adoption Day – 11/20/14 pg. 6

**DVHA:**

HCOC Testimony – Discussed access to Medication Assisted Treatment for Opioid/Heroin Addiction pg. 6  
Dental Reimbursement and Access Concerns pg. 6  
Pharmacy Benefit Manager On Time for Implementation Date pg. 7  
Medicaid Reimbursement Update pg. 7  
Vermont Health Care Innovation Project Update pg. 7  
Autism/Licensing of ABA Providers pg. 7  
Payment Error Rate Measurement pg. 7

### **Secretary's Message**

I want to share the good news about the start of Open Enrollment at VHC. The improved website is up and we are enrolling new members. The renewal efforts are progressing well. Importantly, we have a plan in place to deal with any with any backlogs with SOV employees rather than with contractors. We have over 200 SOV employees that are trained and beginning to work at various sites around the state. All of this work is on a voluntary overtime basis after normal business hours. By report the moral in the group is extraordinary and it would be a refreshing experience for them and for you to stop by sometime and express your gratitude. I am planning to do the same. Last weekend I spent the morning at VSAC observing the VHC operation in person and also did the same with HAEU at the IBM campus. I took the opportunity to thank them personally for their extraordinary efforts.

I am hopeful that we can turn the narrative around regarding VHC. I believe we have a roadmap and a realistic timeline to get to automated CoC functionality in VHC sometime in the 2015 Spring/Summer timeframe. That represents a major milestone that will get us much closer to where we intended to be at the outset and will greatly reduce the need for the manual workarounds we currently employ.

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

#### **Green Mountain Imperative Summit**

AHS CO attended the Green Mountain Imperative Summit. Stakeholders articulated clearly that increasing stress on children and families is a significant contributor to increasing local school budgets, particularly in special education.

#### **Consumer Payroll**

AHS Business Office worked with DAIL, Bill Duchac (Insurance Division) and ARIS to solve a \$1.9M shortfall in Workers Compensation insurance for the self-directed consumer payroll affecting approximately 6,000 people. We were able to do this with a combination of onetime payment and changing the percentages allocated between WC and Unemployment. This allowed us to cover the WC shortfall and mitigate the issue going forward without impacting consumer services. No consumer will be affected and the changes will be invisible to everyone but State Financial staff and the Insurance Division.

#### **Department Transfers to AHS CO**

Medicaid eligibility and coverage policy will be administered out of the AHS Central Office to enhance integration through interpretation, development and deployment of Medicaid policy. Therefore, policy staff from DVHA and DCF are being transferred to the AHS CO as of 11/30/14. Medicaid policy staff are responsible for activities related to federal (e.g., Affordable Care Act, Code of Federal Regulations, Medicaid State Plan, SCHIP State Plan, etc) and state (e.g., legislation, rules, appeals, etc.) requirements.

### **The Health & Human Services (HSE) "Jumbo" Implementation Advance Planning Document (IAPD)**

The HSE "Jumbo" IAPD is set to expire on 12/31/14. The IAPD, in combination with the Exchange grants (VHC), is the vehicle that allows for federal financial participation (est. 90/10) of the HSE programs: Integrated Eligibility-IE; Medicaid Management Information System-MMIS; Health Information Technology-HIT; Enterprise Business Capabilities-EBC. CMS requested that AHS dismantle the HSE "Jumbo" IAPD into separate IAPDs for each program with associated funding requests for FFY2015: IE (\$48.7M), MMIS (\$46.5), HIT (\$6.1M) and EBC (\$23.2M). AHS submitted the separate HSE IAPDs with a requested start date of 10/1/14 to supersede the approved "Jumbo" for

the period from 10/1/14-12/31/14, and remain effective through 9/30/15 with any subsequent amendments. The HIT IAPD has been approved but will need to be amended as AHS and CMS continue to negotiate the cost allocation methodology for the Program Management Office, and other issues that impact all the IAPDs under CMS review.

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

### **Entergy Nuclear Vermont Yankee - Preliminary detection of strontium**

Two groundwater wells sampled at Entergy Nuclear Vermont Yankee had positive results for strontium-90 (Sr-90). The results for Sr-90 are  $3.47 \pm 0.94$  pCi/L and  $2.18 \pm 0.65$  pCi/L which exceed the minimum detectable concentration (MDC) of 1.0 pCi/L. These samples are from groundwater on site, not drinking water nor surface water (the Connecticut River). Until we have further confirmation of these results, they are considered preliminary. The lab is reanalyzing the split samples and verifying cross-contamination is unlikely. Additionally, Entergy and the State are collecting new samples for analysis. Results will take approximately two weeks due to the complex nature of the material and analytical techniques. To date, Sr-90 has never been detected in water samples obtained from on or around the Vermont Yankee site.

### **Public Health Laboratory**

The Health Laboratory is experiencing a delay in the move and opening of their new location in Colchester due to a mechanical situation found during commissioning. BGS project manager Mike Kuhn is determining next steps with design firm HDR and PC construction to remedy the problem so that the final stage of the move can be completed.

### **Ebola Monitoring**

The Health Department is actively monitoring two individuals at low risk for Ebola. Neither is a healthcare worker and there are no restrictions on their travel. Both remain asymptomatic, and their last day of monitoring is November 21.

### **Salmonella Outbreak:**

The Department of Health, along with the CDC and FDA, is investigating an outbreak of *Salmonella* infections that has sickened 51 people in 10 northeastern U.S. states since mid-October. The investigation strongly suggests that contaminated bean sprouts are the cause of the outbreak. Three Vermonters fell ill as part of the outbreak and all three have recovered from their illnesses.

### **Regulated Drug Rule**

The regulated drug rule will be updated on a yearly basis starting in March. The intent of this update is to specifically add by name new drugs used recreationally even if they are covered by the existing rule generally. The Health Department is working with the Department of Public Safety forensics lab on the selection of chemicals to add.

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

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

As of today there are 21 patients at the Vermont Psychiatric Care Hospital (VPCH). The hiring of temporary staff continues as well as hiring replacements for one staff who passed away and two who

left employment. As the reduction of in-patient acuity happens and more temporary staff is hired, additional beds will become available.

From Saturday, November 15<sup>th</sup> through Thursday morning, November 20<sup>th</sup>, Department of Mental Health (DMH) has had 20 people in need of an inpatient psychiatric bed. As of Thursday morning, 6 of those people are waiting for a level 1 bed.

#### Senator Claire Ayer/ Representative Ann Pugh

Senator Ayers and Representative Pugh have been notified of the Licensing and Protection Survey at the Retreat and that no findings were indicated. The Retreat's Systems Improvement Project (SIA) consultant was able to meet with the surveyors as part of their early assessment process. The SIA consultant is KB Behavioral Care Consultants in Franklin, Tennessee.

#### Poverty Council

Charlie Biss will give testimony on Friday, November 21<sup>st</sup> to the Poverty Council. During testimony at the last meeting, it was determined the greatest need for services is for youth, ages 18-21, but for those youth who are receiving or have received foster care, are aging out of services at the age of 18. Therefore, they no longer receive services during the critical 18-24 age group. The Council has heard this is particularly true for mental health services. The questions are, what services drop off at the age of 18, which are available until the age of 21, how do youth in foster care plug into the services and how can we fill in the gaps.

#### Rutland Mental Health Services (RMHS)

A meeting with the Board of RMHS is being scheduled to discuss DMH & DAIL concerns.

#### Emergency Evaluations

Second Certifications continue to be completed electronically through Telehealth and psychiatrists at VPCH.

#### Middlesex Secure Residential

Commissioner Dupre and Deputy Commissioner Reed met with BGS Thursday. They need to report a plan for a permanent replacement for the Middlesex Secure Residential in January to the House Institutions and Corrections Committee. This is expected to be a 3-4 year project. A draft plan should be available in approximately a month.

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

##### Vermont leaders attend TriState Roundtable on Aging in New Hampshire

The Maine Council on Aging and House Speaker Mark Eaves (ME-D) convened a tri-state roundtable to discuss ways for government, business and health providers to plan for the aging demographic in our three NE states. Maine is the oldest state in the nation (median age of 44.5), followed closely by Vermont 44.2 years of age, making us the 2<sup>nd</sup> oldest state. Mark Eaves issued a challenge to VT Speaker Shap Smith and Commissioner Wehry to make aging issues a focal point of the next session. Commissioner Wehry will be meeting with VT Health Department officials to look for ways to promote healthy brain aging, a critical population health issue.

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

### **Corrections Oversight Committee:**

The COC met on Monday, November 17. This was the fourth meeting of the Committee. A final meeting will be held on Monday, December 1. The Committee took testimony from Commissioner Flynn of DPS regarding the sex offender registry and the recently released State Auditor's Report. Commissioner Flynn reported he was pleased with our collaboration and progress on the registry. In the afternoon, the DOC testified on general updates and reported on the pending bid for out of state placements and the recent court ruling on those placements. This issue and the registry were covered by media attending the meeting.

### **Savaria Criminal Case: Staff Sexual Misconduct**

The Chittenden Regional Correctional Facility recently became aware of an allegation of sexual misconduct against a Correctional Officer. CRCF, partnering with the AHS Investigations Unit and VSP, conducted a witness interview and then a criminal investigation. Subsequently, CO Savaria was put on Relief from Duty on November 5, 2014. VSP alerted DOC that Savaria initially admitted to engaging in sexual contact with the victim in the community after her release. We received notification from VSP that CO Savaria was being charged with Staff Sexual Exploitation and they attempted to arrest him on Wednesday with the intent to lodge. They were unable to locate him at his residence and will be returning to his residence later this week to arrest Savaria on Staff Sexual Exploitation. This event will likely lead to media coverage.

### **Police Involved Shooting**

Mr. Burgois failed to show for his work crew sentence and a Return on Mitt (ROM) was issued. Over the weekend, Windsor PD attempted to engage Mr. Burgois, while looking into an apparent drug transaction. Mr. Burgois attempted to flee the scene and Windsor PD discharged a weapon at him. He is recovering from his injury at this time.

### **Southeast State Correctional Facility (Windsor) Superintendent Position**

Following the recent escape from Windsor, the superintendent was placed on administrative leave. Since that time, several areas of concern have arisen. DHR and the DOC are discussing with the superintendent an alternate placement within the DOC. Once that issue is resolved, the DOC will recruit for a new superintendent.

### **Population**

The department's incarcerated population averaged 2,068 for the previous week. The male population averaged 1,907 with 346 being presentenced. The female population averaged 161 with 39 being presentenced.

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

### **ESD Makes Substantial Improvement in the Payment Error Rate for the 3SquaresVT Program**

For the last several years the 3SquaresVT program has been under federal sanction for being over the allowable threshold for its payment error rate (PER). Last year's rate of 9.66% was above the 6% threshold and resulted in a financial penalty of approximately \$550,000. During the past year, the Economic Services Division has instituted many initiatives to reduce its PER. With one month remaining in the current federal fiscal year, the PER is unofficially 2.72%. The cases being reviewed for the last month of the year do not indicate much change is expected in the final rate. At this point,

Vermont is the most improved state in the nation and it is anticipated the state will receive a federal performance bonus for the current year.

#### ESD Collaborating with Advocacy Partners Regarding the Americans with Disabilities Act

Several recent emergency housing assistance cases have demonstrated the need for further policy development and training to ensure the Economic Services Division is fully compliant with providing reasonable accommodations under the Americans with Disabilities Act. The ESD leadership team is working closely with several partners, the Disability Law Project of Vermont Legal Aid and Disability Rights Vermont to improve program policies and to develop and deliver enhanced training to all ESD staff.

#### Family Services Celebrating National Adoption Day Thursday 11/20/14

National adoption day is a collective national effort to raise awareness of more than 100,000 children in foster care waiting to find permanent, loving families. In anticipation of this, Vermont's Family Services in collaboration with Lund have set up adoptions for 29 Vermont children to occur today. Media outlets have been made aware that adoptions will be occurring at the Chittenden, Franklin and Windsor County courthouses. Following the adoption hearings there will be a celebration with balloons, snacks, and stuffed animals for each child in a family participating in an adoption. This has been a wonderful way to raise awareness of the thousands of kids in foster care awaiting permanent homes and a great morale booster for family services staff.

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

##### Constituent Outreach

DVHA received constituent support requests from Representatives O'Brien and Copeland-Hanzas. Both requests have been responded to.

##### Health Care Oversight Committee Testimony

On Thursday, ADAP & DVHA will testify at the Health Care Oversight Committee to discuss efforts to increase access to Medication Assisted Treatment for Opioid/Heroin Addiction. Additionally, the committee wants to hear about efforts for the prevention of overdoses. Barbara Cimaglio and Aaron French will present the most recent numbers for patients that are enrolled and being treated within the HUBS and the SPOKES, both of which have shown significant increases. Barbara will also present on the Narcan/Naloxone pilot program, this is the drug nasally administered that can reverse opioid overdoses.

##### VT Digger

DVHA responded to a request for the CGI transition agreement.

##### Dental Reimbursement and Access Concerns

DVHA continues to receive pressure from dentists and the Vermont Dental Society about concerns regarding dental reimbursement and access. Issues include:

- Dental reimbursement rates are low.
- The conversion of VHAP enrollees to Medicaid beneficiaries shifted many patients from private payment to lower Medicaid reimbursement rates. This created an imbalance in the provider business models causing real concern for dentists and prompted some to assert that they cannot financially continue as Medicaid enrolled providers.



- Providers do not like DVHA's policy that prohibits balance billing on charges above the adult dental benefit cap.

The Vermont Dental Society and dentists from around the state have been in discussions with DVHA and VDH to look at options, programs and potential payment models that help to alleviate the financial burden, increase access to dentists and develop potential programs that may possibly align with ACO's.

#### Pharmacy Benefit Manager On Time for Implementation Date

The implementation of the new Pharmacy Benefit Manager is progressing, although there are some risks due to schedule compression. Current assessment is that we will be on time for implementation date of 1/1/2015.

#### Medicaid Reimbursement Update

The following Medicaid reimbursement operational highlights this week include:

- Preparing to update 2015 new codes sets for Vermont Medicaid program effective 1/1/2015.
- Completed the revision of the payment rates for the pediatric high-tech program in coordination with multiple departments (DAIL, VDH).
- Finalizing proposed annual payment policy updates and financial modeling for release this week.
- Resolving provider tax compliance issue with a home health agency (Bayada) as well as working to resolve a 340b compliance issue with Northern Counties Health Center.

#### Vermont Health Care Innovation Project Update

- Deadline for Year 2 Total Cost of Care optional expansion extended. ACOs (Accountable Care Organizations) were previously given until November 17, 2014 to choose whether or not to elect the optional expansion of services in their Total Cost of Care for Year 2 (these expanded services include pharmacy and non-emergency medical transportation). DVHA has extended the deadline for ACOs (Accountable Care Organizations) to choose the optional track until December 31, 2014 to allow for the most fully informed and researched decision possible.
- VHCIP (Vermont Health Care Innovation Project) staff submitted a third draft of a revised DVHA (Department of Vermont Health Access) records retention schedule to DVHA's (Department of Vermont Health Access) general counsel on Wednesday of last week.
- The leadership of all three of Vermont's Accountable Care Organizations have been invited to participate in the Universal Transfer Protocol work being done as part of the VHCIP (Vermont Health Care Innovation Project) project. The goal of this work is to improve transitions of care between the acute care and long term care worlds.

#### Autism/Licensing of ABA providers

Mark Larson testified this week before the Office of Professional Regulation in support of licensing of Applied Behavioral Analysis providers.

#### Payment Error Rate Measurement

On Monday, CMS published the 2014 national Medicaid and CHIP error rates in the HHS Agency Financial Report at <http://www.hhs.gov/afr>. CMS has now issue FFY 2013 state-specific error rates, which Vermont has received. The Medicaid estimated error rate for Vermont is 18.55%, which the national Medicaid average is 6.7%. The CHIP estimated error rate for Vermont is 6.95%, which the

national CHIP average is 6.5%. Unfortunately, the Vermont Medicaid error rate was greater than desired. The majority of errors that drove the Medicaid error rate up were due to difficulties with implementing the risk-based screening rule; which although Vermont Medicaid did have the majority of the rule in-place, we were found non-compliant. The rule is now fully implemented.

#### Applied Behavioral Analysis Services

DVHA met with advocate Claudia Pringles last week to listen to her concerns and requests regarding access to applied behavioral analysis (ABA) services for children with Autism Spectrum Disorder (ASD). Her concerns focused on improving access to care for families. In particular, she was concerned about the time required for Medicaid to receive Medicaid State Plan approval to add ABA providers as Medicaid enrolled providers outside of the current Designated Agency system. She is not alone in this concern.

At this time, DVHA is pursuing the addition of ABA providers as licensed providers under the Medicaid State Plan. This is for several reasons; the foremost is related to quality and safety assurance for families, the second is because the Centers for Medicaid and Chip Services (CMCS) has yet to approve a State Plan Amendment (SPA) for non-licensed ABA providers (they have approved two for licensed providers). DVHA may not pay for ABA services outside of the Designated Agency system without an approved SPA.

Finally, a SPA is just one of many actions that DVHA has undertaken in partnership with other departments to improve today's access issues.

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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:** November 21, 2014

**Secretary's Top Issues**

**Award Winning Cheese**

The 2014 World Cheese Awards were held last week in London, England and three Vermont companies walked away with honors. This is partly the result of the hard work of the section field staff both in the plants helping them make products that are both safe and high quality as well as the farm inspectors and our milk quality specialist making sure the milk supply is high quality.

This proves once again that Vermont can put both its milk supply and processors up against the best in the world and win.

**CLF Petition Rejection**

Sec. Ross released his decision regarding the CLF's petition to require Best Management Practices for dairy farms in the Mississquoi Bay. A press release was distributed Monday. The issue has been the subject of stories in VT Digger and on VPR. Initial reporting included several incorrect statements. Reporter John Dillon corrected the mistakes, when asked, and also came into the Agency to meet with Laura DiPietro and Jim Leland so they could provide a comprehensive overview of the Water Quality regulatory framework.

Recognizing that there is misinformation circulating, and a general lack of awareness for the work VAAFM does to regulate water quality, the Agency created a first draft of a communications strategy to guide outreach in 2015. Finding resources to effectively deploy this communications strategy will be a challenge.

**TMDL Listening Sessions**

The EPA, with support from the DEC and the Agency of Agriculture, conducted 4 listening sessions across Vermont to highlight the EPA's proposed TMDL plan for phosphorous reduction in Lake Champlain. Rutland, Middlebury, St Albans and So Burlington hosted these meetings, attended by up to 150 people (St Albans) in each session. Secretary Ross and his Deputy Director of Ag Resources Mgmt (Laura DiPietro), Commissioner Mears, and EPA Region 1 Director Steve Perkins presented and fielded many questions. Sentiment ranged from frustration with EPA and the State not moving enforcing more quickly, to an understanding that more resources are needed for technical assistance, best practice implementation and enforcement. Much greater awareness of the problem, and the time it will take to mitigate the problem, than even a year ago.

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TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: November 21, 2014

**Status of Governor's Priorities:**

**Press**

- The Agency hosted the 2014 Big E vendors for the annual post-fair vendor meeting 11/14. The meeting was well attended by the vendors, who were all clearly pleased with 2014 sales yet (2014 was a record-breaking sales year for the VT building).
- Sec. Ross released his decision regarding the CLF's petition to require Best Management Practices for dairy farms in the Mississquoi Bay. A press release was distributed Monday. The issue has been the subject of stories in VT Digger and on VPR. Initial reporting included several incorrect statements. Reporter John Dillon corrected the mistakes, when asked, and also came into the Agency to meet with Laura DiPietro and Jim Leland so they could provide a comprehensive overview of the Water Quality regulatory framework.
- Recognizing that there is misinformation circulating, and a general lack of awareness for the work VAAFM does to regulate water quality, the Agency created a first draft of a communications strategy to guide outreach in 2015. Finding resources to effectively deploy this communications strategy will be a challenge.
- Secretary Ross participated in an interview with WDEV regarding water quality issues and ag enforcement.

**Significant Events/Meetings:**

- TMDL Listening Sessions: The EPA, with support from the DEC and the Agency of Agriculture, conducted 4 listening sessions across Vermont to highlight the EPA's proposed TMDL plan for phosphorous reduction in Lake Champlain. Rutland, Middlebury, St Albans and So Burlington hosted these meetings, attended by up to 150 people (St Albans) in each session. Secretary Ross and his Deputy Director of Ag Resources Mgmt (Laura DiPietro), Commissioner Mears, and EPA Region 1 Director Steve Perkins presented and fielded many questions. Sentiment ranged from frustration with EPA and the State not moving enforcing more quickly, to an understanding that more resources are needed for technical assistance, best practice implementation and enforcement. Much greater awareness of the problem, and the time it will take to mitigate the problem, than even a year ago.

**Ag Dev Local Foods Farm to School Coordinator Attends Hunt Middle School's Annual Harvest Fest in Burlington with Secretary of Agriculture on November 13<sup>th</sup>**

- Burlington's Farm to School program has a huge impact on its students and our farmers, and Hunt's Annual Harvest Fest is an excellent way to celebrate it.
- Burlington Schools spend \$1.2 million on food- 1/3 of which is locally sourced. This has a huge economic impact on the Vermont economy, and highlights why sourcing local food in schools and institutions is so important for the state's economic viability.

- The school lunch program serves 4,000 fresh, nutritious, local meals a day, much of which is free to students through the USDA's Community Eligibility Program.
- Burlington Schools was one of the first districts in the country to hire a farm to school coordinator. USDA highlights Burlington Farm to School as a model program for the country.

### **Ag Dev Local Foods Administrator and Assistant State Veterinarian Coordinate Visit from FDA to Discuss the Food Safety Modernization Act**

- A dozen FDA officials came to Vermont for a northeast public listening session about the Food Safety Modernization Act (FSMA) on November 17<sup>th</sup>.
  - Roughly 75 Vermont farmers, service providers, consumers, and government officials from VT, NH, MA, ME, and CT attended.
  - The event was co-hosted by NEASDA, Vermont Law School Center for Agriculture and Food Systems, and VAAFM. The listening session was well attended by key New England produce stakeholders and representatives of the VT congressional delegation. FDA presented on three of the supplemental rules (Produce Safety, Preventive Controls, and Animal Feed) and attendees were then able to ask questions of the FDA subject matter experts present.
  - Some FDA officials joined VAAFM staff for a cheese production tour at Jasper Hill Cellars and the Vermont Food Venture Center in Hardwick.
- Animal Health staff diligently worked with a non-compliant cervid producer to bring the facility into compliance. The last group of deer was tagged and officially identified as of this past Monday.
  - State veterinarians continued their collaboration with VDH on an emergency response plan for household pets and Ebola and provided feedback on the draft plan.
  - Animal Health Field Staff inspected a rescue organization in response to a request from the Rhode Island State Veterinarian. The partner organization in Rhode Island has some discrepancies regarding their importation of dogs and correct Certificates of Veterinary Inspection. The VT organization appears to be in compliance. The inspection is a good example of state collaboration.
  - Animal Health Specialist initiated a tissue residue investigation on a dairy farm in Danville with a violation in a cull dairy cow. Specialist also met with a livestock dealer involved in another tissue residue case to obtain movement records for a bob veal calf found to be positive for neomycin.
  - Animal Health Specialist initiated a tissue residue investigation on a dairy farm in Addison County that had a cull dairy cow test positive for Excenel.
  - State Veterinarian, Kristin Haas, participated along with two other members of the Euthanasia Board for Animals in an inspection of the Windham County Humane Society facility this week. No discrepancies were detected during the facility inspection. During the appointment, the review panel also certified a WCHS employee as a Certified Euthanasia Technician, thereby allowing her to euthanize dogs and cats deemed unadoptable by the humane society.

### **Evolving Issues:**

Food Safety and Consumer Protection Director, Kristin Haas, approved a recommendation made by the compliance team in the Consumer Protection section to increase the standard administrative penalty amounts for weights and measures violations. It is hoped that higher penalty amounts will dissuade repeat violator retail businesses such as Rite Aid and Dollar General from future violations that defraud Vermont consumers. The historic penalty amounts have not been sufficient to dissuade bad behavior in these instances; companies consider them to be "the cost of doing business".

State Veterinarian participated on a New England States Animal Agriculture Security Alliance conference call this week. Three of the six New England states, including VT, are in the process of amending livestock import rules, and it will be important to harmonize these amendments across the region as much as possible.

FSCP Director participated in several discussions this week regarding the implementation timeline for the USA Food Safety database. The Go Live date for the dairy program and laboratory modules is expected to be January 31, 2015.

Senior Agricultural Development Coordinator Alex DePillis continues to manage two RFPs intended to remove obstacles to the next “crop” of manure digesters in Vermont. The first RFP, for rather specialized services to evaluate pathogen destruction in digesters, has resulted in two proposals. The Agency is in discussion with the New York Energy Research and Development Administration (NYSERDA) to double the budget. The existing budget of \$12,000 is derived from a larger allocation secured from the Vermont Low-Income Trust for Electricity (VLITE), a fund designed to advance Vermont’s energy policy. Proposals in response to the second RFP are due on the 26<sup>th</sup> of November. Answers to questions were issued on the 19<sup>th</sup>. The requested work is to identify favorable areas to site several digesters, based on the farms in an area, sources of food waste, and electrical capacity. GMP is partnering with the Agency on the third piece, based on analyzing the first two criteria. This second “geo-targeting” RFP has a budget of \$20,000.

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

#### **Administration:**

##### **Land Use:**

In October, the Agency provided some general information about what meets the definition of “farming” in the Accepted Agricultural Practices regulations (AAPs) as it relates to maple sugaring operations- tapping and processing of sap.

The Agency issued two variances from municipal setback requirements for the construction of a barn to house cattle that need to be separated from the animals in a free stall barn, another for a waste storage facility including a concrete barnyard. These requests came from two separate farms. The Agency received two additional variance requests. One for the construction of a building to house milk trucks to facilitate loading of milk at a dairy. The Secretary denied this request because the selectboard in the town did not know the width of its right of way and had concerns about construction within a right of way. Another request came from an individual that constructed a greenhouse within a municipal property line setback. The greenhouse did not meet the definition of a “farm structure” in the AAPs, and therefore was covered the municipal land use regulations.

##### **Collaborative Laboratory:**

Agency leadership, along with ANR leadership, participated in a number of meetings this week to work on the capital bill request for the Collaborative Laboratory as well as finalizing many details about timeline, equipment and fit-up needs/costs. This process will continue in the next two weeks with a final report due on December 5<sup>th</sup>. The hiring process continues for a Lab Director and interviews will commence after thanksgiving with 6 candidates; hope for hiring by January 1<sup>st</sup>.

#### **Agricultural Development:**

The Working Lands Enterprise Board is hosting focus groups in four regions of Vermont to engage individuals and businesses throughout the forestry and wood products sector. The purpose of these focus groups is to examine the future of the industry in Vermont. These focus groups will provide an opportunity and to network with fellow businesses to identify opportunities for public investment in the sector. The first of four focus groups occurred last night in the Northeast Kingdom with a total of 18 participants for a full and positive discussion. The additional three meetings will occur the first and second week of December.

##### **Working Lands Enterprise Initiative - 2015 Demand:**

- The Capital and Infrastructure Letters of Intent were due on October, 29<sup>th</sup>, 2014. We received 32 letters of intent, for a total ask from WLEB of \$1,932,633. We received 25 from agriculture, and 7 from forestry/forest products. Full applications are due January 30<sup>th</sup>, 2015 and decisions will be made in March.
- The Service Provider Letters of Intent were due November 12<sup>th</sup>, 2014. We received 41 letters of intent, for a total ask from WLEB of \$2,765,492.00. We received 32 from agriculture, 8 from forestry, 1 from ag and forestry. Full applications are due February 27<sup>th</sup>, 2015 and decisions will be made in April.
- The Enterprise Applications were due on Wednesday, November 19<sup>th</sup>, 2014. We received 54 applications, for a total ask from WLEB of \$797,460. We received 47 applications from agriculture, and 7 from forestry. Decisions will be made in February, 2015.
- The Agency of Agriculture hosted a seminar on “Tapping into the Canadian Market” in partnership with Food Export-Northeast. 16 participants learned about making connections with Canadian buyers, and the logistics of shipping their products over the border. Speakers included Kathy Boyce, In-Market Representative for Canada, and Dennis Lynch, International Marketing expert. Secretary Ross addressed the companies, encouraging them to continue to grow their international sales.

### **Local Foods Team Wraps Up Farm to School Strategic Planning Process**

- The Farm to School Coordinator reviewed the final plan, and coordinated future meetings with state’s Farm to School network

### **Local Foods Team attends Northeast Sustainable Agriculture Working Group Conference, “It Takes a Region” in Saratoga Springs on November 10-12.**

- Local Foods Administrator participated in Distribution and Food Hub working group, providing valuable, in-depth knowledge of the issue
- Local Foods Farm to School Coordinator participated in Diet, Geography, Access and Public Health Working group, providing critical support to issues related to school food and nutrition.
- Local Foods Team discussed Farm to School’s relationship to Farm to Plate, with Vermont Sustainable Jobs Fund Executive Director

### **Local Foods Team Submits Final Report Center for Disease Control and Prevention Community Transformation Grant to Vermont Department of Health**

- The three year grant (2011-2014) brought several hundred thousand dollars to Vermont Agency of Agriculture, Food and Markets, which was sub-granted to 14 regional schools and farm to school nonprofits.
- Grant projects include a Farm to School Sustainability Report and Farm to School Program Evaluation of Implementation Grants. Both reports yielded results that pointed to the long-term success of Farm to School in terms of economic impact, nutrition and health.
- The CDC grant helps communities design and carry out local programs that prevent chronic diseases such as cancer, diabetes, and heart disease. The partnership between VDH and VAAFM in this grant solidifies the importance of farm to school in transforming communities into healthy communities, leading to positive long-term health outcomes.

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

### **Meat Inspection:**

- Meat Inspection has submitted required Self-Assessment documentation for the Federal Food Safety and Inspection Service as part of maintaining the “At Least Equal To “ status to enable to continue with the program and maintain 50/50 funding
- Meat inspection staff is providing extra days of slaughter inspection enabling the State Inspected poultry establishments to process this seasons turkeys for the wholesale market to meet the demand for inspected fresh Vermont Turkeys



- Process continuing for obtaining Federal LINC PASS identification for all meat inspection personnel to enable access to federal systems for carrying out official duties for both the State and Federal Inspection Programs. Process includes fingerprinting and FBI background checks
- New inspection personnel are attending poultry slaughter training this week to obtain federal certification to participate in the cross-utilization program

### **Animal Health:**

#### Animal Health Field Staff

- Attended the weekly auction at ACCS to monitor for Animal Disease Traceability compliance and complete the livestock market report.
- Assisted the Lucy McKenzie Humane Society and Woodstock Police Department with executing a search warrant on a horse farm in Woodstock.
- Assisted DMV enforcement with livestock transport compliance and import regulations at the checkpoint in Ferrisburg.
- Completed poultry testing for Avian Influenza and Mycoplasma for a farm in the Williston area.

### **Dairy:**

The 2014 World Cheese Awards were held last week in London, England and three Vermont companies walked away with honors. This is partly the result of the hard work of the section field staff both in the plants helping them make products that are both safe and high quality as well as the farm inspectors and our milk quality specialist making sure the milk supply is high quality.

This proves once again that Vermont can put both its milk supply and processors up against the best in the world and win.

The winners this year were:

#### Grafton Village Cheese

<b>Award</b>	<b>Name of Cheese</b>	<b>Category of cheese</b>
• <b>Super Gold</b>	Bismark	(Hard Ewe's milk cheese plain)
• <b>Super Gold</b>	Shepsog	(Other Ewe's milk cheese not in other category)

#### Cellars at Jasper Hill (made and/or aged at Cellars)

- **Super Gold** **Bayley Hazen Blue from Jasper Hill Farm** (Specialist Cheesemakers Association Class)  
**Also awarded the "World's Best Unpasteurized Cheese"**
- Gold Moses Sleeper from Jasper Hill Farm (Other soft cattle milk Cheese not in other category)
- Gold Cabot Clothbound Cheddar (Mature traditional Cheddar made between 10-1-2013 and 1-30-2014 – Sweet flavor)
- Silver Oma from von Trapp Farmstead (Rind washed cheese not in any other class)
- Silver Harbison from Jasper Hill Farm (Other soft cattle milk Cheese not in other category)
- Bronze Weybridge from Scholten Family Farm (Other soft cattle milk Cheese not in other category)
- Bronze Kinsman Ridge from Landaff Creamery

#### Vermont Creamery

- Gold Bijou (Mold Ripened Soft Goat Cheese Plain)
- Bronze Coupole (Mold Ripened Soft Goat Cheese Plain)
- Bronze Vanilla Creme Fraiche (Other soft cattle milk Cheese not in other category)
- Bronze Cremont (Cheese made from milk of more than one type of animal)
- Bronze Fresh Crottin (Fresh Soft Goat Cheese Plain)
- Bronze Spreadable Goat Cheese (Fresh Soft Goat Cheese Plain)
- Bronze Fresh Goat Cheese Chevre (Fresh Soft Goat Cheese Plain)
- Bronze Fromage Blanc (Reduced fat unpressed cheese)

### **Agricultural Resource Management:**

Lake Carmi residents are still marching ahead with their effort to bring attention to that Lake. Next month VAAFM has committed to attend their regularly scheduled board meeting to discuss the Franklin Initiative. DEC went this past Thursday to discuss their interactions up there.

A very large and well known farm in Orleans County was visited yesterday in the presence of their lawyer to review all new violations identified on 2 of their farms. These two farms are currently part of a case with the attorney general's office. It was a good meeting to review everything and the hope is that the farm will correct these items promptly as a means to resolve the issues. At this point the farm has been issued roughly \$100K in penalties in the last 2 years for agricultural water quality violations. This meeting was an outcome of the latest mediation effort. Additional ANR just sent a new violation notice to the farm last week.

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

- Staff are continuing to draft a responsiveness summary related to a public information meeting held for a LFO in Addison County that has requested a permit amendment which would allow the farm to construct additional animal housing and increase their herd size.
- Staff are drafting inspection reports, memos and letters for complaint investigations, enforcement actions and ongoing inspections.
- Staff are working with AG's office in preparation for hearings and other enforcement cases.
- Staff are working with ARM Division engineering staff to assist with development and implementation of BMPs on several MFOs and LFOs. The construction season end is nearing and we are working to wrap projects up for the season.
- Staff have been processing grants and payments from farms for winter cover cropping and manure injection through the Farm Agronomic Practices (FAP) Program.
- 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 attended a presentation for a finalist in the RFP process for the Agency's grants management database.
- Staff are continuing to work on the water quality section of the new water quality database.

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

- Prepared for upcoming field visits to farms with potential CREP projects.
- Processed field data gathered for planning CREP projects in ArcMap.
- Created conservation plans, schedule of operations, map, State grant agreement and other documents necessary for a CREP contract in Addison County.
- Reviewed maps, photos and geomorphic assessment information for potential CREP projects that District staff in southern Vermont are planning. Held phone meetings pre and post the District site visits to guide their planning efforts and clarify eligible and non-eligible acreage as well as discuss Agency expectations.
- Visited SFO's in Colchester and Burlington Intervale with VLT and USFWS staff to determine plan and discuss potential for CREP to assist in farm's goals of improving flood resiliency while maintaining a viable agricultural operation.
- Inspected fence installation for CREP project at SFO in Williston and delivered paperwork to NRCS/FSA office to initiate payment to contractor.

**Secretary's Comments:**

- Met with representatives of the FDA and participated in Food Safety Modernization Act discussion at Vermont Law School

- Participated one of the 4 TMDL listening sessions hosted throughout the state. These sessions were collaboratively hosted by the EPA, ANR and Ag. These sessions served to educate the public about the TMDL plan, as well as to answer questions and collect public feedback.
- Attended “Future of Food” conference in Washington, DC hosted by the National Geographic Society.
- Participated in the AGree Food/Ag Policy organization’s Annual Partners’ Forum in Washington, DC.
- Participated in an interview with Kyle Squires on WDEV
- Continued ongoing conversations with Keurig Green Mountain Coffee regarding opportunities for their engagement on Vermont’s water quality challenges.
- Spoke at the Food Export Seminar in Burlington about tapping into the Canadian market and collaborative food export work in northeastern Vermont.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** November 21, 2014  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**IBM/Global Foundries:** The hazardous waste program was contacted by IBM to inform them that they will retain responsibility for site contamination at the Essex Junction facility being purchased by Global Foundries. As a result, the IBM hazardous waste facility permit that was just renewed for treatment/storage of hazardous waste and RCRA corrective action activities will likely need to be re-issued as two separate permits: 1) RCRA corrective action requirements (IBM), and 2) hazardous waste treatment/storage activities (Global Foundries). We are continuing to have good communications with IBM about transition issues generally.

**Clean Water Initiative Report:** We released this report to the legislature identifying our top clean water priorities and funding options for the General Assembly to consider. We also distributed the report broadly to representatives of the affected sectors including business, municipal governments, agriculture and environmental advocates. Our strategic conversation in advance of finalizing the report was helpful and, at least so far, the approach we came up with out of that discussion seems well-received. That being said, there was limited press coverage and reporters did not appear to fully understand the recommendations in the report. We are working with several reporters to help them understand our recommendations in the event that they continue to cover this topic. We have received positive feedback on the report from Senator Diane Snelling, the lead legislative author of the requirement for the report.

**Lake Champlain Restoration Plan (TMDL) meetings:** One of the reasons our report was not well covered by the press, is because it was mixed in with news coverage of a series of meetings that were held by EPA at which they rolled out the initial pollution targets for the Lake Champlain Total Maximum Daily Load (TMDL). David did an excellent job representing the Agency, explaining what we are trying to achieve and responding to questions about where EPA

and the state may have some differences in approach. The meetings were well attended by a spectrum of interests and the presentation was well-received. Initial feedback from municipalities on the potential costs for wastewater treatment plant upgrades was positive, with a general recognition that we did a great job advocating for them in the process. David's team will be doing some work to better understand the impacts of EPA's proposal on municipalities, property owners and farmers and they will be doing outreach to leaders in each community over the coming weeks. We are hoping to brief your senior staff (and you, if you think it would be helpful) some time in December before the legislative session.

**Vermont Gas Phase II:** Jon Groveman and our senior planner, Billy Coster, met with new Vermont Gas CEO Don Rendell this past week. The purpose of the meeting was to share with Rendell ANR's 40,000' perspective on the procedural and substantive challenges the Agency has encountered with VG during Phase II permitting, and to reboot the relationship between the two parties in order to work more efficiently and respectfully in the future. It was constructive and positive discussion. I sent a thank you note to Don and offered to meet with him as well if he thought that could be helpful. I am a fan of Don's and believe it can only make things better to have him in this new position.

**Lake Champlain TMDL and Quebec:** Quebec has requested a meeting to discuss EPA's proposed TMDL, Vermont's proposed implementation plan, and possible next steps for Quebec. Quebec is interested in exploring opportunities to consider modifications to their plan and the bi-national agreement. Participants in that meeting will include EPA, LCBP, DEC, and Quebec.

**Strong Visitor Numbers:** State Park visitation for 2014 is at 972,292 which is 8% ahead of last year and still a 25-year attendance record.

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## **EVERYTHING ELSE:**

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

**Sugarbush Ski Resort:** Rep. Adam Greshin contacted DEC regarding a water withdrawal issue involving snowmaking at Sugarbush. DEC was unable to approve a request to authorize a violation of the ski resort's permit limiting water withdrawals.

**UVM/Legislative Conference on Climate Change:** Members of the climate cabinet (and/or staff) participated in an all-day conference that brought together UVM researchers and agency staff to present to legislators on topics related to climate mitigation and resilience. The turnout was good, despite the fact that it was held the same day as the education conference. It was a great opportunity to connect with legislators in advance of the session.

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

**VT anglers enjoy expanded year-round open water fishing opportunities:** VTFWD is reminding anglers of the new year-round fishing opportunities now available to anglers on various waterways throughout the state. In effect since the beginning of this year, revised state regulations have opened up 11 new river sections to catch-and-release trout fishing with artificial flies or lures outside of the normal trout season.

**Watershed Grants Application Deadline is November 21:** It's not too late to apply for a 2015 VT Watershed Grant to fund projects that help Vermonters protect, restore and enjoy the state's watersheds. Applications are due to the VT Watershed Grants office by Fri, Nov 21.

**Repeat Wildlife Offender Pleads Guilty to Another Charge:** A man convicted of numerous wildlife violations in the past pled guilty on Nov 7 in Lamoille District Court to attempting to take deer by illegal means. A recent investigation by VT game wardens found that Christopher Cochran, 35, of Wolcott, VT, had set heavy gauge wire snares along a well-worn deer trail in the woods behind his residence.

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

**TDI New England Clean Power Link:** On Nov 20 staff from OPLA, DEC and DFW met with representatives of TDI for a final pre-file discussion of the project. The bulk of the discussion focused on the need for TDI to obtain state discharge permits for sediment associated with construction and thermal discharge associated with the operation of the line in Lake Champlain. TDI will file their CPG petition with the PSB on Dec 8 with collateral DEC permits to follow in early 2015.

**Addison County Solid Waste District:** I have planned a series of visits to the various solid waste districts to talk about the implementation of universal recycling and to listen to their suggestions and concerns. The first meeting in Middlebury went well. They appreciate the fact that we are working so closely with them to help them meet the requirements of the new law but expressed concerns about their ability to implement all of it without additional funding. There was also a general concern about educating the public so that they follow the new requirements. I am happy to brief you on our ongoing efforts to roll out the law. We have a great team working on this!

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

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

**Cold River Rd Solar:** The PSB hearing officer issued a proposal for decision (PFD) in the Cold River Road solar project, a 2.3 MW solar generation facility in the Town of Rutland (Docket 8188). The PFD, includes a condition requiring the project developer to comply with all terms and conditions of its MOU with the Agency. The MOU addresses protection of a number of

resources, including wetlands and wildlife habitat through conditions that apply to stormwater runoff, wetlands issues, installation of buried conduit, project fencing, construction detail and project output reporting (for GHG analysis), and installation of a secondary containment system. Parties have an opportunity to comment on the PFD, and to request oral argument before the Board. The project was opposed by a number of neighbors and the town, which parties will likely be filing comments.

**SunCommon:** OPLA this week provided SunCommon with siting recommendations and technical assistance on four proposed 150kw group net metered solar projects. SunCommon is quickly expanding into the group net metered space and expects to develop a significant number of 150-500kw projects in the coming year, a shift from the smaller, residential scale projects that currently dominate their portfolio.

**New Applications Week of Nov 17:** OPLA received 3 new Act 250 applications and 2 new Section 248 applications.

### **Environmental Conservation**

**Meeting with Efficiency Vermont (EVT):** The second in a series of meetings between EVT and DEC staff was convened this week to further the objective of strengthening energy efficiency considerations in wastewater and drinking water treatment facility planning. We agreed to an array of proposals that will result in incorporating energy efficiency considerations into the design and operation of municipal water and wastewater systems.

**ECO Vermont:** A letter of intent was submitted to SerVermont for DEC to apply for AmeriCorp funding for ECO (Environmental Careers and Opportunities) Vermont. The focus on the grant effort will be on economic development and job training with a focus on water quality in the Lake Champlain basin. We are applying under the special Governor/Mayor initiative and have received support from the Governor's Office, Agency of Agriculture, VT Mayors, town leaders, and conservation districts. This week there have been several meetings and conversations with VT Housing Conservation Board (VHCB) and SerVermont.

**Jay Peak:** We are in settlement discussions with Jay Peak and the Vermont Natural Resources Council to resolve an appeal of a stormwater permit we issued to Jay Peak. We have reached an agreement in principle with both parties and are working out the details. We are obligated to submit a settlement agreement to the Environmental Court by Nov 26.

**Lakes & Ponds – Regionalization:** The Shoreland Permit Program staff and Lake Encroachment Program staff will be shifting to a new regional model to more effectively and efficiently manage permitting duties for both Shoreland and Lake Encroachment. The permitting duties will be separated into 3 districts. This change will allow for more efficient use of state resources to conduct site visits, follow up on complaints and to conduct pre-application site visits that are being requested by the public regarding both permit jurisdictions, which often go hand in hand.

## **Fish & Wildlife**

**Opening Weekend of Rifle Season:** This weekend marked the opening of VT deer hunting rifle season. There were a number of violations cited this weekend, unfortunately there is a lot of baiting going on around the state. On a positive note, thanks to countless hours including all-nighters and failed warrant attempts, a lifelong poacher and his wife were finally apprehended (red-handed) and will have to face the court. Many other cases will be followed up and likely end up in court as well.

**Birds and Buoys:** Staff checked a large nest on a channel marker buoy on Lake Champlain south of Benson's Landing per request from U.S. Coast Guard (USCG). Bald eagles are nesting nearby and there were eagles in the vicinity of the buoy which concerned the USCG who wanted to remove the nest but only according to federal law. Ospreys have nested here before and we confirmed this was again an osprey nest, not an eagle nest. We notified the USCG that it was OK to remove the osprey nest during the inactive period.

**Bats and Turbines:** Staff attended a meeting on wind facility impacts on birds and bats, and the need for continued monitoring of impacts. Although we were focused on T&E permitting for the take of listed species, the number of unlisted tree bat species taken was of concern (hoary, silver-haired, and red bats). Bats do not need to be struck by a turbine arm to be killed. The abrupt change in barometric pressure can damage their lungs and we are not sure why they all fall neatly below the turbines so they can be counted when they die.

**Fish Lingo:** Staff reviewed material on fish identification, habitat requirements, fishing locations and fishing techniques for various VT sport fish. This material is being developed by the Outreach Division and will be included on the new FWD website in the near future. Similar materials will be developed in the future for other sport fish as well as other fish species like carp, gar, bowfin, drum etc. that are not typically considered sport fish, but can be targeted by angling nevertheless.

## **Forest, Parks and Recreation**

**State v. Riendeau:** The AG's Office issued a press release stating that the Superior Court accepted the proposed settlement between the State and Mr. Reginald Riendeau requiring the payment of \$60,000 civil penalty for violations of Vermont water quality and heavy cut timber laws. The court-approved settlement also requires Mr. Riendeau to follow a harvest plan prepared by a forester and to provide notice to FPR prior to initiating any logging operation in Vermont for a period of three years. Mr. Riendeau admitted that he failed to follow the AMPs resulting in discharges to state waters, conducted logging activities within a protected wetland and its buffer zone and heavy cut more than 40 acres without Department approval.

**In re Appeal of Plum Creek:** The oral argument on the state's appeal of the Superior Court decision is scheduled for Dec 18 at the Supreme Court in Montpelier.



**ANR PILOT:** The legislatively-required report on ANR PILOT was finalized and submitted to the legislature on Monday. The report was revised over the last week and now includes three possible options for moving forward. Two alternate payment formula options were developed based on Fair Market Value (FMV) as the valuation method applied to all ANR properties. Both options recommend a transition period that ends with full implementation of the new formula in three years (FY18). Both result in payments being lower than the payments currently received in most of the towns and have the effect of slightly reducing the overall PILOT amount over the current year's amount and moderating future PILOT increases while improving overall fairness and consistency for municipalities. Under both options, more towns will see reduced PILOT funding, though some towns will see significant gains. Option C - a third option is also presented in the report for consideration. This option considered establishing an alternate valuation method specifically for ANR lands and making payments based on the application of local municipal tax rates to the alternate valuation. Significant additional research and analysis is required to determine the fiscal impacts of Option C.

**ANR Essex Regional Office Complex:** The furnace room addition to Building #7 is complete. The Contractor, Bruce Noble and Son, Inc. from Isle LaMotte, put finishing touches to the addition during the past week. The original structure dated to the early 1980's and suffered from a lack of insulation, decayed siding, failing roof and poor lighting. The \$23,500+/- rehab provides well-insulated space, meets current fire and safety codes, and allows for easier operation of a wood furnace. The project was funded through the FY14 capital allocation.

**Ash Peeling for EAB:** FPR staff and volunteers spent two days, one at the Essex Office and one at the Gifford Woods Maintenance Shop in Killington, to assist with the annual ash peeling project. Ash trees, situated in locations where Emerald Ash Borer might be found, were girdled and left in place during the growing season to attract potential EAB. The trees were then cut down and cut up into sections and transported to peeling locations. Sections were then carefully peeled to determine if they had indeed been infested by EAB. No evidence of EAB was detected.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Darren Springer, Deputy Commissioner

Date: November 21, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**GMP Excess Revenues Proceeding (Docket No. 8341):** GMP and the out-of-state utilities have a mediation scheduled for November 24 (outside of this docket) in an effort to settle the dispute over approximately \$8 million. Entergy paid GMP approximately \$17.8 million in excess revenue, from which GMP returned approximately \$6 million to ratepayers in the last rate case, and retained \$4 million for future ratepayer benefit. The remaining \$8 million is in dispute. GMP is potentially interested in settlement with out-of-state utilities, bearing in mind that they face hundreds of thousands in expected legal costs to fully litigate these issues at PSB and in separate arbitration. GMP will be keeping Department in the loop as to any potential settlement, and our interests are aligned in wanting to retain as much of the remaining \$8 million as possible to benefit Vermont ratepayers.

**IBM, GlobalFoundries and SMEEP:** The Department continues to review whether GlobalFoundries (GF) would acquire IBM's eligibility for the Self-Managed Energy Efficiency Program (SMEEP) when it acquires IBM's Vermont facilities. Initial review suggested

eligibility could automatically transfer, but some in Public Advocacy believe the PSB will read the statute more narrowly. The Department fully supports GF's eligibility, which would enable GF to avoid paying the Energy Efficiency Charge. The ultimate determination may depend on the precise nature of the IBM/GF transaction (i.e. purchase of assets vs. purchase of a legal entity). It is possible we may need to recommend a tweak to the statute to enable GF to take advantage of SMEEP, and could pursue that independently or in tandem with other legislative proposals. This is distinguished from the IBM rate freeze, which does clearly transfer from IBM to GF as a result of the MOU in the recent GMP rate case.

**Proposed Special Contract between Enosburg Water & Light Department and Franklin Foods, Inc.:** The companies have shared a proposed economic development agreement which includes preferential rates for a limited period, and have requested the Department's comments and questions. The agreement requires job retention targets to be met by Franklin Foods. We have submitted a number of initial questions to counsel for Enosburg and understand the parties will meet with the Department following our receipt of written responses. The parties have not made any filings at the Board.

**New England Clean Power Link Project:** In an effort to work towards complying with 30 V.S.A § 218c(7), the PSD has reached out to the select boards of the towns that the transmission line would cross. The PSD is scheduled to appear before the Cavendish Selectboard and the Wallingford Selectboard on December 8<sup>th</sup> and 15<sup>th</sup> respectively. A PSD team is scheduled to meet with the petitioner this week to discuss the project, which is scheduled to be filed with the PSB on December 8<sup>th</sup>.

**Addison Expansion (Docket 7970):** The PSD issued an RFP for appraisal services to provide independent appraisals in condemnation proceedings. Proposals are due on Nov. 20; as of 11/19 only two had been received, and one was from the firm working for VGS.

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

Nov 17 to Nov 22 – Chris attends biomass meetings in Upper Austria  
Nov 18 – Darren and Asa speak on panels at UVM Climate legislative conference  
Nov 19 – Darren moderator at Housing Conference panel on energy codes; Darren and Asa meet with AIV; Darren and Asa meet with Tony Klein and Aaron Adler; Darren attends Governor's Energy and Environment meeting

#### **Meetings next Week:**

Nov 24 – ANGP: Chris meets with Melanie Peyser et al with Liz and Justin Johnson; Darren meets with VGS re MOU  
Nov 25 – Darren and Asa meeting with GMP; PSD/ANR meeting on hydropower permitting

issues

**Media:** Darren spoke to WPTZ on FairPoint consumer complaint issues. Autumn Barnett spoke with Fox, and 7DVT on FairPoint complaints. Andrew Perchlik spoke with Brattleboro Reformer and VPR on CEDF wood heating RFP.

### **Everything Else:**

#### ***PERD***

#### **Clean Energy Development Fund**

- Announced RFPs for Windham County Solar Financing (\$300,000) and Windham County Modern Wood Heating Program (\$1.6 million)

#### **Total Energy Study**

- Economic Impact section and appendix are being rewritten to correspond to new framing that incorporates results from additional simulations run to capture differences between “going it alone” and “going together.”
- Draft of final summary report has been circulated to Directors for feedback and suggestions. Target is to refine and then distribute to Climate Cabinet and other-agency partners by 11/21. We hope for publication soon after Thanksgiving.
- Will present on the TES at the VECAN conference on 12/6, including how it will lead into the 2015 CEP process.

#### **Standard Offer**

- Reviewed filing of REV proposing a food waste digester avoided cost cap of 20.7 c/kWh, and followed up with a number of questions regarding the assumptions used to develop this price. In addition, in their comments REV neither supported nor opposed the Department’s avoided costs caps proposals for small wind and solar.

#### **Net Metering**

<b><u>Net Metering Activity 11/8/14- 11/14/14</u></b>			
	Registrations*	Applications	CPGs Granted
<b>Count</b>	39	0	39
<b>kWAC</b>	236.79	0.00	242.38
<b>Ave Size kW</b>	6.071	0.00	6.214

### Cumulative Capacity of Registrations and Applications Submitted

Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of 15% CAP
11760.11	18315.81	57053.48	~ 38.04%

\*Note: As of April 1<sup>st</sup> projects up to 15kW are now eligible for the registration process. Prior to this change, systems larger than 10kW were required to file an application.

#### Utility Resource Survey

- Provided data to ANR for their calculation of state emissions profile. If RECs are accounted for in these calculations the GHG contribution from electricity was higher in 2012 than in mid 90's. One factor that could change that result: VEC and Stowe reported not buying RECs with their hydro purchases. Looking into the accuracy of this.

#### Heating Fuel

- Crude Oil prices continue to decline now at \$75.98 v. \$78.48 last week
- The natural gas market has traded lower now at \$4.175 v. \$4.475 last week

#### ***Engineering***

##### Vermont Yankee Operation

VY continues to operate on a planned power coast down for the remainder of its last power generation cycle. The plant has generated power continuously throughout the reporting period, operating at 85.5% power at the start of the period and 83.7% power at the end of the period.

##### NRC Grants VY Licensing Amendment Request Regarding Cyber Security Implementation Schedule

During the reporting period, the NRC announced that it was granting VY's Licensing Amendment Request regarding the implementation of new cyber security requirements. In 2012, the NRC ordered a series of new cyber security requirements for operating nuclear power plants with full implementation of these requirements to be implemented by December 15, 2014. While VY implemented many of the new requirements in 2012, in December 2013, VY requested relief from the full compliance deadline for several of the new cyber security requirements. The primary reason for the requested delay was the plant's announced permanent shutdown by the end of 2014. The State Nuclear Engineer found no reason to object to the request. The granted Licensing Amendment Request becomes effective on December 15. VY now has until June 2016 to implement the remaining cyber security requirements.

##### Vermont Gas Systems welding program

The Department Gas Engineer and Gas Pipeline Inspector met with VGS representatives on 11/13/14 to review the company's plans for remediation of its welding program and accurate documentation of welds related to the ANGP pipeline. The company has retained a quality control contractor and a welding subject matter expert to address program inadequacies which the Department previously reviewed with the company. VGS Engineering Manager presented a draft action plan, however significant corrective actions have not been completed. Meetings on this subject are planned this week and next.

#### Water – Wastewater Survey

The Department received a request from the VT House Committee on Commerce and Economic Development to perform a study to: (1) quantify the number of water and wastewater systems in Vermont; and (2) collect sufficient data on each water and wastewater system to estimate the annual cost of membership in the underground facility damage prevention system (Dig Safe System, Inc.) and compliance with 30 V.S.A. chapter 86 and Public Service Board Rule 3.800. Engineering has conducted a survey to collect the applicable data. In order to reach as many system operators as possible, engineering enlisted the aid of the VT League of Cities and Towns (VLCT) and the VT Rural Water Association to send the survey to their members. As of November 18 (the survey deadline), we have responses from 50 water system and 48 wastewater system operators. Engineering's next step is to perform an analysis on the data collected and prepare a report to the House Committee by December 12.

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

ANR ROW Issue – no docket – GMP has a license agreement with the ANR Dept. of Forests, Parks & Recreation (FPR) authorizing a pole line to the summit of Mt. Ascutney. Other entities, such as Verizon Wireless, have lines attached to these poles pursuant to the PSB's pole attachment rules. The PSB's rules require non-discriminatory access to poles; the charges for attachments are set in PSB-approved tariffs. The FPR/GMP agreement includes conditions relating to use of the right of way. FPR is concerned that these conditions are not binding on other attaching entities, whose activities have sometimes caused problems for FPR personnel and public users. PSD is talking to stakeholders in an effort to reconcile FPR's legitimate concerns with preservation of open access to utility poles. While this issue has come up in connection with the Mt. Ascutney line, it affects other public lands as well.

Kingdom Community Wind – Docket 7628 – After the Board issued an order directing the PSD to implement continuous noise monitoring, and prohibiting GMP from recovering the cost of the monitoring program in rates, GMP expressed concern about the maximum amount to be included in a PSD contract with the consultant performing the monitoring. Following discussion with the Company and the contractor, GMP agreed to the Department's proposal to set the maximum at \$130,000. PSD is proceeding to finalize the contract.

Rule 4.100 Annual Rate Setting Investigation – Docket No. 8010 – Initial briefs were filed on November 17. The Department and the utilities (GMP, BED and VEC) supported the Department's proposed avoided cost rates. Producers (VIPPA, Green Peak, Boltonville, Allco)

opposed different aspects of the Department's proposal. Reply briefs are due on November 24. Producers have reached out to the Department to attempt to resolve this case. Given the expedited briefing schedule, the Department has responded that it may entertain settlement talks after briefing, but that it did not appear that there was much room for the Department to move. The Board has articulated a goal of having avoided cost rates in effect by January 1, 2015. Separately, the Board ordered its staff to conduct such a workshop in an August 22 Order. When asked about the timing of the workshop after the technical hearing, Board staff did not seem to be planning one and suggested that the Department file a proposed agenda. The Department has reached out to the parties to the case for ideas for an agenda for a Board workshop on Rule 4.100. The Department has not received much feedback, but will nevertheless file a proposed agenda soon.

GMP Innovative Services Plan Amendment – Docket No. 8358 – In response to the Board's final order in Docket Nos. 8190 & 8191, GMP filed a petition to amend its Plan to permit the offering of innovative services similar to the Heat Pump Program on an untariffed basis and with Board approval. The proposed amendment was agreed to by the Department. On October 17, 2014, the Board opened this investigation to consider GMP's request. VEIC and CLF have moved to intervene in the proceeding and Board set a date of November 21 for comments on interventions and the comments raised by intervenors. A prehearing is set for December 3.

VGS Alternative Regulation Plan – No Docket – The Department filed its assessment of Vermont Gas's alternative regulation plan on October 31. As a general matter, the Department is inclined to agree to the two-year renewal with some modifications. After the Department's assessment, the parties have an additional month to make a joint filing proposing next steps. Discussions have already begun to discuss potential plan amendments.

GMP Actual O&M Cost Filing – No Docket – On November 14, GMP made a filing required by the Board in its last rate case. In the rate case, GMP did not present data on O&M costs/revenues because the Base O&M platform number (established in the merger proceeding) is the amount that the Board has already ruled will be in GMP's rates. The Board nonetheless wanted additional data on GMP's actual O&M costs and therefore directed GMP to make this filing. The Department will review the filing, and on February 15, the Department will inform the Board that it either has no issues with the filing or file a litigation schedule. Importantly, this filing will not result in a direct change in GMP's rates, though the result is expected to be used in an upcoming rate design proceeding.

VGS Penalty Case – Docket No. 8328 – On November 13, VGS and the Department filed a schedule, as directed by the Board. The schedule calls for the Department to file testimony in February, in response to Board questions. The Department is still considering whether such testimony is necessary and/or appropriate, and will revisit the issue after VGS files testimony in December.

Chelsea Solar 2.0 MW Standard Offer Solar Project in Bennington - Docket 8302 – PSD received responses to discovery that provided additional useful information on potential aesthetic, noise and wind impacts of the project. PSD also conducted a follow up site visit to gather additional

information on aesthetic impacts on 11/19. A second round of discovery is scheduled for December. No individuals or entities intervened in the proceeding and petitioner reports making very good progress with adjoining landowners on a variety of concerns.

Residential and Commercial Building Energy Standards -PSD Rules (RBES and CBES) – PSD again appeared before LCAR on 11/13, to discuss the copyright issue and has been informed that the formal objection was made in a letter dated 11/18, which we have not yet received. We aspire to file the Final Rule by 11/21.

Act 99 Net Metering Workshops – On 11/19 PSD staff prepared and filed comments on a working group and workshop process to lay the foundation for development of a net metering rule to reflect a program redesign that would replace the existing statute and rule. Those comments contemplate an 8 month stakeholder process to explore issues pertaining to rate design, general procedural issues and matters relating to interconnection standards and rules.

Charter Cable CPG Renewal – Docket 7820 - All parties have reached an agreement on proposed CPG conditions and are preparing a Memorandum of Understanding and a Joint Proposal for Decision. A technical hearing will be held on December 2<sup>nd</sup>.

Charter Hill Solar – Docket 8212 – The Board issued a final order on November 14<sup>th</sup> approving the project. The Board notes in paragraph 11 of the order that “Petitioner shall install a perimeter fence to deter unauthorized entry into the solar array that complies with the National Electric Safety Code.” In its findings, the Board observes that Petitioner’s proposed fence measuring 8 feet in height and constructed of wire mesh with 4-by-4 inch openings complies with the NESC and the National Electric Code. This authoritative guidance on what type of fencing satisfies both codes is most welcome.

GMP Financing Petition – Docket 8375 – The Board issued a final order on November 14<sup>th</sup> approving GMP’s request to issue up to \$110 million in unsecured revolving debt, with an additional “accordion” feature of up to \$15 million. The funds will be used for general corporate purposes, including working capital.

VPPSA Financing Petition – Docket 8376 – The Board issued a final order on November 14<sup>th</sup> approving VPPSA’s request for long-term debt financing in the amount of \$5.9 million to purchase Vermont Transco membership units.

Vermont Water Utilities Rate Increase – Tariff 8517 – In a letter to the PSB, the PSD has recommended approval of the 46% rate increase, along with the agreed-upon revisions to the rules and regulations, as well as a revised disconnection notice.

GMP White River Junction Substation Project – Docket 8322 – The PSD issued informal discovery questions on GMP and GMP responded. The PSD is reviewing these responses. The deadline for parties to file a stipulation or a proposed schedule for the remainder of the proceeding is December 8<sup>th</sup>. GMP is anxious to work towards an MOU much sooner, if possible.



Woodstock Aqueduct Company – Tariff 8535 – The PSD continues to engage in informal discovery on the petitioner. Additionally, the PSD negotiated numerous changes to the disconnection notice and is working on negotiating changes to the rules and regulations. The PSD recommendation is due by December 16<sup>th</sup>.

Champlain Valley Solar – Docket 8248 – The petitioner has filed the draft Irrevocable Standby Letter of Credit issued by Wells Fargo for this project and requests PSB approval as soon as possible.

### ***Telecommunications***

Duncan cable Dover license – Duncan cable, an operator in Dover and Wilmington, let its 11-year cable license lapse in November 2013. PSD staff informed Duncan that if it did not initiate a process to renew the CPG promptly, the PSD would ask the Board to open an investigation.

Maps for PSD website – PSD staff has asked VCGI to determine whether fees for adopting the Geocortex software (used by other state agencies) can be billed to the NTIA under the broadband mapping grant. Concurrently, PSD staff is investigating other less expensive alternatives to Geocortex.

FairPoint broadband data – VCGI is analyzing the 10,348 locations that have been marked served by FairPoint but that are not listed in the most recent FairPoint submission. Of these 3,756 are not shown as served or to be served by other providers. VCGI has not yet identified when these were marked served.

### **Wireless Telecommunications Facilities (248a) Report –**

A summary of activity in the past week about wireless telecommunications facilities:

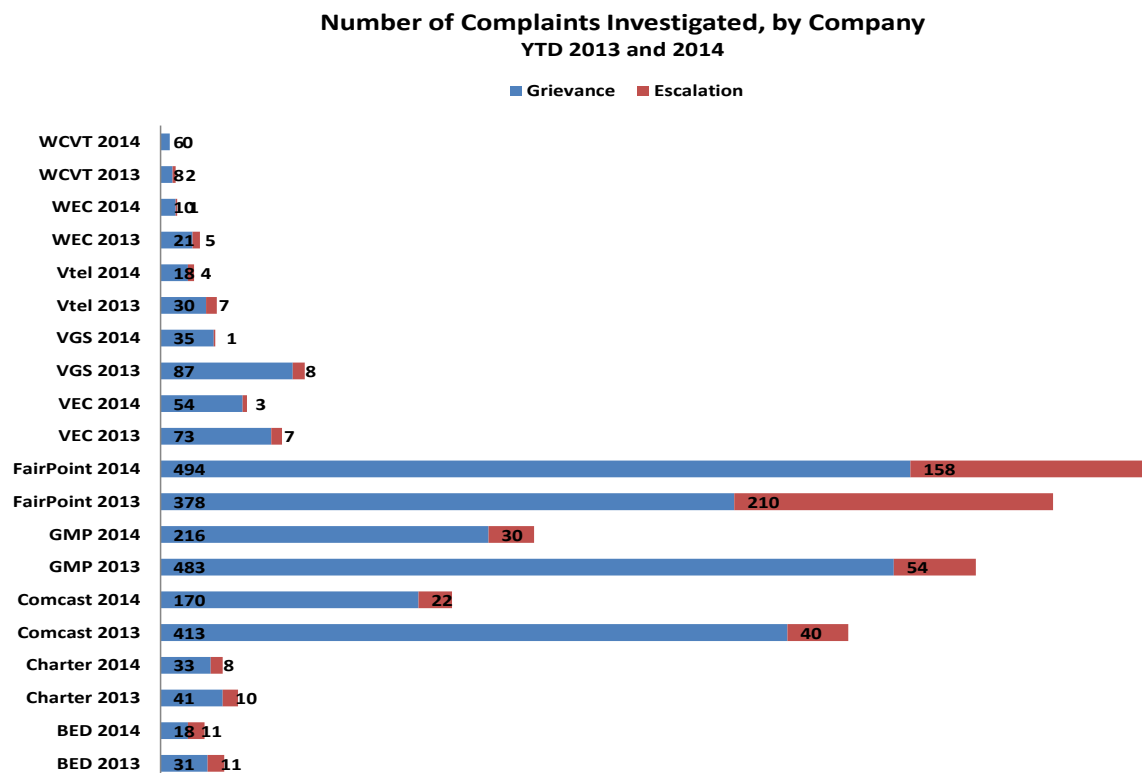
<b>Date</b>	<b>Applicant/Location/Type of Filing</b>	<b>Brief Synopsis and if applicable DPS recommendation to the Public Service Board</b>
11/13/2014	AT&T and American Towers (ATC)/Bennington/ project of limited size and scope	140' monopole, changed from a monopine plan and sited to avoid wetlands and residences; DPS recommended approval
11/13/2014	AT&T and ATC/Morristown LaPorte Rd (Rte 100)/ full project	120' monopole sited to avoid wetlands and screened by 20 new arborvitae trees; DPS recommended approval
11/18/2014	AT&T/Brookfield West St/ follow-up filing of expert reports regarding the proposed 100' monopole	DPS filed aesthetics and radio frequency (RF) prefiled testimony and reports and did not object to the Town having a hearing on the issue of deference to its recommendation against the project; the DPS aesthetics expert concluded that the project would have no undue adverse effect, and the RF expert found that the proposed height was within the

		minimum height feasible to meet AT&T's coverage objectives
11/19/2014	VTel/Eden/ project of limited size and scope	90' monopole; DPS recommended approval as soon as VTel clarifies the sizes of the two dish antennas atop the tower

### VTel's Proposed Tower in Castleton

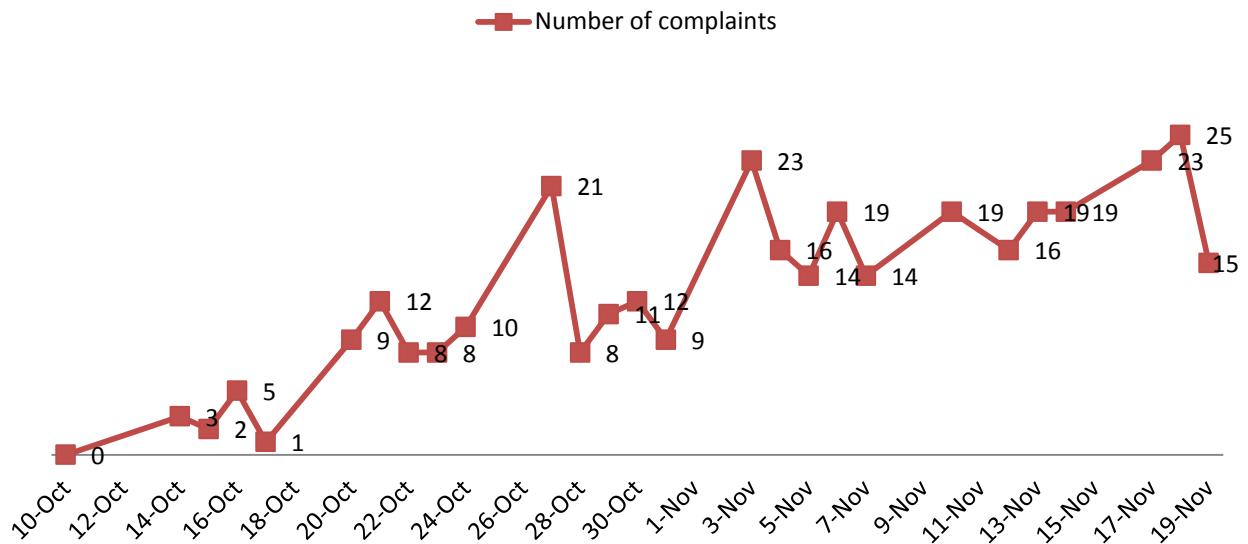
Since July, VTel and the Town of Castleton have been working to assess whether VTel might be able to co-locate on the Town's new, yet to be built, fire tower at the new, yet to be built, fire station. After performing a flash test with a lift truck to determine how tall the fire tower would need to be, VTel determined that the tower would have to be 150 feet tall. VTel informed the Town that it would, instead, move forward with its originally proposed 90-foot tower at its original location. The Town continued to look for some way that the fire tower co-location would work for VTel, but as of this report, VTel has again concluded that the time, expense, and uncertain result of new NEPA and historic reviews require VTel not to further consider the fire tower location.

### **CAPI**



## FairPoint Complaints

Beginning 5 days before strike to 11/19/14



### CONSUMER COMPLAINTS

Complaint topics included, but were not limited to:

- FairPoint: repair delays, service install/cancellation delays, closed repair ticket without completing repair, time on hold in phone queue, other
- (6) Disconnection/payment arrangements
- (1) VTel coil of fibers left on consumer's property, with no hook-up of service
- Disparaging photographs shown on WCAX of complainant's daughter
- Questions from Morrisville Water & Light regarding winter disconnection rules
- Question about equipment return to Equipment Distribution Program



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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: November 21, 2014  
Subject: Weekly Report

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## **Criminal Justice Services**

Pre-Trial Services Program Information Needs – There was a very productive meeting this week involving a variety of stakeholders involved in producing the information that the pre-trial monitors need do their jobs. Annie and Bobby were very appreciative of the direction we are heading in.

Firearms Storage Program – We received an email this week from Judge Howard VanBenthuyzen inquiring about the firearms storage program. The following is the exchange of emails.

Wed 11/19/2014 4:16 PM

Hi Paco: hope all is well. I assume all VSP barracks are storage locations? And some Sheriff's departments?

Thanks.

v/r

Judge VanBenthuyzen

Wed 11/19/2014 5:09 PM

Judge;

I have attached the web site that explains the program and that also lists the agencies who are participating in the firearms storage. I regret that only two law enforcement agencies have asked to be part of the program. The Vermont State Police are not part of the program because they do not feel they have adequate storage space. Some other local departments such as the Burlington Police Department will take in firearms if it is based on a court order but do not want to comply with the requirements imposed by DPS and do not want to charge a fee.

[http://dps.vermont.gov/firearms\\_storage](http://dps.vermont.gov/firearms_storage)

Paco

Thu 11/20/2014 8:08 AM

Thanks, Paco. So NO sheriffs and DPS either? Yikes. I guess I can stop ordering surrender of weapons on RFAs up here.....

v/r

Judge VanBenthuyzen

Thu 11/20/2014 8:17 AM

Hi Paco: Ok, now I see the problem: I looked through the requirements and read the statute, and that explains why there are so few locations willing to be part of the program. Also, the fees seem quite high, excessive actually, and the storage locations are unlikely to collect them from RFA defendants. Interesting that DPS as the overseer is not also itself required to be a storage location. Quite telling. **This statute, though, guts the effectiveness of firearms surrender in RFA cases.**

Thanks for your info. Hope you are well!

v/r

Judge V

## **Vermont State Police**

### **A Troop**

17 arrests, 6 DUI

Received several reports of burglaries, troops are working with local agencies

human trafficking case involving girl in prostitution ring search warrant obtained for phone records

Male subject in Waterville accidentally shot himself in the forehead with a 45 bullet only grazed him and is fine but hung over

### **B Troop**

14 arrests, 7 DUI

Responded to a report of a man walking bare foot, bleeding from the head, on VT RT 122 in Sheffield. Ian Fierman was found acting strangely, intoxicated, wearing just a shirt and a pair of pants in the roadway that was wet with snow and ice with the temperature outside at about 20 degrees. Fierman was walking back and forth in the roadway and traffic. He refused assistance from Lyndon Rescue and ran from Sgt. and rescue members. After he was taken into custody Fierman was transported to NVRH. He was subsequently charged with DC.

Responded along with CALEX Rescue to Cushgerlin Road in St. Johnsbury for a report of a 20 year old male that was unresponsive and believed to have overdosed. Troopers administered intranasal Narcan to the unresponsive male, who was later attended to by

CALEX Rescue Members. After about five minutes the unresponsive male slowly became alert. The male was then transported to NVRH by CALEX, where he recovered.

Single vehicle fatal in Barton

C Troop

21 arrests, 5 DUI

Missing downs syndrome boy, Rutland Town, boy later located fine.

Mt. Tabor. Two lost/stranded hikers in a swampy area by the Otter Creek, appx. 300 yards east of US 7. Uniform and Mt. Tabor/Danby Fire responded and located.

Overdue hunter left note at truck around 1300 that he was going back into the woods to drag the deer out but did not return. SAR activation. Wells FD and Fish and Game assisted. Hunter was located just as National Guard helicopter was cleared to assist in search.

Subject had destroyed home and "barricaded" self within. Tprs. were able to gain entry, talk to the subject and coordinate a Rutland Mental Health screening.

Responded to a hanging, subject still alive, in critical condition.

D Troop

3 arrests, 0 DUI

Arrested one as a Fugitive from NH at SSCF in Springfield.

Troopers & BCI assisted Windsor PD who had a pursuit and their officer shot the suspect (reportedly shot in the arm); suspect was caught in NH.

Assault on a PO Augur Hole Rd in Marlboro. Troopers found the defendant Mr. Oakman under the combined influence of prescription drugs and alcohol. An ambulance from Deerfield Valley Ambulance responded to the scene to transport Mr. Oakman to the hospital for treatment. While the Troopers attempted to provide care to Mr. Oakman, Mr. Oakman assaulted both Troopers. Mr. Oakman was placed into protective custody and transported to the Brattleboro Memorial Hospital for treatment. Mr. Oakman was subsequently issued a citation for Assault of a law enforcement officer. Neither Trooper required medical care.

## DEMHS

Director met with FEMA Region I Administrator Paul Ford to discuss outstanding Hazard Mitigations applications that are taking too long to review; the State Hazard Mitigation Plan and State-wide Local Mitigation approval delays."

The Director, Deputy and Planning Chief discussed the proposed FY'16 RERP budget with Entergy. There is still some follow-up to be provided by VDH and ARC, but otherwise Entergy seemed generally amenable to the proposed numbers.

DEMHS, AOT, and the VT National Guard assessed 7 state owned airports that will be used as Commodity Points of Distribution (CPOD) sites in times of need. The assessment included mapping ingress / egress routes, equipment identified and the drafting of an MOU between the 3 organizations. Two additional sites that are privately owned were also assessed. AOT will facilitate discussions with those owners to see if in the time of need these airports could be used as CPOD sites.

The HS Chief is working with the Surete du Quebec to continue efforts to enhance cooperation and collaboration between U.S. and Canadian first response agencies. As part of the Cross Border Coordinators Working Groups Efforts (includes representatives of the OPP, SQ, MSP, NHSP, NYSP and VSP) the HS Section Chief is working with the Surete du Quebec to obtain authorization for Vermont State Troopers to travel to Quebec in uniform and armed for upcoming regional traffic safety operations during the Holiday Season. A planning call was held to discuss this and the development of an MOU between Vermont and Quebec.

As part of the BTV Assessment, documents that provided the framework to move citizens affected by Hurricane Katrina from Louisiana to the host state of Texas were sent by Louisiana. These documents will form the framework that will allow Vermont to be a host state should affected citizens from another state need to be flown into BTV. The VY Hostile Action Based (HAB) exercise planning team conducted the initial planning meeting for the Tabletop exercise coming up in January.

70% of towns now have updated LEOPs.

FEMA obligated sixteen (16) Project Worksheets for DR4178, totaling \$519K. The following applicants are now ready for Project Completion and Certification Reports to close out their DR4178 subgrants: Averill, Belvidere, Duxbury, Irasburg, Johnson, Kirby, Maidstone, Richford, St. Johnsbury, Topsham, and Waterville.

FEMA obligated "Version 3" of Woodstock's PW243 from Tropical Storm Irene for an additional \$35K, closing out a project that has been back and forth for many months. Latest ERAF percentages are: 89% of Vermont communities are complying with National Flood Insurance Program; 77% have up-to-date local Transportation Standards; 67% have up-to-date Local Emergency Operations Plans (up from 64% one month ago); and 42% have submitted current Local Hazard Mitigation Plans (up 1%

from last month). We have developed a process for including Villages under Town LHMPs for purposes of ERAF, which will increase LHMP % by approx. 10%. Media event announcing the purchase of CBRNE/Wildfire trucks. Media coverage from: Fox-44, News 7 Lyndon State College, WPTZ, Seven Days, Addison Independent, Newport Daily Express, VT Digger, Burlington Free Press (one day later) 2,000 VT Alert rack cards were inserted into mailing from Grand Isle Rescue and will be sent to residents of Grand Isle.

**Legislative Contact:**

Positive communications regarding Irene Recovery and emergency preparedness with state legislators at UVM Legislative Climate Change Summit, including: Senators Lyons, McCormack, McDonald, and Zuckerman; and Representatives Botzow, Cole, Ellis, Lamphere, Krebs, Patt, Potter, Stuart, Sweaney, and Yantachka.

**Fire Safety**

The Division received \$4.6 Million in new plan review construction valuation collecting \$26,000.00 in permit fee revenue.

The Cadet program has been locked in for July 2015 at the Fire Academy. The VSFA will be really appreciative of this effort.

The USAR Teams may be called upon to assist the State of New York because of the snow collapse issues. No decision made preliminary conversations with Director Flynn's department.

There is an unexpected \$20,000 replacement cost for a failed diesel fuel dispensing unit at the Fire Academy. I will fund the replacement with special fund money from fire safety (21901).

We are starting the rule making process in January for adopting the new 2015 codes which will be an extensive amount of work. We will be assembling a group of stakeholders so the process is very transparent and open.

I told Dean Hamel that I would allow Thom our IT Tech to help one a day a week at HQ for a little while. It's important that we keep connected with DPS HQ IT as we are one team. This will keep Thom involved with policy changes while keeping up on projects. However we are extremely busy in Fire Safety with IT related matters so this will be temporary in nature notwithstanding Thom helping out to provide coverage when HQ IOT staff are out.

There is a possibility there will be tax credits available for owners who install LULA lifts as well as elevators. LULA lifts are only allowed through a variance so I see no issue with this however historic preservation and economic development feel the Access Board will not like this because they would prefer elevators over LULA lifts. I will make sure the Board knows we are supporting the tax credits because at the end of the day if a LULA lift is authorized who cares if the owner receives tax credits- if the money is there we need to make it available.





**State of Vermont**  
**Agency of Administration**  
**Office of the Secretary**  
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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** November 21, 2014  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

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

**Mr. Secretary** - Possible visit from Mary Leahy and the Friends of the State House to discuss curatorial bill. - David Schutz

**Property Management:**

195 Colchester lease to Fletcher Allen: Requested project info and found that UVM and FA are tightly aligned. Project is 38 months, \$187M and realigns the FA building to the UVM campus. FA is interested in 195 Colchester and wants to perform some structural analysis. Steering to Facilities to work with them on analysis effort. Recommending attempting to close on the revision language in the deed as part of any lease.

**Gas-line protest:**

- Panic alarm test complete – no surprises. Discussion on other changes to the existing in process (at the request of the Gov's security detail)
- Camera/Elevator/access changes "costed" and working with Gov's staff on next steps. Looks like \$125K+- to tighten things up.
- Employee training being arranged for 5<sup>th</sup> floor staff and will expand to other floors. Additionally meeting with a consultant from the education world on possibly rolling out awareness training to the masses.

195 Colchester: Fletcher Allen Health Center consultants scheduled to make another tour of the building Friday, November 21<sup>st</sup>, to further evaluate the possibility of modifying interior spaces to meet their requirements for construction offices.

New Health Lab: Control Tech working thru failure scenario issues. Once resolved we can proceed to Commissioning and then have 3<sup>rd</sup> party certifier validate the facility for CDC. GBT (The Third Party Certifier) reports the need to separate the BSL-3 Suite from other containment areas for future certification requirements for expansion of programs. Working through the failure scenario issues, Commissioning once issues resolved, waiting two weeks after commissioning for building to operate without changing controls or systems and then validation by the third party certifier has delayed the move until early January 2015.

Two Toyota Prius: FINALLY! The two Toyota Prius Hybrid vehicles were registered and picked up today at 802 Toyota in Berlin, VT.

Electric Vehicles/Charging Stations in Montpelier: Fleet Dept has been working with Daniel Edson. Green Mountain Power has agreed to install charging stations at the Fleet office location on Green Mountain Drive; it is expected that as vehicles are replaced, the motor pool fleet at that location will be converted to hybrid, plug-in vehicles. Daniel is writing the specs for the charging stations.

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

Christmas Tree Lighting: Scheduled for Thursday, December 4<sup>th</sup> at 4:30pm - confirmed with Governor's office. More detailed report to come under separate cover.

Building Communities Grants Program: All committee meetings have taken place. Letters to applicants being sent early next week. Waiting for word from the Governor's office about a day/time for the grants ceremony that works with his calendar.

School Construction: Follow up meeting scheduled for Friday, November 21<sup>st</sup> with Bill Talbott, Donna Russo-Savage, Becky Wasserman and Wanda Minoli to discuss using school construction to enhance consolidation.

## **FINANCE AND MANAGEMENT**

### **Issue Updates:**

Commissioner Reardon, Deputy Commissioner Clark and the budget analysts continue the FY 2016 departmental budget meetings. This week the budget office met with Military and the Attorney General's Office. In addition, the budget office met with various stakeholders at AHS to assess the financial needs of the Exchange in FY15 and FY16.

Commissioner Reardon presented at an all Legislature briefing on the FY15 BAA and the FY16 estimated budget gap.

Commissioner Reardon and Deputy Commissioner Clark met with legislative leaders to discuss the options for expense reductions related to a potential further downgrade of revenue in FY15.

## **HEALTH CARE REFORM**

### **Legislative:**

Georgia provided an update on VHCIP to the General Assembly. The only questions related to SIM and payment reform were how the Medicare dollars would flow under the all-payer waiver. Otherwise, the legislators focused on Vermont Health Connect.

Anya and Georgia will be testifying on Monday to HROC about SIM savings, which we are not able to quantify yet since we have not completed our first performance year.

### **Significant Meetings:**

Devon presented information about Green Mountain Care at the VBSR's annual conference. She sat on a panel with Bram Kleppner, Dan Barlow, and Anissa Lewis. The turnout was low likely because the session was at the end of the day, but the response was positive.

- Georgia participated in two meetings at the CDC while in Atlanta last week. These focused on how the CDC can better work with states, like Vermont, that are moving faster than the federal government.
- The federal evaluators were in town for the Blueprint for Health MAPCP. Georgia, along with many others, participated in an interview about that program.
- Georgia attended the Milbank Foundation Reforming States' Group Meeting in Atlanta with Sen. Jane Kitchel and provided an overview of our activities to that group.

### **SIM Update:**

The SIM team hosted a very successful workforce symposium on November 10<sup>th</sup>. The symposium fulfills a new one-time statutory requirement by bringing folks together to start thinking about how to recruit the right types of providers in a reformed health care system. The SIM team also submitted its most recent quarterly report to CMMI covering the period of July-September. SIM convened its Care Models and Care Management Work Group where the focus was on finalizing Care Management Standards for the ACOs participating in the Shared Savings Programs. These standards will get embedded in the Medicaid-ACO contracts when they are complete. The HIE/HIT Work Group also met as did the Population Health Work Group. In the next week, the Steering Committee, DLTSS Work Group and Performance Measures Work Group will all meet. Now that the Operational Plan is complete, the SIM team will focus on developing work plans and activities for each work group that relate directly to the Operational Plan.

### **Evolving Issues:**

Public Records Request re: Gruber contract

## **HUMAN RESOURCES**

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

JFO is putting together a report on the effect of the ACA's Cadillac Tax (which comes into play in 2018) on existing health plans – with a focus on the State employee plan. The State plan as currently designed will trip this penalty.

### **Press Contacts:**

Contacted by VTDigger re: retirement/pension information for Secretary Searles. Referred them to State Treasurer.

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

Meeting with DPS leadership regarding bargaining with VTA. Our hopes for a quick negotiation were realized. We reached agreement in 1.5 hours of talks. End state is VTA agreed to a one-year contract in exchange for 2.5% pay increase. Documents will be prepared for appropriate signatures.

Governor's Workforce Equity & Diversity Council met to plan their annual retreat for mid-December. Some discussion was had about wanting to invite the Governor to come speak to a future gathering of the group. Anticipate an invitation in the spring.

### **Emerging Issues:**

Numerous questions swirl around the mandates of the Affordable Care Act and its effect on the State employee health plan. We are working on a list of issues and possible solutions.

Significant progress made on the EGWP contract with ESI. The attorneys on both sides will join the next session as we go through the draft in early December.

Workforce development initiative is moving forward. Site build-out at the VT College of Fine Arts campus has begun. Staff is focused on recruitment, organizational structure and curriculum development. Expect to pilot the new supervisory training program in March and hold an Open House in March/April 2015.

Budgetary constraints and need for vacancy savings have led to rebalancing staff assignments in Field Services to provide optimal coverage. Regardless, staff to customer ratio has been reduced and this may result in a diminishment of services and/or response delays over time.

## **INFORMATION AND INNOVATION**

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

#### **Healthcare:**

- VHC Hosting
  - Analyzing alternatives to CGI. RFI will be finalized next week.

- Negotiations continue around truing up cost, method of transition, and period of time we require CGI to continue to provide hosting services. The 6 month extension option with CGI is established in the CGI MSA. There is some question of whether it is enforceable. If it is, we would have to notify CGI 30 days prior to the contract end, which would be 12/1. Before a letter is sent, everyone (SoV) needs to be in agreement.

## **LIBRARIES**

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

VT FiberConnect Project (VTA/Sovernet): As of November 15, all 43 libraries in the Vermont FiberConnect project have received their Sovernet fiber optic connections and 42 of these libraries (all except Manchester) have opted in to the Wide Area Network (WAN) managed by DII. The WAN provides IP service and has the potential for networked services and delivery of content to these libraries.

Vermont Early Literacy Initiative (VELI): Marty Reid attended (along with our new Youth Services Consultant, Sharon Colvin (from MA), the latest training conducted by Sally Anderson and Wendy Martin (VT Center for the Book) for librarians in 50 public libraries which participate in VELI. This is the third round of training for these librarians and this day-long session (Lake Morey) focused on social/emotional development in young children and techniques and activities to use in story hour programming to promote this aspect of development for preschool children (including instruction for parents and childcare workers). It was an excellent training in a key area of child development which can determine a child's ability to learn, be successful in school, and be able to develop good relationships in life.

Introducing [www.vermontinsights.org](http://www.vermontinsights.org): Library staff attended the conference yesterday to introduce the new data site with a focus on children and families. It was a very good day that included a look at the new website and data presentation, as well as small group working sessions to discuss data needs and uses. Marty Reid will invite representatives from AHS to talk to my staff about their use of RBA and the RBA score cards so that we can begin planning for introducing RBA into our programs and strategic and budget planning. Reid will also invite folks from Insight to come to do training on their new website for our public library consultants and the reference staff at the State Library.

### **Other:**

Federal Funding and Budget Cuts: Heads-Up: VTLIB receives just under \$one million in federal LSTA funding each year from the Institute of Museum and Library Services. The LSTA program requires MOE (state funding requirement) and Match (state and special funds spent on LSTA-purpose programs).

Marty Reid is currently working on the annual federal report for FFY13 and have struggled to identify state expenditures to meet the LSTA MOE requirement for last year (\$1,220,680). She managed to meet the federal requirement but it required that she dig deep into their expenditures that while meeting federal requirements, are not usually included in the MOE.

This FY Libraries has 2 unfilled positions, left open pending the potential for a 5% budget reduction in FY16. They have determined that further cuts this FY and in FY16 are very likely to put them below the required MOE (and possible MATCH) for their federal funding. Marty Reid will be working with their

budget office over the next week to check my numbers and will report findings to Jim Reardon once they have the final report.

## **TAXES**

### **Legislative Update:**

Miscellaneous Tax Bill: We have whittled down the bill to fairly technical provisions, and will take one more pass at it with staff, then send for review.

The Commissioner spoke on a panel with the Commissioners of the other New England states at a tax conference in Boston. The biggest takeaway was that RI and NY, in their recent corporate tax overhauls, joined MA and ME in the Northeast in adopting more expansive market based sourcing provisions for corporate income tax. This is generally considered to be revenue positive (although we would have to carefully test this assumption with the composition of our market) and favorable for in-state companies (although apparently in CT some native companies oppose the change). I have instructed our team to take a research this issue.

In a presentation on state tax developments, our unitary combined reporting case currently pending before the VT Supreme Court was listed as one of the most important cases of the year. Not surprisingly, since the audience is heavy on corporate firms, the presenter hailed the Superior Court decision in favor of the taxpayer as very well-reasoned. Also interesting to learn that CT and MA are both beefing up resources on criminal investigations – this is something the Department cut many years ago. MA had a big early win with the discovery of the use of a “zapper” (software that automatically cooks the books) – zappers are notoriously hard to detect.

### **Operations:**

Top100: We have collected over \$350,000 from the notices we have sent to taxpayers thus far. We would need a few more big settlements to meet our \$800,000 target. Interestingly, we are finding better success with taxpayers with lower outstanding balances.

VTax: Our final testing is completed, and no obstacles have been identified for beginning conversion on Dec. 3<sup>rd</sup>. Department operations will be somewhat limited Dec. 3-5<sup>th</sup> until GoLive on Dec. 8<sup>th</sup>. (As always, payments will be deposited). The team anticipates that conversion actually will be completed by the 5<sup>th</sup>, and that they will be “crawling” over the weekend with staff submitting and processing batches of corporate and business returns that have been held for the past couple weeks. The project team has rolled out its support plan, including members who will be stationed in every Department to offer immediate assistance, and regular email updates.

MA just completed their first phase with FAST, and the Commissioner had nothing but positive reviews (it was only a small number of taxes, but includes all the functionality). The biggest surprise they had was a greater than anticipated number of registrations to use the online portal. In VT, with corporate and business income tax, although practitioners are very anxious for online services, we are seeing some resistance from the vendors of professional software packages to code their products for compatibility with VT’s new platform. So at least in the first year, we may not see as many online corporate and business returns as we hoped, although other services, such as seamless online payment, might be utilized.

## CONFIDENTIAL and PRIVILEGED

**To:** Governor Peter Shumlin  
**From:** Michael J. Hogan, Commissioner of Liquor Control  
**Date:** November 21, 2014  
**Re:** Weekly Report

### Status of Governor's Priorities:

- Fine tuning budget numbers for FY16.
- Listened with interest on the VIT panel discussion on marijuana that Jeb moderated. I thought it was very balanced in the comments. Looking forward to reading the report from the Rand Corp.
- Oregon, Alaska, Washington D.C. passed marijuana measures. Oregon will implement their system similar to the way we sell alcohol in Vermont. **See article below from a former colleague who worked for the Oregon Liquor Control Board. I thought it lays out the argument very well!**
- Sales were up +6.56% for October. November looking good so far!

### Legislative Issues/Contacts/Updates:

- Miscellaneous clean up language for Title 7.

### Press Issues/Releases/Contacts:

- There will be a report issued shortly from the Auditor's Office on DLC. The findings will say on the issue of privatization that it is revenue neutral. It will make some business recommendations that we are in the process of doing at this time. I will send Jeb the final report when issued plus my comments which are part of the report.

Significant Events/Meetings: Next Board Meeting 12/10/2014 - Enforcement Hearings.

### Evolving Issues:

- ERP/POS Project underway. Excellent Progress! Recent meeting with vendors and staff working through the particular functions of the front end and back end systems. Testing new registers next week.
- Preliminary review of department processes for potential licensing and enforcement system. Considering using VIC as they are very familiar with our business processes to help with a statement of work.
- Planning an alcohol symposium for December 3 for policy makers, licensees, and industry partners.
- Working with VIC on break open ticket reporting process. Prototype has been developed. Should be beneficial to Tax and DLC to gauge the amount of tickets sold and who they are being sold to. Working with Tax and should roll out this reporting process in January 2015.

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### Summary of Key Department Activity:

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

## **Marijuana Legalization Advocates Say Alcohol Regulation is a Model to Follow!**

Source: Public Action Management

By Pamela Erickson

November 18, 2014

Who would have thought that marijuana advocates would look to the alcohol regulatory system as a model for pot! What happened to all those who say alcohol regulations are antiquated or an affront to personal freedom? Nevertheless, here are some of the elements from alcohol regulation that are being adopted for recreational marijuana:

1. First is the recognition that potentially harmful substances should not be sold in the commercial marketplace "like tires and mayonnaise," as a Costco representative once said. When the alcohol market has been deregulated as it has in the United Kingdom, consumption and serious problems have increased. In fact, those states that sell alcohol in state or state contracted stores may be a good model for marijuana because they mute some of the problems with commercial entities that push for high profits. In such a state system, the primary consideration is public health and safety.
2. Alcohol regulation focuses on market structures and licensees are given specific responsibilities designed to reduce problems. After Prohibition, there was a strong desire to avoid the market place problems of the past where large national manufacturers owned chains of retail establishments that sold alcohol very aggressively. This scenario created major social problems. To help states design regulations, John D. Rockefeller commissioned a research report called, Toward Liquor Control. In that work, the authors strongly condemned the Tied House system that bound manufacturers and retailers. The three-tier regulatory structure was developed to counteract tied arrangements. The three tiers are designed to operate independently to prevent a few large companies from dominating a local community. Within this system licensees have specific duties. Wholesalers are tasked with collecting the excise tax, tracking all products and operating according to fair trade practices. Retailers must ensure sales are not made to underage or intoxicated customers. Washington State has adopted a three-tier structure for its marijuana regulatory system. Colorado has taken the opposite direction by requiring licensees to be vertically integrated, that is do both growing, processing and retailing. The theory is that it's easier to control a company that does everything from "seed to sale." That may work as long as all "seed to sale" activities are in-state. Should that ever change, a different market structure may be needed. The reason is that it is difficult for one state to regulate what happens in another. Some level of federal regulation also may be needed. For alcohol, there is substantial federal regulation of manufacturing since most alcohol producers are multi-state and today are global companies.
3. Specific measures are needed to eliminate the black market and ensure a high degree of integrity and transparency from licensees. After Prohibition, a lot of effort was made to get rid of the criminal element. Licensing is required for any business working in the alcohol industry. To obtain a license, business owners are subject to criminal background checks and financial disclosures. Business activities are regulated and locations inspected. It took many



years to eliminate illegal alcohol and we still have instances of bootlegging today. The same will likely be true of marijuana. Illegal marketers can sell the product cheaper as they have no taxes and no real capital investment. They are not curtailed by regulations and can operate freely across state lines and national borders.

4. Pricing is critical. Free market advocates dislike any government effort to control price, but it has been critical for alcohol regulation. Prices that are too low increase consumption as it has in the United Kingdom. Prices too high incentivize bootlegging. In Colorado, the tax rate for medical marijuana is much lower than that of recreational marijuana. So, people have flocked to the medical side thanks to its ease of qualification. For alcohol, price is regulated through taxes and measures which prohibit deep discounting especially for volume purchase.

5. Limits on access help reduce problems. For alcohol, research has demonstrated that fewer outlets, curtailed hours and days of sale mean fewer problems. Over time the tendency is to increase outlets and hours/days of sale. This makes the regulator's job more difficult as it adds to the enforcement burden. Both Washington and Colorado regulate hours of sale; Washington controls the number of outlets, but Colorado allows local communities to do that.

6. Well-enforced age restrictions are critical. There was a time when alcohol age restrictions were not considered very important; and, they were very poorly enforced. Too many people believed underage drinking was just a rite of passage. But, then youth consumption and binge drinking skyrocketed. That coincided with new research on the adolescent brain which visually portrayed the damage caused by regular drinking. Now we understand that the same thing happens with adolescents who regularly use marijuana. Over the past four decades, we have made great strides in reducing underage drinking and other drug use except marijuana. Youth use has increased and now surpasses underage smoking rates.

So we need to take a lesson from the alcohol field that when adults portray a product as harmless, kids will act on that idea.

These are just some of the aspects of alcohol regulation that are common to both alcohol and the new marijuana regulation. Many challenges remain.

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