

WEEKLY REPORTS

Checklist
4/25/2014

Elizabeth Miller/Aly Richards

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

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

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

To: Governor Peter Shumlin
From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development
Date: April 25, 2014
Re: Weekly Report

LEGISLATIVE ACTIVITY

- **Budget:** The \$75,000 needed for the Domestic Export Program is on the Senate Appropriations wish list and is likely to be funded by the Governor's recommended increase for the Working Lands Enterprise Fund. The budget is expected to be voted out by the end of the week.
- **S.220** Is making the rounds in several House Committees. It is expected to be on the floor Tuesday Wednesday or Wednesday Thursday next week. With Beth's research and assistance, Lucy worked with the Committee on an amendment to the Vermont Training Program, and Fred has been providing testimony and work on the Governor's Enterprise Fund language.
- **H.809:** Senate Natural Resources voted it out of committee 5-0-0. So that is both Economic Development and Natural Resources have reviewed and passed the committee out unanimously. The bill is on the floor and Senator Baruth is reporting the bill.
- **H.823:** Senate Natural Resources finished their mark up and voted it out 4-1-0 with Rogers being the dissenting vote. Senate Economic Development will take up the bill tomorrow (Thursday).
- **Fee Bill:** With support from Laura T., testified on the request to raise the maximum fee for admission to the state owned historic sites from its current \$8. House Ways and Means modified our request from \$20 to \$12 and Senate Finance is considering. Also discussed the request to change the one-time fee for archaeology boxes from \$400 to \$500.
- **Landlord Education: H.239** and \$32,000 remains on the Senate Appropriations Committee's "wish list" for the FY15 Appropriations bill. Committee expected to vote the bill out by the end of the week.
- **Condemnation:** The House Government Operations Committee continued its consideration of **S.168** including disaster-related condemnation language. Jen is working in coordination with VLCT in support.
- **Shared Equity:** The shared equity language supported by DHCD is included in the Senate Finance Committee's current draft of the **Miscellaneous Tax Bill (H.884)**. It would set the value of limited equity homes at 60-70% of fair market value rather than "up to 70%" as passed by the House.
- **Reports:** With the Senior Management Team, compiled a list of reports and activities that would be required of ACCD by bills under active consideration. If all were to pass, ACCD would be tasked with no fewer than 30 activities and reports, some in collaboration with other agencies but many as the lead. Provided to the Agency of Administration.

LUCY LERICHE, DEPUTY SECRETARY

- **Taiwan Director General Anne Huang:** Lawrence, Lucy and Becky met with Taiwan officials to discuss trade and the continued strengthening of relations between our state and the country of Taiwan. Discussion

focused primarily on international trade agreements, in particular the TPP. We also discussed trade show opportunities and EB 5 among other things.

- **Vermont Yankee Process:** Working with Fred Kenney, Noelle will take the lead on setting up the process for putting the Vermont Yankee economic development dollars to work in Windham County. Our goal is to have everything in place to invite applicants for the new fiscal year.

Make Vermont Home: ACCD is working with members of the Governor's staff to resurrect this program that will target marketing to alumni of Vermont educational institutions with the goal of getting them to make Vermont Home.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Lisa Gosselin, Commissioner

- Franklin Foods has a plant in Casa Grande and is looking to reduce its energy and other costs at its Enosburg Falls headquarters. They are interested in any rate reduction or easing of the EVT charge as well as training for employees. Kiersten will play point and is following up.
- Lisa Gosselin and Ken Horseman attended BCIC's annual meeting in Bennington on 4/23. Speakers included Dimitri Garder of Global Z who spoke positively about the growth in the area, BCIC leader Peter Odierna and Kevin Dailey, HR director of Mack Molding.
- Lisa Gosselin met with Liz Herman of Kaman Composite and Dalton Blackwell, VP of Plasan North America. Discussed ways company and composite cluster could work together to grow. Herman is interested in working on wind turbines and other composite blades. Will connect them with the appropriate companies and will set up a separate meeting on networking and seeing if we can help in export marketing.
- Jeff Somple, president of Mack Molding, hosted Lisa Gosselin on a tour of Mack Molding and a meeting around frustrations and challenges he sees Vermont presents to the business (Governor's call report with details will follow). Business is booming and they hired 50 people last year and projecting another 25 to 50 hires in the next 12 months. There is potential for expansion in Pownal but Mack's South Carolina facility also has capacity. The plant manager from Arlington, VT's plant will be moving down to oversee that business (confidential) in September. Mack also has a strong internship program and will be spending approximately \$100K this year on hiring more than 21 interns. Mack is making a Taser testing machine it would like to see piloted by the Vermont police force as well as solar-powered street lamps. Will connect them again with PTAC to look for potential contracts.
- Lisa Gosselin joined Office of the Creative Economy's Lars Torres and VEPC's Fred Kenney at Incubators, Accelerators and the Creative Economy lunch at Arts Riot in Burlington on 4/18 with speaker Jason Della Rocca of Execution Labs (a Canadian incubator/accelerator for gaming and new media) as well as panel discussions. Cairn Cross of Fresh Tracks Capital (a speaker) proposed a 6 week accelerator program at Middlebury's renovated Breadloaf Campus. Am following up with Cairn, Lars and Middlebury on this. Also spoke with David Finney of Champlain about reaching out to Champlain alumni about jobs and business opportunities in Vermont. Finney said he would be happy to help and was open to sharing email lists. Jeff Couture shared Tapping Tech, a brochure that outlines Vermont's technology economy and which can be a good selling and recruiting tool for businesses.
<http://issuu.com/vtsda/docs/tappingtech3?e=1733525/7416866>.

- **Vermont Butcher Block – Williston:** The company has grown from a home-based business in 2004 to a manufacturing and retail operation employing 5 full time and 7 part time. They are experiencing steady growth for their wood products selling primarily to wholesale and retail customers in the U.S. Several large pending contracts would grow the company further if they come to pass.
- **Sunward – Shelburne:** The company has struggled to grow sales to primarily residential customers in Vermont. They have entered into an agreement with a Canadian supplier of a new parabolic collector technology that will allow them to grow into the industrial and commercial markets for high volume hot water users that are using more costly energy sources. They try to source from Vermont companies and are seeking a local manufacturer for the heat exchanger unit in their systems. They are in need of future training, and are seeking assistance in connecting with potential prospects. They expressed interest in PTAC assistance.

FINANCIAL SERVICES ♦ Dan Towle, Director

- **Vermont Captive Prospect Meeting held in Vermont:** Dan Towle, Director of Financial Services and Dave Provost, Deputy Commissioner of Captive Insurance spent the afternoon with a Chicago based captive prospect in Vermont last week. This meeting served as the formal meeting with the State as required to occur with a captive application. An application is expected in the next few months.
- **Interview by the *Insurance Journal*:** Dan was interviewed by this publication on the recent news of Vermont passing new captive insurance legislation. The article is expected to be published shortly.

OFFICE OF THE CREATIVE ECONOMY ♦ Lars Torres, Director

- **MiddCORE:** Scoping meeting with Middlebury College staff to better understand key initiatives under the Program on Creativity and Innovation and current pathways for students to pursue their startups. Pain point the college is tackling is seed/venture finance as an alumni engagement opportunity.
- **Lot 7:** Meeting with founder of new Middlebury coworking hub with a July 1 target to open. Looking to raise \$50k in cash to finance build-out, furnishing and related startup costs. We discussed a blended finance approach, though she'd rather find an angel.

VERMONT ECONOMIC PROGRESS COUNCIL ♦ Fred Kenney, Director

VEGI

- Worked with following companies on VEGI applications:
 - 1366 Technologies regarding Initial Application for May
 - Keurig Green Mountain on Final Application for April

OTHER

- Drafted outline of an MOU between ACCD and Quebec Federation of Chambers of Commerce.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Deputy Commissioner Hollar

- **LIHTC Awards:** With the rest of the VHFA Board considered nine applications for the annual allocation of Low Income Housing Tax Credits. A total of \$4.2 million in ceiling (9%) credits were requested for the \$2.8 available. The Board attempted to keep as many of the solid projects moving forward as possible. Awards were made to six projects. All have or will be applying for VCDP funding in the months ahead.

– Red Clover Commons (Melrose Terrace Relocation) in Brattleboro – 55 Units

- Summer Street in Barre – 28 Units
- Putney and Brattleboro Scattered Site – 25 Units
- Safford Commons (formerly Grange Hill) in Woodstock – 28 Units
- Green Street in Hinesburg – 24 Units
- Monument View in Bennington – 24 Units

HISTORIC PRESERVATION ♦Laura Trieschmann, State Historic Preservation Officer

Environmental Review

- **Townshend Dugrenier Solar Project, Townshend:** John Kessler filed a Motion to Intervene on behalf of the Division for this proposed 500kW solar project, which is located along the West River near VT Route 30 in Townshend, Vermont. The Division had received an archaeological report from the University of Vermont Consulting Archaeology Program in January that identified the entire project area as archaeologically sensitive and recommended that archaeological testing should occur before construction. The applicant's preliminary notice letter referenced the pending archaeological work, but their final application did not mention the report and testimony filed in support of the application stated that the project would have no undue adverse effect on historic sites. Our motion and attached comment letter reference this discrepancy and requests the Public Service Board allow our intervention work with the petitioners, Green Lantern Capital, LLC and Townshend Dugrenier Brattleboro Solar, LLC, to address the archaeological issues.
- **Essex Junction:** SHPO Laura Trieschmann and HP Review Coordinator Jamie Duggan visited the "5 Corners" intersection to assess the impacts of a proposed project, which is subject to Act 250 review, and located at the former People's Bank parcel on the corner of Pearl and Park Streets in the village. An informal meeting with Essex Junction Community Development Director Robin Pierce was held to discuss local approval of this particular project, a new roadway project intended to calm traffic at the 5 Corners intersection, as well as Essex Jct.'s emerging Master Plan revision. DHP staff have concerns about the size and scale of this development at the 5 Corners and the potential impacts to adjacent historic resources, as well as the visibility of this project from nearby National Register and State Register Historic Districts. Jamie and DHCD General Counsel Dale Azaria will be attending the Act 250 hearing scheduled for later this week.

CHIEF MARKETING OFFICE ♦Nancy Brooks, Chief Marketing Officer/Heather Pelham, Marketing Specialist

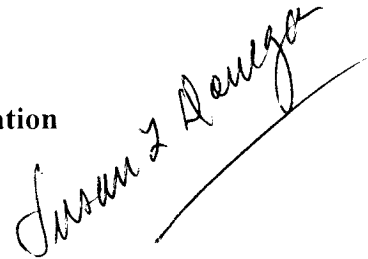
- **Business Registration Site/"One Stop Shop":** Nancy joined Alex Ibey and David Metraux at a meeting of DII, Tax, Labor and SOS to continue the discussion about expanding the SOS's Business Registration website and using it as a springboard for the "One Stop Shop" concept. General sentiment was that there was a collective interest in pursuing this project again, particularly since the Legislature was now pushing the idea. We agreed that DII should take the lead as project manager.

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

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: April 25, 2014
Re: Weekly Report



Captives Division:

Two new captives insurance licenses were issued this week. Number 2015 was issued to Active Minerals Insurance Co. of Cockeysville, Md. AMI is worldwide leader in the production and marketing of kaolin, which is used in the manufacture of china. It is also the world's largest supplier of clay products used in cosmetics, drugs, construction and oil drilling and minerals used in the production of glass.

Also licensed this week was Brazos Insurance Co., captive license number 2016, which is a subsidiary of Steward Title Insurance Co. of New York City. It will insure the parent company against the possibility of its agents' embezzlement or misuse of funds.

Staff members from the Captives Division will represent Vermont next week at the Risk and Management Society Annual Conference, which is expected to attract more than 10,000 attendees.

Securities Division:

On Monday, Commissioner Susan Donegan signed an order exempting SolarCommunities Inc. (d/b/a SunCommon) that relieves it from Vermont's securities registration requirements regarding its various group net metering solar projects currently under development throughout the state. The order was issued within 30 days of SunCommon's initial request for the exemption and eliminates the cost and time SunCommon would have otherwise incurred by having to register. The department is working on a general order that would apply to all future group net metering solar projects, which would greatly reduce the regulatory burden on all solar developers.





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**CONFIDENTIAL AND PRIVILEGED
MEMORANDUM**

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: April 26, 2014

Happy Sunday all!

Any typos and edits are mine, alas.

Legislative Updates

Governance/Right-sizing

Aly, I felt like we were the Bobbsey twins this week with Tim Ashe and Phil Baruth, so you don't need much of a recap on that. The short version is that Ashe still seems to want me to play Keystone Kop, chasing down miscreants in districts to make them pay back the Ed Fund. I am going to write him separately about the need for us to position ourselves in a support and service role, not an enforcement role, if we want to actually help schools improve. I think Ashe's game of footsie on the governance issue is as much about making a point to/about Senate Ed as it is about issues. He is correct that Senate Ed should be taking the lead on this. The good news is that Baruth seems to be rising to the challenge. I think Baruth will enjoy crafting language for a policy statement on PK-16 districts—he prides himself on nuanced writing. His eyes lit up also at the idea of construction aid for REDS. Apparently the NEA has been pushing to launch a campaign to end the construction aid moratorium. This may work to our advantage, however, we will need to watch that carefully as how it is worded could make it a fund breaker. I am getting some pushback internally in the AOE on linking aid to proposed savings in consolidated budgets. This may be because of the difficulty of that process and doing it accurately and in a timely way. We are still engaged in an active email exchange and should have language by tomorrow morning.

From Senate Education discussions, re" H. 883 and H. 889

1. Reps. Tristan Toleno and William Stevens presented a compromise governance proposal to Senate Ed consisting of a compilation of ideas and amendments from House committees. It essentially came down to a two-phase process. Phase I would be the working through questions, defining roles and duties of S.U.'s versus boards, continuing the R.E.D. process, and simulations on the effects of moving to one district. Phase II will be taking what is learned with a design team developing criteria.
2. Senate Ed was interested in the simulations and the Ashe ideas of delineating clear S.U. versus district roles.
3. Sen. McCormack planned to focus on H. 876 (Misc. Ed.) but may add some governance amendments to it. He is still expressing doubt this will go far, but this may evolve if Baruth is fired up.

Some other notes from folk who sat in Senate Finance, re: H. 889 as passed by the House

1. The committee does not want to use one-time money to lower the base education tax rates.
2. They do not want to move the household income percentage to 1.90%.
3. They do not want to extend the tax credit slope for households with incomes of \$90,000 or greater.
4. They have not yet suggested base tax rates or an income percentage.
5. They are fine with lowering the renter rebate from 21% of rent to 19%.
6. They are fine with phasing out small school grants starting in FY19.
7. They are fine with anchoring the excess spending threshold base to FY14 and inflating that annually.
8. They are fine with removing the fast-growth ADM provision in the equalized pupil calculation.
9. They are fine with phasing out the Vernon base education tax reduction starting in FY16.
10. They are OK with the appropriation to AOE for a consultant to work on the accounting manual, business rules, training, etc. and for the addition of a position within AOE to do the associated work.

Emerging issues:

College and Career readiness/Flexible Pathways/Personalized Learning Plans

The legislative session has placed our attention on governance, not education per se. As the session closes, we want to get back to messaging about education, teacher quality,



learning and the role we play in preparing young people for college and the workforce of the 21st century.

With respect to the Governor's focus on jobs and the economy, we will increase our messaging around career readiness, for both kids who do and do not go to 4-year college programs.

As part of this, we continue to support implementation of Act 77 (Flexible Pathways). Concretely, we want to support schools with a state-wide, web-based platform that will support the Personalized Learning Plans (PLPs) and comprehensive planning for each student around college and career readiness goals. Recently, we have been partnering with VSAC to figure out how to provide a statewide solution for schools to assist in the delivery of high quality career planning and personalization of the learning opportunities. Later this week, we expect VSAC to announce the selection of a tool that will be available to all schools statewide and which includes the essential elements defined by the VT PLP Workgroup.

Burlington PILOT issue:

There was an article this morning in the Free Press about the Burlington PILOT issue. At least this is now on the table, prior to the budget vote, if not elaborated. The key points in the article were:

- "School Board members said Thursday, but some have questioned whether that use of payment in lieu of taxes funds violates state law. With the current and proposed budgets depending on the funds, the school district met with the city to get a plan in writing"
- "We were not comfortable building a budget that assumed PILOT funds without an actual commitment from the city that we were going to get them," said School Board Chairman Patrick Halladay.
- The upshot: Burlington will continue sharing the payment in lieu of taxes funds through at least fiscal 2015. But in the event of a state ruling prohibiting Burlington from making the transfer, the School Board is now on record saying it would be responsible for returning funds to the state.
- "The city talked with us about it," Finance Committee Chairwoman Miriam Stoll said at the meeting. "Both parties at this point believe it's unlikely that the state will come back and determine that this is inappropriate."



The fundamental issue, we think, is whether the district is violating the law in 16 VSA § 4029 (b):

(b) Funds received by a municipality other than a school district may not be used directly or indirectly for education expenses.

The PILOT lowers the PPE by about \$350 and therefore the homestead tax rate this year by about 3.6 cents. Theoretically, the utility rates would go down, so ratepayers are subsidizing to that extent. Note that ratepayers and homestead payers aren't the same. The biggest ratepayers are likely the biggest users, i.e., businesses, hospital, UVM, etc. Businesses also pay the nonresidential state property tax, so they might not like the fact they also contribute on the homestead side. Lots of issues here that we have not had time to fully think through. This is not over.

Smarter Balanced Assessment Consortium (our new standardized test)

At the beginning of January, I wrote a letter to SBAC questioning some of their claim labels (e.g. normative labels they will assign to students based on their performance based on a very small number of test item). Back in March, I pressed both Secretary Duncan and the SBAC leadership to work on a white paper outlining appropriate and inappropriate uses of test scores under high stakes conditions. I have read the work of several members of SBAC's technical advisory group, and know they would not support the use of test scores for the purposes supported by Secty. Duncan. Joe Wilhoft of SBAC also told me off the record that he agrees that Federal policy is mandating inappropriate uses of these scores, and agrees they would be particularly problematic in a state like VT, where we have many small class sizes. SBAC is unwilling to say this publicly however, because that would jeopardize their contract with US DOE, and my fellow secretaries seem largely unwilling to say so, because they have drunk deeply of waivers and Race to the Top Funds, and would have to regurgitate and return those resources if they now declined to adhere to commitments to Secty. Duncan.

We are watching with interest the situation in WA and TN, where legislatures have banned the use of high-stakes test scores for teacher evaluation. Unfortunately, I think the WA Gov has played it badly. TN will be interesting because we assume they will have to return funds.

Why bring this up now? I have to go to an SBAC Chief's session in Minneapolis next week, where I will be asked to vote on all kinds of things that I don't think we can vote



on, given SBAC's lack of responsiveness and the unwillingness of those who know to speak to inappropriate uses of test scores. We are too small a state to have much impact behind closed doors. It was only after CA DOE interceded on our behalf on that I got a letter from SBAC agreeing to discuss internally whether there was a way to respond to my request for a white paper on appropriate and inappropriate uses of test scores under high stakes conditions. Politically, this would be a huge win. Linda Darling Hammond and Ed Haertel, both the technical advisory committee, would not be able to support the high stakes purposes outlined for the SBAC scores in Race to the Top, for example.

I have to say, when I go out into schools and community meetings, no one says we should not test, but the biggest win I get is when I challenge excessive reliance on high-stakes test scores to evaluate kids, teachers and schools. People know the measures are useful but fallible, and they feel and can articulate why giving them too much power is destructive to schools. I think we get a lot of support for pushing back on SBAC and US DOE on this. I also think US DOE is weakening now—the waivers are causing conflict across the country around the use of test scores to evaluate teachers. My guess is Arne Duncan will just try to hold on and keep his head down until after the election, but I am pretty confident the next administration will approach school accountability in a different way. I would like to continue to sow doubt around inappropriate uses of test scores before then, as a way of laying the ground for ESEA reauthorization by congress/a more Vermont-friendly approach to federal accountability.

The good news is that Bill Mathis is highly invested in this issue. I have already spoken to Stephan Morse about having the SBE write SBAC directly itself, and about having the SBE approve some language around appropriate and inappropriate uses of test scores under high-stakes conditions. Bill understands the technical literature, and could write a great letter on this. Having him focus on this might also leave less time for him to help the Times Argus write op ed columns about governance or make the case that the educational benefits of class sizes of 5 (he has not shared the evidence with me yet) justify the incredible expense.

Blog by Governor for AOE website?

Would the Governor be willing to write a very short blog for our website around the appropriate uses of testing? We will have a range of commentators write short pieces. Since the Gov has spoken so openly about his own early learning challenges, we are hoping he would be willing to share his story again as an example of why relying on a single measure to predict potential is a bad idea. It could read something like this (note liberal cribbing from other sources):



When I a kid, my mom sometimes worried that I might struggle to find a job when I grew up.

Schoolwork was not easy for me. I learned differently than many of my classmates. When I was in the second grade, my principal called my parents and me to the office and told us what I already suspected: that despite all their good efforts, my teachers could not teach me how to read. The prospects of my being a successful student and going to college were dim, they were told. That was not a great day.

I was lucky. I had a teacher named Claire Ogelsby who refused to accept my apparent inability to read. After school, Claire loaded me into her Willys Jeep and took me to her log cabin deep in the woods on Windmill Hill Road in Westminster West. In warm weather, we sat on her lawn; in cold weather, we huddled around the woodstove. No matter how difficult the challenge, no matter how innovative she had to be or how hard she had to work, Claire Ogelsby never gave up on me. Therefore, neither did I.

As we move to a new standardized test, the SBAC assessment, I hope Vermonters will keep my own experience in mind. When I was a kid, federal policy did not encourage states to grade teachers based on their students' test scores, so that teachers who taught lots of kids like me would end up getting labeled ineffective. Federal policy back then did not require that we test every child in every grade 3-8 and in HS and label them "not proficient" or "proficient". If that had happened to me, it might have discouraged me from reaching high and pursuing ambitious goals. I still don't test well, and I suspect I never will. Schools need good test data so they can assess whether their efforts to be more effective are paying off, but I suspect there are many kids in our schools today who don't test well but who will still grow up to be Governor or entrepreneurs or tech designers or farmers who harness technology to make their farms thrive in the 21st century.

As a state, let's focus on using all the tools we have to help all children learn better, but let's not get sidetracked with labeling and ranking. In my case, I think my experience suggests that while test scores are useful for overall snapshots of how kids and schools are doing, they don't always tell the whole story, and this is particularly true in individual cases. Most importantly, Clair Ogelsby wasn't interested in just judging how well I could read. Instead, she was deeply invested in helping me learn to read better. If she was a young teacher and being evaluated based on my test scores, I wonder if she would have kept her job long enough to teach me to read. On the other hand, she did teach me to read, and I am forever grateful to her for it.



Support work for right sizing

I convened the VSBA, VPA, VSA, and VSBIT to talk about how to support districts that want to right size. Fortunately, they have taken this and are running. We can use the extra hands. Our collective sense is that there is a lot of knowledge about how to do this work, but it is not transparent and accessible. We hope to make this knowledge transparent, so local voters can see the diversity of decisions that districts make when deciding how to govern themselves. We have begun the work of developing a guide. I would like to host this on the AOE website at some point, and make it interactive, so that it is more accessible. We will include several models of articles of agreement, timelines, resources, and hopefully sample budgets so people can see some of the decisions and trade offs they will face. We hope the Senate will add a little support for this to any governance bill. That would go to hire someone to pull it together and format it in an attractive way for public use. I think the broad partnership is useful, because it reinforces this is not a concern isolated to the AOE.

Community forum in Danville/with Danville School Board with Kitty Toll, Jeff Francis, Steve Dale and Ken Page.

Kitty Toll had contacted me a month ago to see if I could come to a community forum in Danville about the future of their school. On paper, this is exactly the kind of district that could most benefit from the kinds of changes the current governance conversation seeks to bring about. The fundamental economics are not on the side of these small towns, and they are still fighting the wrong straw man. For your entertainment, here is a sampling of questions I was asked:

“Why are you trying to kill private schools?”

I guess the person who asked this hadn’t read about the role my S.91 testimony apparently played in getting that bill on ice. This one I choose to answer by saying that I am not the threat to private schools, but declining enrollments are, and what we see across the state is that good, large independent schools like the historical academies will continue to thrive, but weak ones with low enrollments are struggling, and that has nothing to do with governance structure—they are more like their public peers than they think. I also got to talk enthusiastically about my upcoming visit to St. Johnsbury Academy to help serve as a judge for their senior project presentations.

Why is Montpelier making all these mandates that kill our schools?

One community member asked me why I was making his district spend \$200k on the common core curriculum. After I reminded him that the Common Core is



just a set of aspirational goals, and curriculum is a local matter, he seemed pacified. Others pointed to the 7 cent increase on the tax rate “from Montpelier” as evidence that the legislature is responsible for this problem. For a variety of reasons, voters don’t understand that projected increases in the Ed Fund and tax rate reflect the budget projections Boards send us prior to the vote. One problem with the legislature’s annual dance around using one-time funds to lower the tax rate is it fuels the idea that the legislature controls the tax rate, not the local districts. It creates the impression that “Montpelier” could solve this problem if it wanted to, while not making transparent that using one-time funds is just kicking the can down the road.

The “field of dreams” question: what can you do to help us build a school so that our numbers stop declining?

Kitty Toll posed this one, the day before she voted against 883 and a day after she told me she was pulling her kid out of Danville and paying tuition to St. Johnsbury because the Danville program was inadequate. The ostensible purpose for the forum was to bring people together to work positively to create a future for the Danville school. A reality is that this may not be something they can do by themselves, and on paper, it looks like they are losing the battle for their high school. Blaming Montpelier, as some in Danville do, is not going to fix this school. I keep thinking of all those retiring Baby Boomers and the impact that will have on the general fund, and all that excess capacity in buildings across the state. The good news is that around the state we are starting to hear voices that we need to begin taking the issue of right sizing more seriously. The conversation in the legislature is beginning to move the conversation in the field. We need to keep the pressure on.

Questions:

Is there anything you want us to prioritize or do differently? We welcome feedback and direction.

Also, is there an Agency that you feel manages resources particularly well? Engages in better budget building processes to ensure resources are aligned with mission? That is capable of efficient and on demand forecasts and other reports that aid financial management and decision making by directors? I realize this requires building an accrual system on top of the required cash based system, but better access to current financial data seems essential. I would love to learn from someone who does this well within the state system, as I think we could do better.



Rebecca



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To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Apr 25, 2014
Re: Weekly Report

Status of Governor's Priorities: .

n/a

Legislative Issues/Contacts:

I exchanged a few messages with chairpersons of both Appropri. Comms regarding proposed FY15 budget for VCPG (problem gambling). No indications of any interest in raising the grant funding amount up to meet their budget (\$260K vs \$150K). Also sent comments to about final language on H631 to Rep Brennan and Sen Mullin. No response received. Fee Bill – I answered a few questions regarding our application fee which we have asked to raise from \$15 to \$50. This one time fee is used to cover costs for approving an agent's license application. No concerns were expressed.

Press Issues/Releases/Contacts:

n/a.

Significant Events/Meetings:

n/a

Evolving Issues:

I will be attending the annual VCPG conf in Fairlee, VT on May 5-6.

Summary of Key Agency Department Activity:

Next Thursday, May 1 we will be giving away a car at Lamoille Valley Ford in Hardwick. 10 players will all attempt to start a car with one being successful. TV & radio coverage is planned.

Executive Director's Commentary:

We are busy working on contracts & amendments for our gaming vendor, Intralot, and some licensed property providers for instant tickets. We are also preparing technical documents for the design of new vending machines.

OFFICE OF THE SECRETARY

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Executive Privilege

TO: Governor Peter Shumlin

FROM: Deputy Secretary, Sue Minter

DATE: Friday, April 25, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Spring Paving Plan

We have developed a bold plan for a Spring Paving Initiative to address the terrible state of our roads following the harsh winter. This effort (which Brian has entitled: "Fast Fix '14") entails spending approximately \$14.4 million of state funds to address approximately 145 miles of state highways in addition to the 230 miles of federally funded paving as part of the FY '14 Capital Program. This additional state funded effort includes a combination of various pavement treatments along with the purchase of four heated drum asphalt recyclers. This equipment is designed to provide more durable material to patch potholes during all seasons by using recycled pavement materials. The 375 miles of pavement conditions on the interstate, state and Class 1 Town system that are being addressed by VTrans during the summer of 2014 represent the highest number of paving miles in the past decade.

You will be publicly unveiling this effort in a presser on May 2nd, which will include both the legislators (who gave us authority within the BAA and T-Bill) and Senator Sanders. Following the presser we will take you (along with Bernie, Brian and others) out to a road site to both patch and litter pick (for Green Up). We are including Sanders because a significant portion of the funds (\$5M) are the direct result of his efforts following TS Irene, inserting language into the Fed. Trans. Reauthorization enabling states to receive a higher federal cost share for disaster related expenditures when a certain threshold is reached (see details below). Knowing that this threshold is now in sight, we will be receiving a "windfall" which we plan to dedicate toward this spring paving initiative.

This is an opportunity to again thank our VTrans team for their hard work through the winter, discuss the decision to devote these unanticipated funds toward our road problems, and to again push the feds to fill the Highway Trust Fund – to keep people working and our economy moving. Knowing you may get asked about the federal funding insecurity (which we discussed in a recent presser), we have strategized about our current approach/plan for action given the pending insolvency. We anticipate that FHWA will begin a "slow down" of their expenditures beginning in July, by reducing states' weekly reimbursements by (potentially) a third. We assess

that this will result in approximately \$5M weekly that will need to be paid by our State Treasury. We are consulting with the State Treasurer's Office, as well as Jeb and Jim. Our approach (from a public messaging standpoint) is to: keep people working and not let Congressional inaction put our people out of work or our economy at risk. We hope you concur with that approach. Note that the state treasury will have to shoulder the cash flow, and we understand they are able to do this for a few months. However, if this problem is not solved by the fall, we may be in a difficult situation. It is our belief (based on conversations with our Congressional folks) – but it is an assumption only – that they will fill the hole, eventually.

Legislature

The T-Bill is under review and a bill signing being developed. Our Transportation Improvement District bill ("fair share") is poised to advance out of Senate Finance, due in large part to the support and assistance of Senator Mazza. The DMV Miscellaneous bill remains "on the wall" in House Ways and Means.

NAFTANEXT Conference

Brian is attending a conference called NAFTANEXT sponsored by the Coalition for America's Gateways and Trade Corridors in Chicago. He is attending as a representative of the I-95 Corridor Coalition (89, 91, and 93 are part of the corridor) and presenting NAFTA traffic impact data from the perspective of a northern border state.

This is primarily a business group, CEOs of large firms like UPS, APL, BNSF Railroad, Johnson Controls and others, but US DOT and Commerce are well represented to include an appearance by Secretary Foxx. Major business associations from the National Association of Manufacturers to the US Chamber of Commerce have been decrying Congress in their remarks for failing to act on the Highway Trust Fund. It is clear that trade between and among Canada, Mexico and the US is growing fast (6.4% last year) and will continue if lack of infrastructure doesn't get in the way. Our partners to the north and south are also there, including both Ambassadors.

Presidential Climate Task Force

Task Force activity is increasing as the next meeting approaches (May 14th in Des Moines). We have been actively developing recommendations, fielding inquiries and hosting conference calls with the Sub Committee that I co-chair (with Colorado) addressing the Disaster Management process. In addition, a delegation from the White House/ CEQ team is coming to Vermont on May 1st. We are working with Aly on this event which we see as an opportunity to both showcase the important work your administration is doing regarding climate resilience (broadly defined) such as major expansion of renewables and efficiency, etc., as well as to share the issues and lessons from Irene (that underscore some of our recommendations). The visit will feature a tour, with you and media, to visit some of the Irene hot spots, including buy-out properties and infrastructure damage. The destination of the tour is the GMP Energy Innovations Center in Rutland. Following media tour and availability, there will be a Round Table discussion with key leaders on the issues related to the Task Force.

NOTES FOR STAFF

Federal funds "Windfall" for post Irene expenditures

We are approaching the threshold for a special "windfall" of funding thanks to Vermont's Congressional delegation (lead in this case by Senator Sanders who was on the committee of

jurisdiction) who were successful at including increased cost share provisions into MAP-21 for the FHWA ER Program that will yield a significant benefit to Vermont. Sanders and his staff worked hard to secure passage of the legislation and later to obtain a favorable interpretation of the language by the FHWA for Vermont. The language caused some very complex legal and accounting interpretation issues, and due to the persistence of Senator Sanders and his staff, a favorable outcome resulted. Senator Sanders actually spoke with then Secretary Ray LaHood several times about the issues.

The special provisions provide for an increased federal cost share for permanent work provided certain threshold criteria are met. The MAP-21 revision permits an increase in the Federal share to 90 percent for permanent repairs if eligible ER expenses resulting from a disaster(s) exceed the State's combined annual Federal-aid apportionments under 23 U.S.C. 104 for the fiscal year when the disaster(s) or failure(s) occurred.

The threshold for Vermont for Irene and Spring 2011 is approximately \$150.6 million and Vermont is poised to reach this threshold, making us eligible for the increased Federal share. While we have not reached the threshold, we are confident this will happen once the construction season is in full tilt. For this reason, we are budgeting to use these extra (unanticipated) funds toward the Spring Paving needs that our roads now need.

The estimated benefit to Vermont based on expenditures to date is approximately \$5 million. Permanent repairs are ongoing and are expected to continue for several years, so the eventual savings for Vermont could approach \$9 million.

DMV News

Identity Theft Indictment

This case was investigated by the Vermont Department of Motor Vehicles.

The Office of the United States Attorney for the District of Vermont announced that Brian Wyer, 39, a native of Ohio, pleaded not guilty today in United States District Court in Burlington to charges of identity theft. U.S. Magistrate Judge John M. Conroy ordered that Wyer be detained pending trial, which has not been scheduled. According to the indictment, in June 2012, Wyer came to Vermont and fraudulently obtained two non-driver's identification cards in the names of real persons who actually lived in Ohio and Kansas. Wyer allegedly then went to Massachusetts, opened bank accounts in the names of the individuals whose identities he had assumed, and defrauded a bank there of about \$75,000. Since last summer, the United States Marshal's Service had been actively hunting for Wyer throughout the United States. Marshals eventually captured Wyer in Chicago last month. If convicted, Wyer faces up to 15 years of imprisonment and a fine of up to \$250,000. The actual sentence would be determined with reference to federal sentencing guidelines.

Cross Border Motor Coach Safety

DMV Enforcement and Safety Division participated in a one-day conference organized by the Motor Coach Association of Quebec and Controle Routier Quebec to provide training on U.S. hours of service regulations, among others. Over 100 drivers representing 40 Canadian carriers were in attendance. The training is reflective of DMV's continued outreach to our Canadian partners, and we look forward to future training opportunities to ensure motor coach safety across borders.

Aviation

We are submitting a grant this week to the FAA for the Newport runway extension in the amount of \$12.5 million and for the Rutland runway extension in the amount of \$11 million. Both of these projects are critical for the economic development plans for their regions and we are cautiously optimistic we will receive funding from this competitive grant process. We have yet to receive all of our permits from ANR but they have been working cooperatively with us and have been very helpful in assisting VTTrans in meeting our grant application deadline.

National Train Day is on May 10 and will be held in Rutland this year. Secretary Searles will be headlining the event and there will be train rides.

Negotiations between Greyhound and Premier Coach are down to one remaining item and we anticipate that the intercity bus service from Burlington to Albany via Route 7 and from Rutland to White River Junction should start in mid May. Greyhound has been a challenging organization to do business with but we are saving state expenses by coordinating our services with their terminals.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: April 25, 2014

Vermont Department of Health (VDH)

FY2015-2017 Combined Community Prevention Grants Awarded:

On April 18th, the VDH announced the FY2015-2017 combined community prevention award recipients. Twenty grant applications were received and reviewed by external and internal partners. Based on factors such as an applicant's proposed reach, capacity to do the work, and the VDH's funding availability, 18 applicants will receive funding. A total of \$1,524,297 will be awarded to communities, with grants ranging from \$45,000 to \$150,000.00.

Department of Mental Health (DMH)

Senate Appropriations:

Senate Appropriations expressed concern about the number of staff who will be hired for the Vermont Psychiatric Care Hospital (VPCH) in Berlin. There has been discussion of reducing the number of administrative staff for the new hospital. On advice from Senator Snelling, DMH sent a memo to the Committee detailing the justification for the staff as well as a report from Kevin Anne Huckshorn, Commissioner of Delaware's Department of Mental health and an acknowledged national "expert" on the subject.

The United Counseling Service (UCS) of Bennington County:

UCS reported that a CRT client was shot by police. He is currently listed in stable condition. A report will follow.

Department of Disabilities, Aging and Independent Living (DAIL)

Developmental disability advocates continue to voice concern about ACO model:

Rep. Fisher has invited advocates to present their concerns about ACOs before House Health Care Committee and has asked DAIL to testify as well. We are coordinating with the Governor's Health Reform Advisors. A previously scheduled hearing for May 1st has been cancelled and has not yet been rescheduled.

H.555, the traumatic brain injury bill, poised to pass out of Senate Judiciary:

The bill provides that a court may order an examination of a defendant when there is a question of sanity or competence due to traumatic brain injury. This significantly provides that a person with a traumatic brain injury (TBI) may be committed to the custody of the Commissioner of

DAIL if s/he presents a danger of harm to others, and for whom appropriate care, custody and habilitation can be provided by the commissioner in a designated program. Most importantly, the bill contains a \$50K appropriation for DAIL to research and design such a program. We are trying to delay implementation to 2017. As it currently stands, the bill takes effect July 1, 2015.

Senate Health and Welfare passes H.728, An act relating to developmental services' system of care, with surprising new language:

The Senate Health and Welfare Committee passed a bill requiring the Department to submit portions of the system of care plan to administrative rule making and dropping the summer study committee. These are positive outcomes. Astonishingly, on the last day of four days of testimony, they also amended the current DS law to read that the Commissioner is not to be bound by available resources in constructing the system of care plan. Senator Ayer later asked to change the permissive “*may* consider available funds” back to the original “*shall* consider available funds”. Her request was approved by the Appropriations Committee.

Disgruntled VSEA employee sues State of Vermont in Superior Court:

John Howe, an employee of DAIL/VR, who is under investigation for misconduct, filed suit under the whistleblower law alleging the investigation (for behaviors he has already acknowledged occurred and are in violation of policy) is in retaliation for his criticism of his leadership. Named in the suit are Jeb Spaulding, Kate Duffy, Susan Wehry, Diane Dalmasse and John's supervisors Mark Ciaccola and Betsy Choquette.

Department of Corrections (DOC)

High Profile Arrest

On April 20, 2014, Offender David Godin was arrested and charged with the following: INTERFERE W/EMERGENCY SERVICES, BURGLARY, ATTEMPTED MURDER 2ND DEGREE and UNLAWFUL MISCHIEF-M. Mr. Godin was released on parole on 4/7/2014. He is currently being held without bail. This case has generated media interest.

Population

The department's incarcerated population averaged 2,140 for the previous week. The male population averaged 1,968 with 349 being presentenced inmates. The female population averaged 172 with 46 being presentenced inmates.

Department for Children and Families (DCF)

Reach Up Program Time Limits are here:

On May 1st, the Reach Up program is prepared to implement the time limits legislation. Approximately 625 households will have received 60 or more countable months of assistance as of May 1st. Case managers sent out appointment letters to all of these households in March and have been meeting with the families to discuss the new program requirements for continuing eligibility after 60 months. We estimate that of these 625 households, roughly 92 will have their assistance terminated in May for noncompliance with program requirements. An additional 275 households are estimated to reach 60 countable months of assistance through December 2014.

District offices have processes in place to ensure that 60+ month participants are engaged in a community service placement or other countable work activity for the number of hours necessary to meet the work requirement.

The current caseload for Reach Up and related programs is 6,207. The average length of time a family received Reach Up assistance is 36 months.

Department of Vermont Health Access (DVHA)

Brattleboro Retreat (BR):

DVHA has presented the Retreat with a proposed settlement agreement regarding denied reimbursement for inpatient stays. The agreement proposes:

- Payment by DVHA of \$200,000 for denied days over the past 2 years.
- Use of the American Society of Addiction Medicine (ASAM) criteria as the recognized standard for determining appropriate level of service for substance abuse and mental health services.
- Payment at full inpatient rates for anyone meeting the ASAM criteria for inpatient stays and payment at DVHA's sub-acute hospital rate for anyone not meeting the criteria.
- Collaboration between DVHA and the BR on implementation of the criteria including decisions about the appropriate application of the determination of "imminent risk" and consideration of the availability of community based services.

On April 24th, the parties continued to negotiate and the Retreat has committed to sending a new proposal by Monday.

Vermont Health Connect:

Major Accomplishments for the Week:

- Contracting: Route Maximus Amendment for signing (extension for another year of current work, with oversight and quality changes)
- System Fixes: Promoted ability to provision users to have access to the "Change of Circumstance" button (Enables Add Dependent, and Change of income). This will increase the speed to make these changes.
- Carrier Testing: All carriers confirmed support of the implementation of the next deployment.

Major Issues and Risks:

- Small Business Open Enrollment: Proposed CMS rules would limit Vermont, with our merged market, to an open enrollment for small businesses that matches individuals (November 15, 2014 – February 15, 2014). This is a major risk to a successful open enrollment as it pushes the timing to later. We submitted official comments to the rule and are working on an advocacy strategy.

- Duplicate E-payment: Identified a population (under 150) that is being charged multiple times via e-payment. Identifying root cause now.
- Interim Change Process Resources continue to be an issue for completing the backlog of work. ESD has indicated that our request for 10 additional team members may be able to be met, but not likely for a few weeks.
- Next release (Package 2): Some activities on critical path have a start date in the past, but low or no % complete. Additionally, need time for documentation of standard operating procedures and business processes to support training.
- Small Business Release (Package 3): We still have little to no visibility into the plan or its efficacy

Hepatitis C - New FDA Approved Medication:

Sovaldi is the newest medication that has recently passed FDA approval for the treatment of Hepatitis C (HCV) infection. This medication has shown high success rates for those patients with advanced HCV. DVHA's clinical, fiscal & legal/policy team has crafted a more entailed brief on the cost, legal and policy implications of the medication. The estimated cost to treat one patient is from \$74,000.00 to \$150,000.00. VDH has estimated roughly 15,000 Vermonters with 671 new cases voluntarily reported to VDH in 2013. To date, 11 requests for Sovaldi have been approved. The potential financial impact on Medicaid is unknown at this time, but the potential impact of Sovaldi to Vermont could range from \$40M to \$244M (gross). Currently, DVHA's Drug Utilization Review Board has advised all requests for the medication be clinically reviewed by the Medical Director in collaboration with prescribing physician.

High Tech Program:

Children with Special Health Needs (CSHN), VDH and DVHA have been working with Home Health Agencies to ensure that all children on the High Tech Program are receiving the services that they are eligible for. CSHN and The High Tech Program, in collaboration with the home health agencies, are re-assessing all children for level of services needed. Those children who require less high-tech (nursing) hours will be placed in lower level services if they qualify. The Deputy Commissioner and Medical Director from DVHA will be communicating with advocacy groups to disseminate this and to ensure that needed services are being delivered with clinical standard, while being financially responsible.

Global Budget:

DVHA representatives met with leadership from Rutland Hospital and the Green Mountain Care Board on Wednesday to discuss the feasibility of implementing a "Global Budget" pilot project on October 1, 2014. A number of open questions were raised and DVHA is exploring options and doing due diligence on the feasibility. They plan to meet with the GMCB in two weeks to discuss their findings.

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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: April 25, 2014

Secretary's Top Issues

H.112 GE/ GMO House Agriculture- Tim Schmalz

H. 112 passed from Senate last week. Senator Sears' testimony on the special fund, and the report on the dairy exclusion. Committee review focused on:

- Reasons for the special fund, and inputs Senate Judiciary solicited (including AG Sorrell input)
- Dairy exclusion review in order to ensure VT is not unfairly favoring one of our major industries
- Rep. Ralston wanted to know why the new bill no longer has a specific exclusion for organic production, which is now captured by the section on AG review of independent organizations verifying non-GE status of products
- Is this a pre-emption issue?

Committee agreed the final vote would occur after House Judiciary has had a chance to review the bill and especially the fund section House Appropriations reported that they are OK with the fund mechanism in the Bill (Rep Heath reporting). House Ag approved the Senate version by a preliminary voice vote (8-1, 2 abs.), and will wait for the Judiciary committee report.

H.112 has now passed through completely.

Unlicensed Livestock Dealers

Animal Health staff is following up on reports of unlicensed livestock dealers; names provided by a licensed dealer and also through evidence of ads on Craig's List.

Agency of Ag/ANR Lab development

The Capital Construction Adjustment bill as passed by Senate Institutions includes the 300k for siting and preliminary design. Agencies are optimistic that all continues to progress to final passage with current language offering workable timeline for reporting and site location. AG and ANR staff meet bi-weekly with BGS project managers to further define programming, space requirements, and shared resources.

Key note presentation to students at Eat Real Week at Middlebury College

Local Foods Administrator Abbey Willard presented on Thursday April 24th during Eat Real Week, a weeklong celebration of "real food" at Middlebury College campus, to college students, faculty and staff about "Beyond the simplicity of purchasing local: How building local food systems is encouraging change in our communities".

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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: April 25, 2014

Status of Governor's Priorities:

Legislative Activities and Issues

April 22, 2014

H.112 GE/ GMO House Agriculture- Tim Schmalz

H. 112 passed from Senate last week. Senator Sears' testimony on the special fund, and the report on the dairy exclusion. Committee review focused on:

- Reasons for the special fund, and inputs Senate Judiciary solicited (including AG Sorrell input)
- Dairy exclusion review in order to ensure VT is not unfairly favoring one of our major industries
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H.112 has now passed through completely, as I'm sure you've noticed.

H. 448 Primary Ag Soil- Senate Natural Resources- Stephanie Smith

Hannah Smith, Legislative Counsel, walked the language proposed by Ron Shems of the NRB. The committee wanted to see the proposed language in the context of the bill and asked counsel to work on this. There was a mention of the need for statewide planning to further the preservation of primary agricultural soils.

The committee, however, discussed whether the bill should "require" onsite mitigation when specific conditions exist, rather than instructing the district commissions to "give preference" to on site mitigation when the same conditions exist (page 7 of bill).

Other discussions included whether off site or a combination of on and off site mitigation may be allowed if the four specific conditions exist linking each condition with an "and". This would make it more difficult for a district commission to allow off site mitigation or a combination of on and off site mitigation. However, it is possible, that no onsite will be allowed either, possibly creating a vacuum of clear direction to district commissions in the bill.

April 23, 2014

H. 329 Current Use Senate Natural Resources- Stephanie Smith

Senate Natural took up current use and voted it out at 12:30 today. They took testimony from Tax Commissioner Mary Peterson who outlined administrative issues with the bill out of the Senate Ag. Put Blodgett Forest Products Assoc.; Steve Mcleod representing the Vermont Traditions Coalition; and Brian Shupe, VNRC also testified (written testimony provided). Stephanie Smith for the Agency of Agriculture reiterated Commissioner Mary Peterson's comments that the Agency is currently not in a position to undertake a rule making process or assembling a program to ensure that enrolled lands are in agricultural production (this is outlined in Section 10 of the Senate Ag Bill).

The committee moved onto other business and then at noon took up H. 329, again.

Senator MacDonald proposed an amendment to the Senate Ag bill addressing the Land Use Change tax, this also included an "easy out" provision. His proposal reverts it back to the initial penalty that existed at the time the program came into being- 10% of FMV of the developed or withdrawn land determined without regard to the use value appraisal.

They also struck the non-contiguous farm labor housing piece, and included the House Version section 8 on PVR providing guidance for local assessing officials concerning how to assess land permanently encumbered by a conservation easement and land subject to a use value appraisal, and how to do so consistently across the State. This guidance must be available by Nov. 15, 2014.

H. 869 Miscellaneous Agricultural subjects- Senate Agriculture- Kristin Haas

Senate Ag has offered the following amendments:

1. Add in the language from H.891 – Emergency Authority Bill – Agency Supports this addition
2. Adds in language that requires the agency to cover the cost of Chronic Wasting Disease Testing for captive cervid operations – agency understands the importance of testing but does not have funds in its budget for this testing.
3. Adds in language from H.586 for expedited penalty process; ability to adjust the manure spreading ban dates and an educational program for farmers on the AAPs. Agency supports all but the educational programs due to budget constraints and staffing levels.

Dr. Kristin Haas provided testimony on the Chronic Wasting Disease testing component of the housekeeping bill and answered the committee's questions regarding CWD in cervids. The majority of these questions had already been asked and answered multiple times before. When asked if the cervid testing language in H.869 was "OK" as written, I stated that I would defer to Secretary Ross as he was slated to testify immediately after me on all of the Senate amendments in the bill.

April 24, 2014

H. 448 Primary Ag Soil- Senate Natural Resources- Stephanie Smith

The Committee reviewed a proposed amendment to the House passed version of H. 448 outlining that a district commission could allow off site or a combination of off-site and on site if all of the four standards are met, which are generally,

1. that off-site mitigation fee, or requiring a combination of in and off site mitigation is the best tool for the preservation of primary ag soils;
2. after considering a recommendation by the Sec., devoting the tract to agricultural uses is impractical based on the tracts size or relationship to other land uses or site specific characteristics;
3. the project tract is surrounded by or adjacent to high density development with supporting infrastructure and the project will contribute to the existing compact development patterns in the area;
4. the project tract is within an area that contains a mixture of uses, including commercial and industrial, and significant residential component supported by municipal infrastructure.

Ron Shems, Chair of the NRB commented that standards 2, and 3 and 4 above address different situation and that it would be difficult to meet all of them.

There were also some smaller amendments addressing when onsite mitigation shall be required.

Sen. Rodgers suggested an amendment (straw pole) for the committee to move forward with just the definition of Primary Agricultural Soils- this failed.

The committee passed the proposed amendment draft 1.1 with a 4-1 vote (Rodgers against).

S.70 Raw Milk. Agency has been working with both House Ag and Senate Ag on this bill. House Ag made changes to the Senate version that included a change from a daily limit on the amount of milk that could be sold to a weekly aggregate amount of milk sold. The agency has grave concerns regarding aggregation and storage of raw milk. Worked with House Ag and kept Senate Ag informed of potential language. Language added to place an expiration date on raw milk – 4 days from bottling date; requirements for proper storage and cooling on the farm for the maximum weekly sales volume and a requirement to empty and clean storage containers for bulk milk every 72 hours. House will vote on language and then bring to the floor of the House on Friday. Expect Senate will accept House changes.

Press

VPR Vermont Edition radio show on the definition of local in Vermont's food system community

- Abbey Willard interviewed on Wednesday April 16th along with Melissa Pasanen, Heifer International, and Erin Buckwalter from NOFA-VT, about 'what is local' and the values that people attribute to local food -- workers'

conditions, treatment of animals, land stewardship, etc. The show also covered issues around farmers' market and the perception of saturation in Vermont.

Significant Events/Meetings:

Key note presentation to students at Eat Real Week at Middlebury College

- Local Foods Administrator Abbey Willard presented on Thursday April 24th during Eat Real Week, a weeklong celebration of "real food" at Middlebury College campus, to college students, faculty and staff about "Beyond the simplicity of purchasing local: How building local food systems is encouraging change in our communities".

Attendance at 7th National Farm to Cafeteria Conference April 14-18 in Austin Texas

- Two VAAFM staff, Agriculture Development Specialist Johanna Herron and Local Foods Administrator Abbey Willard, joined by 1,100 other participants from around the country and Canada, participated in the National Farm to Cafeteria conference in Austin, TX April 14-18.
- Johanna made two presentations, "Farm to School Funding, A conversation with state, federal, and foundation funders" and "State Level Farm to School Models: How it happens, how to do it"
- Abbey represented VAAFM in a Sustainable Agriculture & Food Systems Funders meeting on Thursday April 17th and during a USDA Farm to School grantee meeting on Monday April 14th. Significant take-aways included a need to: integrate farm to school into larger farm to institution initiative and talk about these as one collective movement; recognize that the farm to cafeteria movement is a mainstream effort that has captured attention and endorsement from USDA and over 1,100 practitioners and funders from across the continent.
- Animal Health held a pre-hearing with a non-compliant farmed cervid producer and reached an agreement on next steps to bring the premises into compliance with the *Cervid Rules*. Meeting discussion and agreement will be provided in an AOD.
- Assistant State Veterinarian, Consumer Protection Section Chief, and Local Foods Administrator Extraordinaire met to discuss the Agency's role in the NASDA Technical Working Group on FMSA Rule implementation. CP Section Chief will be the Agency's representative on the TWG. Participation in the group is required to ensure Vermont's voice and input in this process. Ideally, the Agency would have full time staff position dedicated to FSMA.
- Animal Health Staff held an in person meeting to plan for the upcoming fair, event, and bird swap season and to meet with VT Veterinary Services personnel to discuss VS's enforcement phase of the Animal Disease Traceability Rule. VS is requiring exhibitors and veterinarians to provide a list of destination events with the Certificate of Veterinary Inspection and are no longer accepting the vague destination address of "New England Fair and Show Season" which has been utilized for many years. This is a positive move for improving traceability and disease prevention but will require a significant amount of outreach to change this ingrained practice. At this point, states are unsure of the outreach that USDA will provide.

Evolving Issues:

- Animal Health staff is following up on reports of unlicensed livestock dealers; names provided by a licensed dealer and also through evidence of ads on Craig's List.

Summary of Key agency Department Activity

Administration:

Deputy Secretary Bothfeld chaired a meeting of the VHCB Ag Advisory Committee to review 29 potential ag land conservation projects. Projects were put forward by the VT Land Trust and the Upper Valley Land Trust. Of the 29 project 2 sugar bush projects were selected to move forward and 14 farmland projects were selected to move forward.

Agricultural Development:

Made In Vermont Marketplace

Deputy Secretary LaClair and Ag Development Staff Chelsea Lewis and Marketing and Promotions Administrator Alison Kosakowski attended the first annual Made in Vermont Marketplace April 11-13 at the Champlain Valley Expo in Essex. Over 70 vendors – value-added ag, forest products, technology, crafts as well as support organizations such as VEDA/VACC, exhibited. VT Business Magazine was the lead sponsor; Agency of Ag and Dpt of Tourism and Marketing cosponsored along with numerous Vermont businesses. Over 4000 attendees Friday and Saturday – feedback from vendors was excellent for a first year event.

The Agency welcomed Howard Gordon of Food Export-Northeast in Philadelphia to Vermont this week.

- Agricultural Policy Administrator Chelsea Bardot Lewis accompanied Gordon on export consultations with 9 Vermont businesses across the state from Addison County, to the Upper Valley, to the Northeast Kingdom
- Deputy Secretary Jolinda LaClair joined for two company visits, including a stop to Vermont Farmstead Cheese Company, where the team was informed that the Castleton's Governor's Cheddar Crackers have been nominated for a highly coveted SOFI award
- All 9 companies have plans to expand their sales utilizing Food Export-Northeast programs and services
- The Agency plays a critical role in connecting Vermont companies with the federal resources available through Food Export-Northeast

Deputy Secretary Bothfeld hosted a meeting of the Northeast Dairy Sustainability group at the Agency of Agriculture. The group is made up of Stonyfield, Ben & Jerry's, Cabot, Organic Valley, St. Albans Co-op, Agency of Agriculture and the Sustainable Food Lab representatives. Group was pleased with the passage of the GMO bill and a great part of the meeting centered around GMO's. Ben & Jerry's is convening a Northeastern Dairy processing, farmer and related ag business discussion in May to determine the feasibility of moving toward milk sourced from cows not fed GMO feed. There are many hurdles to cross to achieve this goal and it is EXTREMELY important the Ben & Jerry's if not making a wholesale date that all farms must comply in order to sell milk to Ben & Jerry's. At this point there is very little seed available to dairy farmers for corn and soy that is not GMO and or organic. Sourcing this milk will require segregation and will cause the greenhouse gas emissions to rise from running trucks past many farms to collect farms that comply with feeding non-GMO Feed to Cows. Stonyfield is working through requirements for Whole Foods on labeling determine if GMO Free labeling is needed for their certified organic product. All are interested in the study required in the GMO bill for dairy and will be active participants.

Agency of Ag/ANR Lab development:

The Capital Construction Adjustment bill as passed by Senate Institutions includes the 300k for siting and preliminary design. Agencies are optimistic that all continues to progress to final passage with current language offering workable timeline for reporting and site location. AG and ANR staff meet bi-weekly with BGS project managers to further define programming, space requirements, and shared resources.

Export:

Deputy Secretary LaClair joined Food Export NE/MW staff and Chelsea Lewis, Ag Development Policy Administrator, to conduct on-site outreach to potential Vermont value-added producers for the agency's food export program. Visits to Cobb Hill Farm (artisan cheese, frozen yogurt) in Hartland, as well as Vermont Farmstead cheese in North Woodstock (Governor visited and Governor's cheddar named after him!) which produces over 200k lbs of cheddar varieties and brie-like cheese. VT Farmstead now owns Castleton Crackers which just won a coveted award for their cheddar cracker made with Governor's Cheddar (invite for photo op w/governor pending). The Agency's goal is to provide TA to businesses either export-ready or those which need become export ready. Strong financial support available through USDA Foreign Ag Service programs.

Food Safety and Animal Health and Consumer Protection:

Meat Inspection:

- Receiving more inquiries about the possibilities of providing state inspection for Alpacas and participated in conference call with FDA-CFSAN official and found that there is an MOU that give the states authority for inspection of those species under FDA jurisdiction
- Spoke with an individual interested in starting a 4D (dead, dying, disabled, and diseased) salvage plant in the Alburgh area
- Inquiry from USDA, FSIS to see if there were any state laws that explicitly prohibited equine slaughter and informed them that there was not in VT but that if someone asked for it we would not be able to provide inspection until we had someone trained for that type of inspection
- Working on Cross-utilization hourly reimbursement proposal for fiscal year 2015
- Continuing work on HACCP plan approvals for the new establishments coming under inspection in the near future as well as the review of required Humane Handling plans
- Program Chief presented webinar for Red Meat On-Farm Slaughter operations covering options for on-farm inspected plants, custom plants, personal exemptions and exemptions associated with statute 6 VSA 204 section 3311(a)

Animal Health:

- Animal Health Field Personnel:
 - Inspected Addison County Commission Sales for Animal Disease Traceability compliance.
 - Met with the Vermont Veterinary Services Animal Health Technician at ACCS to check on traceability compliance.
 - Investigated a swine health complaint in Poultney; performed a site visit and provided communication with the Poultney's town manager/health officer regarding the complaint.
 - Submitted a completed tissue residue investigation to FDA
 - Collaborated with DMV enforcement officers at a commercial vehicle inspection check point in Fair Haven.
 - Animal Health staff collaborated with Veterinary Service's Sutton office and provided technical assistance to a licensed livestock dealer in need of dealer Scrapie tags for sheep and goats.
 - Animal Health Program Coordinator and Assistant State Veterinarian submitted final reports USDA Cooperative Agreements.

Agricultural Resource Management:

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

- Staff visited one MFO and one LFO in Addison County to discuss the LFO program, LFO permitting, answer questions, gather information and complete paper work for LFO permits and amendments.
- Staff conducted one joint inspection with ANR-DEC on a MFO in Grand Isle County. The inspection was part of the LFO permitting process and the farm is transitioning into the LFO permit program.
- Staff conducted two compliance checks on MFOs in Grand Isle County.
- Staff attended a Central Lake Water Quality Partner meeting. Partners present were UVM Extension, NRCS, Otter Creek Natural Resource Conservation District and VAAFM. Discussions included crop farming in floodplains, program updates, and coordinated partner outreach.
- Staff attended a public information meeting on April 15, 2014 in Addison County for a MFO that is becoming a LFO and is proposing to build an addition to an existing barn for the purposes of animal housing. The meeting was a discretionary informational meeting. Staff are also preparing a responsiveness summary for questions, comments and concerns received during the public comment period, which ended April 22nd.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Information is being compiled and permits are being drafted for these farms and this will be a major focus of the team through the month of April.
- Staff are working on developing the water quality section of the new CAI USA Food Safety water quality database.

Conservation Reserve Enhancement Program (CREP):

- Staff visited three SFOs in Franklin County to work on CREP project implementation.
 - Work included:
 - marking out livestock exclusion fencing
 - working with excavators for stream crossings
 - working with contractors for CREP tree plantings
- Continued mapping/planning work for several ongoing potential CREP projects.
- Staff are setting up visits on several SFOs with partners (VT Land Trust & DEC River Management) to discuss components of future CREP projects.
- Staff have continued to reach out to farms that have amended their CREP agreements.

Secretary's Comments:

Legislature:

- H-329 met with Dept of Tax and Commissioner Snyder to develop strategy for Admin on Current Use. Bill passed out of Senate Natural Resources with clear concern for administrative issues of bill
- H- 448 Met with Shems and VAAFM to develop strategy on advancing bill through Senate, Bill passed out of Senate Natural Resources with more restrictive language on use of prime ag soils.
- H-869 Misc Agriculture Bill – testified before the Committee on latest draft. Working on language for various amendments – none highly significant

Press and Events:

- **Renewable Natural Gas Conference, UVM and Vermont stakeholders:** Lead speaker to kick off conference, spoke of Vermont's national leadership on ag energy especially manure digesters and integration of organic waste into systems

Meetings:

- **Governor on FSMA meeting with FDA Commissioner Hamburg:** reviewed strategy and issues for meeting with Hamburg on May 9th in Washington DC.
- **Governor call with Secretary Vilsack:** plan on participating in call with Governor on call with Sec Vilsack to discuss Vermont opportunities with respect to the Regional Conservation Partnership Program of the USDA
- **VHCB Meeting, Montpelier:** attended meeting, discussed Easement Bill, most thought it would not be taken up again for a few years
- **VT Sustainable Jobs Fund, Montpelier:** met with a group of national leaders to discuss how to reduce climate change impacts by sequestering carbon through new and improve agricultural practice to grow soil.

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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: April 25, 2014

Subject: ANR Weekly Report

Governor Level Issues:

Costco: Jon had a very positive meeting with CLF and VNRC today to see whether he could better understand their concerns with the Costco permit. They are not currently involved in the wetlands reclassification and permit (and do not anticipate getting involved in the appeal) but had expressed concerns in a 2012 letter about whether the stormwater permit would improperly allow additional phosphorus into the lake. Jon found that they are relying on Anderson's "expert" who has said that the development will add phosphorus into the stream. (Note that the nearby stream is not an impaired water and is at least 2 miles away from the lake so that a small incremental amount of phosphorus will not have a real effect on lake water quality, and is consequently allowed under our the clean water act stormwater mgmt. rules.) That being said, our permit writers have asserted that the ANR permit will actually result in a reduction of phosphorus into the stream as compared with the current levels because Costco will be improving existing stormwater management – and that all discharges will be within the permitted limits. We will show them the evidence of this, and if they are convinced, Jon believes they will stand down. Interestingly, they also said that since Jon Anderson was raising the issue of whether it is okay to add any pollution at all to waters in the basin in light of the TMDL they feel like they can't ignore it.

Note that the anti-degradation argument made in this case would have huge consequences if it were adopted as public policy since everything we do on the landscape has an impact on phosphorus. If accepted, it could effectively put a stop to all new development. I am happy to brief you (or Liz) in more detail about the legal and regulatory context for these arguments.

Discussions with Vermont Yankee on Thermal Discharge: There was a very positive and productive discussion between Jon Groveman, Alyssa Schuren and Mike Toomey and the in-house council from VY. They apologized for escalating our “conversation” with the letter they sent to us and indicated that they did not realize that we were getting constant record requests so that it would become public. They will be coming back to us next week (by phone) with an alternative proposal (something more than they offered during the MOU negotiations, but something they feel they could live with). We are hopeful that it will result in conditions to a draft permit that, while the enviros won’t think it goes far enough – will make sense to the public as a reasonable compromise. It was great work by Jon and Alyssa.

EVERYTHING ELSE:

Legislative Issues/Testimony:

Shorelands (H.526): The Shorelands Conference Committee continues to meet to resolve differences between the House and Senate versions of the bill. The Committee finally resolved their differences and voted out a compromise for votes. Lots of credit goes to Trey Martin for his work on this!

Water Quality (H.586): The omnibus water quality bill introduced by David Deen passed out of the House and has been messaged to the Senate. The Senate Natural Resources and Energy Committee has jurisdiction but is not expected to take action on the bill.

Dam Safety (H.590): The Senate Natural Resources Committee took testimony from Steve Bushman, head of the DEC dam safety program. This bill would implement a new registration requirement and fee requirement for dam owners that would be directed to ANR to fund a new dam safety engineer position. The realtors have, for the first time in the process, expressed a concern about a provision in the bill that would require a seller’s disclosure to the buyer of the presence of a dam on properties when being sold. After consideration by the Senate Natural Resources Committee, the next stop for H.590 will be the Senate Committee on Finance.

Universal Recycling (S. 208): The House Committee on Natural Resources and Energy passed this bill with significant revisions. The bill no longer includes any funding mechanism to support investments in new recycling and composting infrastructure. The Committee also eliminated the provision requiring municipalities to join a solid waste district. The bill’s remaining operative provisions are (a) the removal of an exemption from parallel recycling pickup so that all haulers are required to pick up recyclables at no extra charge, (b) establishment of an advisory committee to determine the infrastructure investments necessary to implement Universal Recycling, (c) a new program to encourage the recycling of construction and demolition materials, and (d) allowing certain municipalities to be exempt from the requirement to provide parallel collection of recyclables where a municipality can show that they can demonstrate that they are meeting certain goals. We are comfortable with the bill in its current form with the notable exception of the exemption from parallel collection of recyclables, (d) above.

PILOT: Commissioner Snyder and Lands Division staff met this week with the Senate Appropriations Committee to answer questions regarding Section E.701 of H.885 of the FY'15 Budget Appropriations Bill. Section E.701 concerns ANR's Payment in Lieu of Taxes (PILOT) program, and among other provisions would impose an appraisal moratorium on ANR land values for FY'15. This legislation would reduce estimated FY'15 ANR PILOT payments by approximately \$500,000 over what the Administration has approved for FY'15 ANR PILOT payments. Towns are understandably concerned over this proposal. The Department supports full funding of FY'15 ANR PILOT as proposed within the Administration's FY'15 budget proposal.

JRS 47: The Legislature has approved the FPR's proposed Joint Resolution (JRS 47). This resolution authorizes the FPR Commissioner to enter into two right-of-way exchanges; one at Mt. Mansfield State Forest in Stowe and the other at Victory State Forest in Victory. A copy of the approved resolution (# 391 of the Resolutions of 2014) has been filed in the Secretary of State's Office.

Press Issues/Releases:

Lake Champlain Cleanup Plan (TMDL): This topic continues to get coverage with a recent piece on VPR in which Representative Deen and CLF expressed frustration with the current proposal (see <http://digital.vpr.net/post/lawmakers-put-pressure-shumlin-clean-lakes>). Another article ran in VTDigger about federal funding issues (see <http://vtdigger.org/2014/04/14/federal-budget-cuts-mean-money-lake-champlain-cleanup-scarce/>) and one ran in the Burlington Free Press about Vermont League of Cities and Towns' cautious support for the plan (see <http://www.burlingtonfreepress.com/viewart/20140414/NEWS07/140414006/Towns-support-lake-cleanup-worry-about-costs->).

On a related note, we submitted an op-ed on behalf of the Secretaries of ANR, ACCD, AAFM and AOT indicating strong Administration support for taking action to reduce pollution into Lake Champlain which ran in multiple papers.

Vermont's Walleye Fishing Starts May 3: The best walleye fishing in New England will begin soon in several Vermont rivers and lakes. F&W is reminding anglers that walleye fishing season starts in much of the state on the first Saturday in May and that regulations vary, depending on the water you are fishing. In all waters of Vermont except Lake Carmi, Chittenden Reservoir and the Connecticut River, walleye and sauger have an 18" minimum length requirement and three-fish daily limit. The open season is from May 3 to March 15.

Significant Events/Meetings:

Meeting with USDA: Commissioner Mears joined a meeting with AAFM Secretary Ross of the state-based representatives of the USDA's Natural Resources Conservation Service and Rural Development to discuss options for increasing federal funding available for addressing water pollution. The focus of the meeting was on opportunities to increase funds to comply with the requirements of the Lake Champlain TMDL.

Heating Oil Sulfur Limits: Air Quality & Climate staff met with the Vermont Fuel Dealers Association, to discuss sulfur limits for heating oil that go into effect in Vermont on July 1, 2014. The Association is interested in touting the benefits of the sulfur limits for heating oil customers (e.g., reduced maintenance costs from cleaner more efficient fuel). We are conducting outreach to oil heat wholesalers and to potentially affected facilities in our database and preparing a fact sheet on the rule. The Association offered to distribute the fact sheet to fuel dealers in Vermont and also invited us to speak about the rule at an upcoming Vermont Fuel Dealers Association meeting.

Meeting with Haulers in the Upper Valley/Southeastern VT: Waste Management staff presented on Universal Recycling to haulers and town representatives as part of our continued outreach on this new program. We continue to hear concerns about cost increases their customers will receive for adding recycling collection to rural routes.

UIC Rule Hearings: The second public hearing to receive comments on the proposed Underground Injection Control Rule will be held on April 21 in Rutland. We expect that some representatives from the slate and marble industries will attend. The public comment period for the proposed UIC Rule ends on April 30, 2014. We are also meeting with the Vermont Natural Resources Council which has expressed concern about the department's consideration of the groundwater public trust doctrine.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Evergreen- Energy (Ryegate): We are working with Evergreen-Energy on permitting issues for a contemplated large scale wood pellet manufacturing operation at the location of the former Kimberly Clark Paper Mill in Ryegate. The company is only in the exploratory stages of the project at this point.

Electronic Waste Program Opt-Out Plan Violations: Waste Management is issuing thirteen notices of alleged violation to certain manufacturers participating in the Opt Out plan for electronic waste. The notices cite the failure to report basic information related to outreach initiatives, including a failure to provide monthly reports regarding inspections and training at collection facilities, to report on required waste sorting efforts, and to establish the minimum number of collection locations. The manufacturers are responsible for correcting these violations but we have copied Good Point Recycling as their agent for meeting the requirements of this program.

ANR v. Steve Bachand: Compliance & Enforcement Division obtained an order against Mr. Bachand for improperly handling thirteen discarded electrical transformers by dismantling and emptying them of transformer oil in order to salvage copper components within the transformers.

After emptying the transformer oil onto the ground and removing the metal, the transformer housings were left on the property. The Agency initiated remedial activities at the site using funds from its Environmental Contingency Fund and obtained a penalty of \$5,660.00 and recovery of \$6,635.95 in state cleanup costs.

School Science Lab Chemical Assistance: Environmental Assistance staff helped Riverside Middle School in Springfield and Bellows Falls Union High School in chemical cleanout and disposal, as well as development of a chemical inventory and proper chemical storage and labeling. Both schools were assisted in sweeping all stored chemicals that were sorted for hazardous waste, solid waste and drain disposal, resulting in a drastic reduction of chemicals remaining on site. We are working with the solid waste district on disposal of the remaining hazardous chemicals which should be removed from the site in May.

Grand Isle Consolidated Water District: Facilities Engineering Division approved a loan of \$992,898 for installation of granular activated carbon to reduce disinfection by-products at the Grand Isle water treatment facility. Construction is expected to begin this summer.

Lake Champlain Cleanup Plan (TMDL): We have begun making revisions to the Phase 1 Implementation Plan in anticipation of EPA comments, some of which EPA shared with us informally. At present, we are expecting EPA to provide formal written comments by April 30 and to give the state two to three weeks to address their comments and provide a final plan with a letter of commitment from the Governor.

On a related note, Quebec's provincial environmental regulatory agency has asked for a meeting in July to discuss the TMDL.

Fish and Wildlife

Fishing: Trout fishing season is open with limited fishing activity. All in-land streams continue to run high with spring run-off. Water temperatures also remain low reducing the catch of the few anglers being encountered. All interior Lakes and Ponds are ice covered. Bull Pout fishing and "fish shooting" is in full swing along Lake Champlain. Of the relatively small number of anglers being contacted, there have been a surprising number of license violations.

Search: Several wardens assisted the State Police with a search for a mentally unstable individual from New Hampshire. The search began at the subject's abandoned vehicle and after an intensive ground search the subject was located but, unfortunately, was deceased. The suspected cause of death is exposure.

New Nesting Pair: Staff observed eagle nests in New Haven (Otter Creek) and Ferrisburgh (Dead Creek). Both sites have confirmed nesting, which means the nest near Arnolds Bay of Lake Champlain is a new pair. It appears this may be a honeymoon nest, and future checks will determine if nesting occurs this year.

Correcting Corrections: Staff met with a Corrections Department representative of the Southeast State Correctional Facility in Windsor to discuss streamside vegetated buffer issues (aesthetics and security). BGS subsequently responded that they were managing the buffer in accordance with recommendations offered by the Watershed Planner; however, those recommendations are not currently being followed. The issue at heart seems to be inadequate communications between on-site BGS and Corrections. District staff will continue working with both as well as the watershed Planner to resolve the problems.

Forest, Parks and Recreation

ANR Land Transactions: The Department is working closely with the Town of Grand Isle to finalize the transfer of a portion of Grand Isle State Park to the Town for outdoor recreation purposes. The parcel to be transferred has been surveyed by the Department, we are working closely with the Town to secure Act 250 and local subdivision approval, and a draft deed and other closing documents are being prepared and are under review by both parties. Closing on this project could occur as soon as next month. The Department will be working with the Town of Bolton over the coming weeks to resubmit a revised application for local subdivision approval for the Lafreniere sale parcel at Camel's Hump State Park. The revised application will be based on a reconfigured sale parcel that better meets the concerns of the Town. Work continues on priority Forest Legacy projects including the Five Peaks Forest Legacy easement and other parcels within the Northern Green Mountains Connector Legacy Project, and the Molly's Falls Pond project in Marshfield. Other priority ANR land transactions are progressing as well, including Mendon Brook addition to Coolidge State Forest in Shrewsbury, sale of a portion of Coolidge State Forest to Markowski Excavation, and other projects.

New Online UVA Tool: Lamoille County Forester Ray Toolan, Chittenden County Forester Keith Thompson and Chief of Forest Resource Management Ginger Anderson represented FPR County Foresters at a meeting with IT staff from Property Valuation and Review for some beta-testing of the all-new eCuse. This particular program deals solely with UVA applications. Applications are submitted by landowners enrolling their land in UVA for the first time, and amended applications are submitted whenever there is a change to the land or to the ownership. Up until this new bit of technology, PVR would send each County Forester paper copies of all the applications they received. Each County Forester would compare those applications to the management plans they had received, and would then provide feedback to PVR.

Municipal Assistance: The Berlin Municipal Forest timber harvest, which Paul Frederick had been administering, is now closed out for the season. It will be continued next year with Washington County Forester Dan Singleton's oversight.

Fire Season is Upon Us: FPR staff assisted at 2 fires this week, one in an open field in St Johnsbury and a one acre fire in Springfield.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: April 25, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

Regional Initiative: As expected, in yesterday's meeting in Boston the states agreed, subject to further discussion and caveats related to details, on a cost allocation formula whereby NH's contribution would be slightly reduced to 9% of load (rather than 9.29%) and Vermont's share would be reduced to 2.42% (rather than 4.47%). I emphasized I was agreeing as NESCOE manager after consultation with the Governor's office, but that more discussion was needed with Vermont Utilities, the Board, etc, and that my agreement was contingent on resolution and acceptance of the other 4 points. As previously relayed, the other points are:

- 2) Projects have a benefit:cost ratio of at least 1.5:1, and benefits are calculated based only on regional LMP price suppression effects of the projects;
- 3) Agreement to pursue strong NTA program across the region, building on Vermont's success at reducing transmission projects. This would start with a presentation on NTA's and cost estimation by VELCO at an upcoming regional meeting;

- 4) States retain full independent siting authority with the expectation that host states will negotiate the best deal possible for themselves, and that this will not in any way count against their cost allocation share;
- 5) Use the same formula for Gas as for the electric transmission (i.e. 2.42% share).

This tentative agreement is not being announced, as we have more work to do, but I will need final sign off on this before tariff language is drafted and shared at NEPOOL by the end of next month. Please let me know what will be needed to secure our state agreement to this formula, understanding we will still be in a position to say “no” to specific projects that may come through Vermont, or to the package as a whole if sufficient benefits are not secured.

VY: We received notice from Entergy yesterday that the amount due to VYNPC from excess revenues last year (April-March) is **\$17,886,739.49**. What is unclear still is what proportion of this is due to GMP or other Vermont Utilities. The range is between 45% (GMP and CVPS share) and 95% of this amount – depending on how many other interests GMP purchased (CMP, WMECO, NEP, PSNH to name a few). GMP is now the sole owner of VYNPC, which you might think would answer the question. But no. The former owners still have contracts with VYNPC, and pay part of the admin costs of that entity. Don Rendell told us that back around when Entergy first filed for renewal of its CPG, GMP tried to figure out the value of the RSA to use it in bargaining with EVY for a good power contract. After much poring and pondering by high-powered lawyers, the answer was: maybe yes, maybe no. Nobody could or would give a definitive answer as to who any RSA revenues would belong to. Back in the first EVY CPG renewal docket, VYNPC testified that the RSA still belonged to all of the original owners, but the best answer appears to be that nobody really knows. GMP has a clear claim to 45% of the money, and we can discuss whether and how to reflect that somehow in a global settlement on the current rate case. As to the rest, there are Qs that could be answered by litigation, but nobody is enthusiastic about that prospect. GMP is digging up old files and looking at the question again, but right now it’s just unknown. We will continue to work with them to come to a conclusion if one is possible. I spoke to Sarah Hoffman about this and she suggested involving Peter Zamore in the discussion, which we will do.

VY Steam Leak: See details in Engineering section below, but last Thursday VY had a steam leak that did result in a very small release of tritium to the atmosphere before negative pressure was re-established in the containment area. The amount vented was approximately 10,000 times less than the maximum permissible effective dose allowable for the public in unrestricted areas. This was reported to us, and we in turn, notified the Health Department on Tuesday.

VY DOE Suit: DOE filed its second reimbursement suit today related to spent fuel management and storage at the facility. Do not know the details yet, but this will likely

present an opportunity to try to negotiate a settlement process to make reimbursements more predictable and regular. We and AG's are prepared to help with this as appropriate.

GMP Rate Case: We expect to send GMP a limited list of discovery questions today in response to their filings last week, and then meet with them next week to begin discussions about settlement of some or all of the issues for this rate case, the Alt Reg case, and how to use the money above.

Franklin Foods: We are working with Kiesten and have met with Steve Terry on economic development rate options for FF, and think a three year economic development rate they are seeking is reasonable and achievable, and we would expect to support that before the Board.

BT: We negotiated and completed an assurance of Discontinuance with Burlington on the BT matter that will be filed with the Board this upcoming week that if accepted by the board supports Burlington's settlement and addresses the violation of having used city money (and needing to use a little more).

Legislature:

Big Bill: Chris testified in SNRE on Tuesday about the VY Citizens Decommissioning Panel upon its referral to that committee by Appropriations. The committee added back in the two members from the House and Senate (one each) and made any expenses come from PSD rather than the current PSB budget. I am ok with both these changes. Senate Appropriations voted to include the language yesterday. Sen. Rogers raised S.201 and his desire to see something happen. I was non-committal. We are not pursuing anything or any part of S.201. I understand ANR is working to try to still get fee and positions placed somewhere. See PERD section below.

S.202 – Darren testified in House Natural Resources on this bill which would open a PSB investigation into whether Efficiency VT should be able to use electric ratepayer dollars to incentivize heat pumps, and if so would require a host of measures to be taken simultaneously including efforts to mitigate any increase in peak demand and to weatherize homes prior to heat pump installation. The Committee was skeptical initially and had some pointed questions, but ultimately appears on track to approve the bill (which has already passed the Senate). The Department supports the bill as written.

H.612 –Darren and Bill Jordan (Director of Engineering) testified in Senate Finance on this bill which would raise Vermont's gas safety violation penalties to levels consistent with federal law, to ensure the Department's gas safety program continues to receive full federal reimbursement. The bill as passed the House also includes a PSB investigation into whether the types of safety measures put in place in Phase 1 of VGS expansion (above federal minimum standards) should be required for all gas pipeline projects going forward. Darren spoke with Senator Bray on 4/22 and suggested he could help move the bill through Finance as part of his continued focus on gas pipeline, and he agreed. We expect, after some follow-up, the

Committee may move the bill shortly. The Department supports the bill as written.

Legislative Testimony:

April 21: Jim Porter testified on H.297 in Senate Appropriations

April 22: Darren testified on S.202 in HNRE

April 23: Chris testified on VSNAP amendment language in Senate Natural Resources and Energy; Darren and Bill Jordan testified on H.612 in Senate Finance; Kelly covered S.202 hearing in HNRE

April 24: Kelly covers S.202 hearing in HNRE

Significant Meetings/Events this week and next

April 21: Chris and Asa attended QER meeting in CT

April 22: Chris met with Mike Twomey in CT

April 23: Chris, Darren and PSD staff held internal team meeting (including consultants via phone) on GMP rate case; Chris participated on ISO-NE prep call in advance of 4/25 Boston meeting; Staff attended Cow Power event @ UVM re: renewable natural gas for transportation

April 24: Chris attends NESCOE/GIG (Governor's Infrastructure Group) meeting in Boston

April 25: Chris attends ISO-NE Board Meeting in Boston

April 29: Chris and Darren attend Council on Energy and the Environment meeting

May 1: Chris, Darren and PSD staff meet with GMP staff to discuss two topics: state buildings initiative, and innovation, and GMP Rate Case

May 2: State Electricity Policy event at UVM

Media: I spoke briefly with John Herrick about regional infrastructure after my testimony in SNRE committee on Tuesday. Do not think it was for an imminent story.

Everything Else:

PERD

Legislative Update

- Sent information requested by Rep. Ellis on the low income spending requirement for EVT and the link to information on the evaluation work we completed for EVT's Home Performance with Energy Star Program.
- Working on compiling information requested by Rep. Klein on what the load forecast would be absent the EEU/EVT efficiency programs (historically and looking forward).
- Attended weekly land use meeting. Jon Groveman planning to meet with Sen. Hartwell on 4/18 regarding eliminating all of S. 201 except the positions. H. 516, a bill to move the Vermont Center for Geographic Information into DII, which could be relevant to PSD in terms of planning work with RPCs and the VT Renewable Energy Atlas, was also discussed.

- Assisted in the review of new language for S.220 regarding economic development and regulated energy costs.

Energy Efficiency Utility Activities

- Demand Resources Plan Proceeding: Based on the results of the staff's analysis, the Department recommended that electric resource acquisition budgets for EVT and BED be set at a pace largely consistent with Scenario 2 as defined in the Board's Order of September 9, 2013. Scenario 2 is budget constrained and was modeled by VEIC and BED to *"acquire all economically achievable potential through the extension of the current 2012-2031 DRP through 2034, with the 2032-2034 annual budgets increased at the same rate as the average year in 2018-2031."* At the rate of electric resource acquisition recommended for the 2015-2017 performance period, the Department estimates EVT and BED would achieve annual incremental MWh savings of approximately 2.25% and 2.32% of electric sales by 2017 in their respective territories.
 - Scenario 2 maximum rate impact over 20 years is 7%, while the average is much lower. Commercial non-demand and demand customers sectors maximum rate impact in any one year being are 4.6% and 4.9%, respectively, with an average rate impact over time that is much lower.

Other DRP Stakeholder recommendations included

- BED – Scenario 2 – *Inaugural DRP extended* and consistent with DPS's recommendation.
- VEIC – Scenario 3 – *3% of electricity sales by 2020* with savings attributed to behavior measures.
 - Compensation of 6% if Board elects Scenario 2
 - Compensation of 5% if Board elects Scenario 3
- Associated Industries of Vermont – Scenario 1 – *Level budgets plus inflation.*
- Conservation Law Foundation – Scenario 3 – *3% of electricity sales by 2020.*

Thermal Energy Finance Pilot Program

- Draft grant agreement from VLITE for \$150,000 to support the credit enhancements is moving slowly through the administration; learned on Thursday that only then had the grant reached JFO, where there is a 30-day review process. VLITE was informed and replied that it will be acceptable to wait until the process completes.

Renewable Energy Items

- Worked with GMP and Burlington Electric Dept. in securing from those two utilities letters of commitment to work with the CEDF/PSD in lowering the soft-costs of installing PV on rooftops in Vermont. Getting these letters was a requirement of the \$150,000 regional DOE grant the PSD received to work on the soft costs of PV.

Net-metering

Net Metering Activity 4/11/14 -4/19/14

	Registrations*	Applications	CPGs Granted
Count	24	2	38
kWAC	139.659	245.00	2.17.885
Ave Size kW	5.819	122.5	5.733

Cumulative Capacity of Registrations and Applications Submitted			
Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of 15% CAP
2255.88	2179.29	40836.70	~ 27.2%

* Note: As of April 1st 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.

Total Energy Study

- Upcoming meeting: 4/25 Dunskey to present preliminary model results

Integrated Resource Plans

- Met with Green Mountain Power to discuss progress on their IRP. GMP discussed the questions related to cost, renewability, and electrification that they are interested in answering in their IRP. In addition, they will use a budget cost modeling approach (deterministic) as opposed to the previously used Regional Production Cost modeling approach (optimization). Good discussion around the question of the implications of different NM and DG penetration rates on the capital budget.

Heating Fuel

- Since last reporting Crude Oil has risen this week to \$103.37 v. \$102.30 a week ago.
- The natural gas market has traded up now at \$4.780 v. \$4.621 a week ago.
- Completed April Fuel Price Report. We are receiving an increasing number of queries regarding our assumptions around cold climate heat pump efficiency.

Transportation

- Completed version 1 of EV-Ready Building codes and reviewed these with Dave Roberts of VEIC. Had internal PSD conversations. Began version 2 which will make adjustments to align with the soon to be released VT municipal guide for EVSE zoning regulations. (This guide was prepared by VEIC for CCRPC.) Version 1 had aligned with existing CA Building Energy Codes.
- Provided feedback to ANR air division regarding roles and responsibilities for the Vermont-specific Action Plan resulting from the 8-state ZEV MOU.

Engineering

Steam Leak at Vermont Yankee

On Thursday of last week, VY personnel were repairing a steam leak in the advanced off-gas (AOG) drain pit. This minor leak had been monitored since last fall, and was contained within the AOG facility and vented up the stack through the building's ventilation system. In order to have adequate room to repair the pipe, VY constructed a plastic tent off an outside wall of the AOG building, and kept this tent under negative pressure by using a portable fan and ductwork to move the air inside the tent into the building's ventilation system. In order to repair the pipe, VY reduced steam flow to this pipe to the extent possible, but would have had to shut the plant down to completely turn off the steam flow to this pipe. During the repair, the steam flow exceeded that of the repair specifications, and the workers left the site to prepare for a second round of repairs with the higher steam flow. While the workers were absent from the repair site, an NRC Resident Inspector, who was inspecting the repair, noticed steam "wisping" from the plastic tent to the atmosphere. The Resident Inspector notified VY of this, and a larger fan was put in place to restore negative pressure, and the repairs were completed. VY is investigating this issue, but the preliminary thinking is that the fan filter became saturated with water, and its air-handling capacity decreased over time to the point where steam leaking from the repair was able to overtake it and create a positive pressure inside the tent. VY's chemistry department determined that the only radioactive component of the steam was tritium. VY used conservative (i.e., that would result in a higher number) assumptions to calculate the tritium release to the atmosphere, and arrived at a dose of a fraction of one microrem (1 microrem = 0.001 millirem). For VY, the maximum permissible total effective dose equivalent of members of the public in unrestricted areas is 5 millirem (about 10,000 times the amount of the steam release). This release will appear as a separate line item on the monthly report VY sends to VDH in May (Bill Jordan briefed Bill Irwin on this issue on Tuesday).

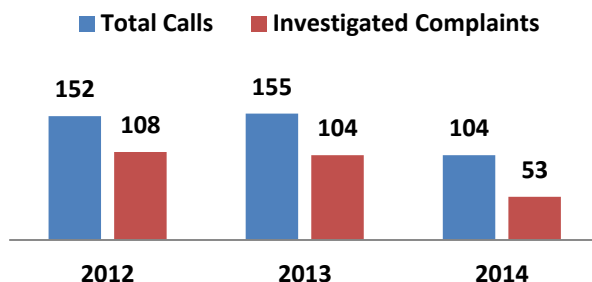
VY Receives Extension from NRC to File Integrated Plan for Hardened Containment Vents

On June 6, 2013, the U.S. Nuclear Regulatory Commission (NRC) issued Order EA-13-109, "Order to Modify Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation Under Severe Accident Conditions." The order required certain licensees, including Vermont Yankee, to implement requirements for reliable hardened containment vents capable of operation under severe accident conditions. The order requires submittal of an overall integrated plan no later than June 30, 2014. VY has requested relief from this schedule due to its notice to permanently cease operations at the end of 2014. On April 15, the NRC granted VY an extension effectively to June 30, 2015 (assuming it doesn't refuel before then). If VY submits its 10 CFR 50.82(a)(1) certifications for permanent cessation of operations and the permanent removal of fuel from the reactor vessel prior to June 30, 2015, the primary containment will no longer provide a safety function and it will be exempt from the requirements.

Nuclear Engineer Position - An offer has been made and we are waiting for a response.

CAPI

Calls to CAPI Same 7 days each year



Call Data

Consumer Complaints

Complaint topics included, but were not limited to:

- (2) GMP change to digital meters
- (3) Broadband availability
- (1) Pole removal
- (11) Lifeline application requests
- (1) Question about purchase of a box to convert over-the-air digital broadcast television signals to analog
- (1) Question about efficiency charge
- (1) Question from Morrisville Water and Light about customer privacy

Examples of complaints:

GMP/Smart meters: CAPI received a call from a consumer who was concerned with the recent replacement of her old analog meter to a new digital non-smart meter. She had opted out of the smart meter and was concerned that eventually GMP might make her new digital meter a smart meter without her permission or knowledge. CAPI verified that the new meter would function as a non-smart meter until the account was closed or disconnected. GMP confirmed that the new meter has the capability and may be used as a smart meter in the future, but GMP will not change the current digital function of her meter while she is the account holder.

Charter: IVR system failed to allow customer to access payment by phone option, resulting in \$5 fee incurred by consumer. Details: A consumer called CAPI after not being able to make a payment through Charter's automated payment system without being transferred to a Charter representative, which triggered a fee associated with making the payment. CAPI contacted Charter about this issue. Investigation revealed that Charter's IVR was not able to recognize his account information correctly. Charter said they would make enhancements to their IVR to

address this issue, which they expect would be completed on April 21. Charter credited the \$5 fee associated with the payment the consumer had to make by speaking with a representative.

Post CPG Wind Complaints - None

Comcast billing investigation, Docket 8224:

CAPi attended the pre-hearing conference for this investigation by the PSB into Comcast's practice of billing customers for reduced service during a "soft disconnection" (which precedes a full disconnection). The Board presented Comcast with a set of questions, which Comcast will answer by May 16th. CAPi will work with Telecom and PA to craft additional questions for Comcast. The Board has asked the PSD to make a recommendation by June 6th.

GMP SQRP revisions:

CAPi and Engineering held a phone meeting with GMP to discuss revisions to their SQRP. The Department highlighted two areas to be addressed, in light of smart meters: the current estimation exemption in the bill accuracy metric and the percentage of meters not read. We communicated that we are looking for the estimated billing for smart meters to be addressed in a metric and that we believe the standard for meters read should be significantly higher for smart meters than "opt-out" meters, since GMP has more methods of "reading" the smart meters. GMP was receptive and is developing proposals to address this.

VPPSA re: muni billing:

CAPi and Finance met with Dave Mullett from VPPSA regarding Department concerns about bill and accounting system inadequacies of municipal electric companies. The Department proposed a solution that would have municipals share one system that would be designed for/by them, with VPPSA administering. Dave responded positively to the idea and volunteered to take next steps to study the issue and possible solution, including costs, and discuss with municipal leaders. If the plan for this system goes forward, the PSD will provide input to ensure that the system aids utilities in being in compliant with PSB rules.

EV charging station/rates: Attended internal meeting to discuss BED charging station rates.

Policy & Procedure manual:

CAPi is developing a policy & procedure manual to document the how-to and must-do of our division. Drafts were developed of several procedures.

Public Advocacy

GMP Rate Case and Alternative Regulation Filing – Docket Nos. 8190 & 8191 – GMP filed its rebuttal testimony in the rate case on April 18. The main issues at this point involve the level of documentation needed to support proposed additions to plant, the extent to which certain

generation projects not yet constructed or certificated meet the known and measurable test, and the cost of capital. Separately, in the alternative regulation case, the Department submitted discovery to GMP on April 18. Initial testimony is due May 13.

Vermont Gas PGA – Tariff No. 8491 – Vermont Gas filed its quarterly PGA, which results in a rate increase of 2.21 percent. The Department subjected this filing to a deep dive audit and found no issues. Accordingly, the Department filed a letter on April 22 supporting the change.

Winooski One Rule 4.100 Proceeding – Docket No. 8010 – Counsel for Winooski One reached out to Department staff to discuss the status of this case, which involves a request for a generic avoided cost rate setting proceeding under Rule 4.100. This case has sat dormant for almost a year at this point, and parties are awaiting a Board order on the appropriate scope. Winooski One intends to ask for a status conference to discuss next steps. PSD supports the request for a status conference.

Addison Expansion—Docket 7970—The ongoing negotiations with Monkton landowners concerning easement acquisitions continue to be problematic. The PSD is acting as an intermediary and trying to facilitate solutions. The Monkton Select Board is also very involved. A meeting is in the planning stages for the week of May 5, which will include VGS, counsel for the PSD and a spokesperson for the homeowner group. PSD counsel is also working with counsel for one of the Old Stage Road homeowners to coordinate post-CPG process regarding land impacts.

Addison Expansion Phase 2—Docket 8180- The Board issued an order this week which declined to specifically define the scope of landowner and other parties' interventions, as requested by the PSD and Vermont Gas. VGS responses to the first round of discovery are due April 25. VGS and ANR continue to have unresolved issues around the Shoreham and Cornwall Swamps. An ANR/ VGS site visit was conducted this week and PSD counsel attended. The PSD will meet with the Shoreham Select Board this week, as required by statute. A special Select Board meeting will be held in Middlebury next week to discuss landowner issues. PSD counsel has been invited to attend and participate in a panel.

GMP/VELCO 248 Petition for Georgia Interconnection Project—Docket 8205- The PSD has resolved all issues with GMP and VELCO, and Petitioners' counsel will begin preparation of a draft MOU for discussion.

GMP and CVPS Smart Meter Plans – Dockets 7704 and 7612- Department staff are meeting with GMP staff to discuss revisions to the Measurement and Verification template to reflect changes in benefits and costs now that AMI systems are operational.

Soveren Solar 500kW Net Metering Project (Westminster) - Docket 8211 – ANR has reviewed and approved supplemental information filed by Petitioner and if the PSB accepts the conditions proposed by ANR and DPS the project can be awarded a CPG.

Sudbury Solar 2.0 MW Solar (Std Offer) Docket 8225 – Parties proposed a schedule for a “settlement track,” with technical hearing in mid-July. PSB is likely to approve the schedule.

Barton Solar – Docket 8148 – The flurry of motions, orders and objections continues with the Hearing Officer overruling the Menards’ objection to his order and denying the Menards request for reconsideration. The Menards filed a motion for a protective order requesting that the Hearing Officer limit discovery and protect them from harassment by the petitioner. The petitioner filed an objection to the Menards motion for a protective order. The Menards filed timely surrebuttal testimony. The petitioner filed a motion to compel discovery. Recently Monica Menard contacted the PSD stating that her son was in a motorcycle accident and that they needed additional time. The PSD provided process advice, after which the Menards filed a Motion to Reschedule the Technical Hearing by two weeks. The petitioner filed a letter with the Board agreeing to approximately a one week extension and informing the Board that the Menards’ son is due to be released in days and that he is facebooking. The Menards replied that they hope that their son will be released soon; but, they will need to assist him with daily living. The technical hearing is currently scheduled for April 24th.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The PSD entered into an MOU with GMP and the petitioner. The MOU was filed on April 17th. Additionally the petitioner has requested the Board waive the requirement for a technical hearing.

Burlington Telecom – Docket 7044 – In addition to the AOD discussed above, the Department is also facilitating a discussion with BT and public access representatives to address any concerns that the latter group has concerning the settlement agreement.

General Sound Investigation – Docket 8167 – The Department has received a draft presentation from one of its three sound consultants leading up to the Board’s sound workshop on April 29. All three consultants will present at the workshop, along with an expert retained by Renewable Energy Vermont, a couple of pro se concerned citizens, and likely the Department of Health.

Sheffield Wind – Docket 7156 – The Department forwarded to two of its sound experts filings made by Paul Brouha, a landowner near the facility, asserting that the Project’s operation violates the 30dBA inside CPG noise limit. The experts will review the filings and provide feedback and suggestions for comments to the Board in response to the filings. The Department has requested an extension of time to file comments to May 9, 2014.

Kingdom Community Wind – Docket 7628 – Pursuant to a PSB directive, the Department met with GMP, sound experts retained by GMP, a pair of independent experts, and a pair of pro se parties to begin negotiations on a continuous monitoring protocol and program near the Project site.

Cold River Solar – Docket 8188 – The Board held a site visit to the Project site. The visit was well attended and included neighbors, Rutland select board members, and Annette Smith. The visit was otherwise uneventful, and the Department’s aesthetic expert’s preliminary thinking is

that the Project will not create an undue adverse impact on the area.

Washington Electric Cooperative, Inc. 2014 IRP – Docket 8181 – A prehearing conference is scheduled for April 28th.

Red Pines Development Water System CPG Amendment – Docket 8207 – The PSD has received sufficient information to support the petition and will do so in a recommendation that is due to the PSB by April 29th.

City of Montpelier v. Berlin Water Co. – Docket 8000 – The City complained to the PSB in January 2013 that Berlin Water Company (BWC) had taken water from the city system without authority. BWC admitted taking water, but disagreement remained over the amount. The parties agreed to a schedule, and BWC filed a response to the City's complaint. Thereafter the City's attorney failed to take any action at all with respect to the PSB docket, although there apparently were some unsuccessful settlement negotiations. Meanwhile BWC entered into a contract to sell the water system to the Town of Berlin (pending in Docket 8118). Given the absence of any action by the petitioner, the failure of the City's attorney to respond to PSD requests for status updates, and the prospect of a sale to a responsible entity, PSD moved for dismissal of the petition. On April 22 the hearing officer issued a Proposal for Decision recommending dismissal. PSD intends to support the P for D.

NextSun Solar – Park Street – Docket 8194 – The PSD participated in the site visit and public hearing. Seven members of the public attended, with two of the Rutland City Alderman raising wildlife and aesthetic concerns. The PSD will hire an aesthetics expert to review the proposed facility.

NextSun Solar – Main Street – Docket 8195 – The PSD participated in the site visit and public hearing. Seven members of the public attended, with a Rutland City Alderman raising aesthetic concerns. The PSD will hire an aesthetics expert to review the proposed facility.

GMP Stafford Hill Solar in Rutland – Docket 8098 – The PSD, ANR and GMP are working on a MOU and PFD that are due to be filed by April 24th.

Charter Hill Solar Project – Docket 8212 – GMP and the City of Rutland have moved to intervene; the Department stated it does not oppose intervention. The Department is preparing discovery questions and has engaged an aesthetics expert. A site visit will be held on April 30th.

VGS/Plouffe condemnation-Docket 7819 –Proposal for Decision was issued, which found that condemnation of the pre-existing utility line was necessary in this case of first impression. All parties filed comments (VGS and PSD support) and the Plouffes have requested oral argument. When this portion of the docket is finalized, a second phase dealing with compensation will begin.

Charter Cable CPG Renewal – Docket 7820 - The Department has been discussing a schedule

with the petitioner and intervenor AMOs. The Department has agreed to a schedule which will be filed by the petitioner on April 23rd.

Comcast Billing and Disconnect Policies – Docket 8224 – The Department is preparing questions for Comcast, to supplement the Board’s questions issued at the status conference. These questions will be served on Comcast by Friday, April 25th.

VPPSA Section 108 Petition – no docket – VPPSA requested approval to enter into a \$6 million line of credit for the purpose of renewing the company’s existing operating line of credit facility. The Department filed its recommendation on April 17th recommending approval of the petition.

Village of Swanton Section 108 Petitions – no docket – the Department’s recommendations are due on May 2nd.

Finance and Economics

Electric

BED –has requested comments on a proposed “interim” tariff structure and specific rates for charging electric vehicles (EV) at its charging stations. BED currently has a single charging station that is available free of charge and which has been used to as a “test” site to gather information about charging station usage. Based on the data collected, BED plans to build 5 additional charging stations and plans to begin to charge for the service. BED has proposed a cost based EV rate structure with two primary components--a flat fee connection charge and a kWh volumetric charge. Following an internal strategy meeting to discuss compliance with energy plans and policy staff has completed a response that was sent to BED on April 18. In essence we indicated we had no objections to its proposal but suggested they consider other options such as a single kWh rate, eliminating the interruptible provisions and using two different rate structures to further study customer responses to different structures.

Hardwick - 219a Net Metering Tariff: Hardwick: filed a tariff change to bring its net metering tariff into compliance with the provisions in H.702. Staff reviewed and requested additional clarifying information and are now waiting for revised copies of tariff sheets.

Morrisville - 219a Net Metering Tariff: Morrisville filed a tariff change to bring its net metering tariff into compliance with the provisions in H.702. Staff reviewed and requested additional clarifying information and are waiting for revised copies of tariff sheets.

Swanton—has submitted two financing (Section 108) petitions. One petition is requesting approval to establish a non-interest bearing \$1 million line of credit with the village that would be used for working capital. The other petition is for approval of a series of notes totaling \$1.45 million that will be used to finance its capital expenditure program. We are continuing to review the petitions and have requested some additional information that we are waiting on. Our recommendation is due April 24, 2014.

VEC - 219a Net Metering Tariff Filing: VEC filed a tariff change to bring its net metering tariff into compliance with the provisions in H.702. Staff reviewed the tariff changes, requested and received additional information, and provided PA a recommendation supporting the filing.

VGS--Tariff Filing 8491—Quarterly Purchase Gas Adjustment Filing reflecting an overall increase of 2.21% in firm rates from the under collection of \$1,723,872 in gas costs, effective with bills rendered on and after May 8, 2014. The rate change is largely attributed to a 5.03% increase in the wholesale cost of gas that has been driven by the extremely cold temperatures this winter. Staff and our consultants completed a review of the supporting documentation and have provided our recommendation that the filing be approved as submitted to PA (due April 22).

Telecommunications

H. 297 – Telecom Bill – H. 297 was voted out of Senate Appropriations with non-substantial amendments to the version as passed by Senate Finance. Senator Lyons has now offered an amendment that would direct the Public Service Board to amend its pole attachment rules whereby each municipality or Agency of Transportation District would have the right to attach to poles or underground conduit at no cost. Senate Finance is taking testimony on this amendment on Thursday morning. PSD telecom staff is scheduled to testify.

VTel FCC Issue – PSD telecom staff were contacted by FCC staff on 04/23/2014. Several weeks ago VTel made the rounds at the FCC requesting that the FCC issue an opinion to Vermont that the mobile service it intends to provide by the end of 2014 is not CMRS service and that the VOLTE rules apply to E911. On the call with the FCC it was obvious that they believe VOLTE will be subject to the E911 rules for CMRS providers and that they believe VTel is a CMRS provider. The FCC is thinking about issuing a declaratory ruling on this issue – on a generic basis – however, the purpose of the call was to ask if in several weeks upon request of the FCC that the Department would send a letter to the FCC, describing the issue – and having PSD ask for the declaratory ruling. PSD staff was generally receptive to the request but said would have to check with those of higher pay grades.

Regional Policy

Variable Resources Working Group

- On April 17, ISO-NE and NEPOOL held its first VRWG meeting. The purpose of the working group is to discuss technical issues related to market rules and reliability planning requirements.
- The group discussed a significant change to the day-ahead and real-time markets that will allow resources to submit negative supply bids, up to - \$150/MWh, beginning this December. This change will allow wind generators in constrained areas to bid to determine which resource will be able to produce. This will be consistent with the practices in PJM and MISO.

- ISO-NE presented a proposal on how to provide a more precise seasonal claimed capability value, for purposes of the Forward Capacity Market, for variable resources before a full season of data. ISO-NE is proposing to conduct a short term test of a resource's power curves (the relationship between wind speed/irradiance and power output) and wind/solar data to establish an estimate of the resource's capacity supply obligation.

Infrastructure Initiative

- There have been continued discussions related to gas pipeline capacity. The most recent discussions have centered around the question of the physical issues surrounding increasing pipeline capacity such that all or even most generators have access to the increased capacity. It is unclear what additional infrastructure, beyond a new pipeline or multiple pipelines, would be necessary. In addition, while many states would prefer that increased capacity be released directly to gas generators, states are beginning to explore the idea of developing a rate schedule that would have basically the same affect, without running afoul of FERC precedent prohibiting preferential treatment.
- Northeast Utilities, National Grid, and United Illuminating (the three largest distribution utilities in New England) have proposed to the states that they should be responsible for providing a credit backstop for the gas pipeline. Their proposal assumes that states will guarantee rate recovery for these efforts. Vermont staff have made clear that, if utilities do become the credit backstop and have the potential to see revenues from this work, that this should be open to all utilities.
- VELCO hired La Capra Associates to analyze NESCOE's Black & Veatch study which underpins the economic argument for expanding gas pipeline and transmission infrastructure. The summary is that the Black & Veatch study is generally good, but is intended only to be directional, rather than analytic, in nature. La Capra suggested that additional analysis should be conducted before committing to build increased infrastructure. Staff asked VELCO for permission to share the La Capra analysis with other states and is waiting to hear from VELCO.
- Staff discussed the Infrastructure Initiative with Burlington Electric Department, which has not been inclined to support the initiative. BED indicated that they have cost concerns as well as equity concerns (to the extent that Vermont's costs are less than load share because of the amount that Vermont utilities are hedged from market prices, than the same cost principle should apply within Vermont, with more heavily hedged utilities paying less than load share). However, BED indicated that it would most likely stay neutral on the issue during NEPOOL discussions.



State of Vermont
Department of Public Safety
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To: The Honorable Peter Shumlin
From: Keith Flynn, Commissioner of Public Safety
cc:
Date: April 25, 2014
Subject: Weekly Report

Vermont Center for Justice Research and the 2014 SJS Grant

Deputy Commissioner Aumand spoke with Paul Tartaglia this week about the situation between himself, Max Schlueter and the grant application filed by DPS. Paul appreciated the call but acknowledged that there was probably no way of salvaging the grant application this year. He is not inclined to file a letter of support for the grant. DC Aumand sent an email to Devon Adams of BJS detailing the language contained in the 2000 legislatures appropriation for Public Safety making the Vermont Center for Justice Research the Statistical Analysis Center (SAC). The argument presented is the Center was designated as the SAC and the Center is designated as the entity that will perform the work in the 2014 SJS grant application. Therefore, DPS should be allowed to be the fiscal agent for the Center and a new executive order should not be required by BJS as session law supersedes executive order language. We are awaiting a reply.

Legislative Testimony

Commissioner Flynn spent a considerable amount of time supporting and testifying on H. 501 - An act relating to operating a motor vehicle under the influence of alcohol or drugs.

Commissioner Flynn also spent time negotiating a compromise with S. 308 the precious metals bill. The compromise calls for Public Safety to play more of an active role in the certification of precious metal dealers.

S.247 – medical marijuana, passed this week. DPS staff have spent a large amount of time testifying and monitoring the progress of this bill.

Deputy Commissioner Aumand testified in support of S. 295 and offered to include in the scope of work contract for future criminal justice and juvenile justice statistical analysis work (VCJR) language that would include the first year evaluation process contained in this bill. This will amount to approximately \$15,000. No new money is needed for this work as the scope of work would be included in the \$137,101 contract that DPS is going to bid for SAC work.

Deputy Commissioner Aumand testified in support of S. 269, changes to the security breach law.

Emergency Management/Homeland Security
Issues/Updates:

Director met with NRC, FEMA, Entergy and the states of NH and MA to discuss issues regarding nuclear facilities in the three states. The primary topic was Entergy Vermont Yankee and decommissioning. Entergy now says fuel will not be out of the spent fuel pool (into dry cask) until 2021. This should reinforce Vermont's comments to NRC requesting discussion surrounding the current NRC posture that would support cessation of all emergency planning at VY after July 1, 2016. The secondary topic was the scheduled May 2015 Hostile Action Based exercise for VY. FEMA admits there are no criteria by which to critique a closed nuclear facility. VT, NH and MA are willing to consider a LOS if Entergy seeks a deferral of this exercise for a better planned and germane exercise in 2016. Vermont will host the next Tri-State meeting on August 14, 2014.

A request was sent to Region 1 Administrator Paul Ford for Joint Preliminary Damage Assessment for the flooding of April 15-18 was submitted for four counties (Caledonia, Essex, Lamoille, and Orange). Initial estimates from VTrans show approx. \$1.7M in PA-eligible damages. PDA site visits should begin next week.

DEMHS is currently managing 9 -open- federally declared disasters.

Director has made 2 attempts to speak with the Vermont Police Academy (VPA) Director to discuss the Homeland Security Training Coordinator position currently residing there and request it (position#) be reassigned to DEMHS. This is funded by DEMHS and the request stems from an interest in budget and management oversight along with the VPA request that DEMHS invest in admin support for this role. For the record the employee in this position is doing a very good job pushing out training. To date no reply from the VPA.

Legislative Contacts:

Deputy Director participated and commented on a submission being developed for the Governor in his role as a designee to the President's Recovery and Climate Change Task Force.

Communicated with congressional staffers to get an update on their meeting with FEMA regarding HMGP extension, Roxbury Fish Hatchery, and General Stream Alteration Permit Codes and Standards.

Fire Safety

Issues / Updates:

The Division received \$9.2 million in new plan review construction valuation collecting \$51,500.00 in permit fee revenue.

The Electrical and Elevator Rules are in the public hearing stage for comments. We do not anticipate major issues moving forward with an adoption date of July 1, 2014.

Legislative: EMS/Fire Resolution April 25, 2014

Vermont State Police

A Troop

We have identified an uptick in burglary activity in Cambridge, Westford, Eden area and will be targeting this area for investigation.

On April 18th at approximately 1700 hours, Tpr observed Border Patrol agents attempting to take a male into custody. Tpr stopped to assist the agents and learned that the male had attempted to steal the cruiser of one of the agents. While being placed into custody, the male struggled with Tpr and other officers on scene. The male was ultimately taken into custody and lodged, charged with Attempted Operating without Owner's Consent/Impeding a Police Officer & Resisting Arrest. As a result of a motor vehicle stop Trooper applied for a warrant for a motor vehicle and recovered approximately 2 1/2 ounces of MJ along with other drug paraphernalia.

B Troop

Responded to a road rage incident in St. Johnsbury where Michael Solarz & Diamond Reed pointed a shotgun at a subject. Both arrested for C&N and reckless endangerment.

Troops received a report of an abandoned vehicle parked in a field off of the Stevens Hill Road in Walden. Investigation revealed that the vehicle was a rental vehicle, rented by Don Pope age 60 of Kingston, NH. There were indications that someone walked away from the vehicle. VSP search and rescue, Wardens, Walden fire and rescue, New England K-9 search teams, and air National Guard helicopter searched throughout the day. During the search the helicopter located Pope on a trail approximately ¼ of a mile from the vehicle. VSP members found Pope deceased. Preliminary investigation indicates Pope died from exposure.

There was a large drinking party with 50+ individuals in attendance that was discovered after someone at the party had threw an object through a neighbor's window at around midnight while the neighbors were asleep. Troopers responded and discovered a large brawl taking place inside the residence where the party was. There were three troopers working and requested assistance from U.S Border Patrol. Several individuals were screened and issued underage drinking tickets and the owner of the residence where the party was being hosted is facing criminal charges also.

Tpr. conducted a motor vehicle stop that led to a false information case. A warrant was executed on the vehicle and the Operator was determined to be on Parole in NH under a false name. Shaffer relayed the information to NH authorities. Subject also had cash and drugs in the vehicle.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: April 25, 2014

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Status of Governor's Priorities:

The Governor's priorities remain intact in H. 864, the Capital Adjustment Bill. The bill addresses water quality issues, the development of the AG/ANR Lab, security of the Capitol Complex, safety valve funding the Waterbury State Office Complex project, the new Montpelier heat plan and the Energy Revolving Fund.

Legislative Issues/Contacts:

- Weekly meeting with Speaker Smith to touch base on issues of common interest including the Lamoille County Courthouse project. The Speaker is also concerned with the educational governance and consolidation bill and its chance of passing. Asked me how we passed Act 60.
- Weekly meeting with Senator Flory and Representative Emmons to discuss H. 864, the Capital Adjustment Bill. Conversations centered on the security of the Capitol Complex. The Capital Adjustment Bill includes language to hire a security consultant. The two chairs are committed to this issue.

Significant Events/Meetings:

- 120 State Street meeting with Michael Clasen and Wanda Minoli to discuss The Capitol Complex area space utilization study and the implications of an open swing space floor. The situation is fluid and there are many elements in play which dictate results.

- Meeting with Wayne Lamberton and Secretary Spaulding to discuss the Information Center at I-89, Exit 7. This is an opportunity to successfully realize the PPP model of a traveler's information center.
- Meeting with Secretary Condos and BGS staff to discuss the Middlesex VSARA Print Postal Complex and whether or not some simple adjustment can be made to alleviate the Secretary of State's security concerns. The idea is to have the building work better for both BGS and the Secretary of State.

Evolving Issues:

20 Houghton Street: An agreement regarding the abandonment of Houghton Street still not signed. Emily continues to work with Mylan's local council to come to an agreement on the areas of contention; mainly involving liability of the State of Vermont for unknowns prior to closing.

FINANCE AND MANAGEMENT

Issue Updates:

FY 2014 Close Out Instructions were issued this week to all departments and agencies.

The Senate Appropriations Committee completed mark-up of the big bill. The bill is expected to be on the Senate floor Monday.

The budget office continues to monitor bills with money implications. There are several that are moving.

HEALTH CARE REFORM

Status of Governor's Priorities:

Single Payer Planning: The health care team is working with Tom Boyd from DVHA in developing a list of outstanding policy decisions with target dates for completion. The goal will be to chart a course for finalizing decisions with the Governor, where appropriate, in anticipation of submitting the financing proposals in January. We anticipate that this work will take another couple of weeks, due to the end of the legislative session competing with planning time.

SIM Grant: The SIM Core Team met on April 21st and approved funding for a new health information infrastructure investment. This \$2.7 million investment involves installing a common electronic medical record system, creating a link with the state's health information exchange system for mental health and long-term services and support providers and evaluating additional data needs for long term services and supports providers. The Core Team also voted to expand the sub-grant program by adding an additional \$1.9 million of funding to that program for subsequent rounds. SIM convened its Disability and Long Term Services and Supports Work Group on April 24th. The work group discussed models of care management and quality measures that could be applied to the Shared Savings ACO Program. Medicaid is continuing its conversations with CMS about the Medicaid Shared Savings ACO Program State Plan

Amendment. Next week, SIM will convene its Quality and Performance Measures Work Group and submit its fourth quarterly report to CMMI.

HUMAN RESOURCES

Legislative Issues/Contacts:

Secretary Spaulding, Deputy Secretary Clasen and Commissioner Duffy testified along with representatives from AOT, DCF, and BGS in Senate Government Operations about the Administration's request to include language in the Big Bill to allow a position pilot. Senator White apparently briefed The Pay Act has passed out of Senate Government Operations, and testimony will be taken in Senate Appropriations on the bill next week.

Significant Events/Meetings:

DHR met with the Retired Employees Association. The meeting focused on the Employer Group Waiver Program (EGWP), particularly the timeline for implementation and communication strategy going forward.

Evolving Issues:

Commissioner Duffy has reached out to the Attorney General's Office to get guidance on a new rule issued by the U.S. Department of Labor on the application of the Fair Labor Standards Act to non-traditional union members that treats the state as a joint employer. This guidance raises concerns regarding S. 316, the bill permitting unionization of child care workers. Commissioner Duffy also reached out to the chief negotiator for the State in the negotiations with independent direct care workers, as the rule will impact the negotiations currently ongoing. A meeting will be set up to discuss the negotiating strategy in light of the DOL guidance.

Employee John Howe has filed a lawsuit against the State and many of its employees alleging retaliation for whistleblowing activity. The complaint has not yet been served. DHR notified the Attorney General's Office, and the case has been assigned to the Civil Division attorneys.

Recently, Express Scripts erroneously made a programming change that has had some employees and retirees appearing to have a much higher out-of-pocket maximum than they do, which increases costs for the employees and retirees. DHR has been in contact with ESI, and it is working to fix the programming. ESI believes it will be able to fix the problem by Monday, April 28th. DHR Benefits Division and ESI customer service employees are aware of the issue and are able to address the concerns when raised. DHR has also notified VSEA and the Retiree Employee Association of the issue and steps being taken to rectify the problem.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Healthcare (VHC):

- Security - DII met with CMS this week to have a conversation on POAM items. CMS reiterated risk of exchange disconnection from the federal hub if POAM items are not completed on time. CMS also alluded to the fact that we have more items outstanding than most states that have reported.
 - Somewhat problematically that state agreed to permit CGI to mitigate high items with a defined plan down to medium status during the last CMS reporting period. This was done with the expectation that CGI had defined plans to the state to implement mitigating items. Many of these plans had a 4/24 date of completion attached.
 - CGI missed the 3/31 date and now the 4/24 date and has submitted a change request to DVHA to push the date of completion out to 7/2/2014. All of these date changes amount to a significant slippage in accountability and completion of items. Moving the completion of medium items out to 7/2 puts the resolution date perilously close to the CMS defined 7/23 date and instills no confidence for timely completion. High items that were mitigated to medium (but currently still represent true High risk) have been afforded an unacceptable amount of time to be completed.
 - SOV Security recommends reporting all downward mitigated high items back to CMS during the next reporting period as high findings, readjusting the level. This will instigate a large amount of pressure on these deliverables but is more representative of the true risk to the state.

Legislative Issues/Contacts:

- Deputy Commissioner Thompson attended testimony in Senate Finance concerning web portal fees. Jamie Gage, Vermont Information Consortium (VIC) General Manager, proposed raising fees on credit card transactions coming through the portal to 3% for all transactions. Currently the 3% fee is added only to those transactions over \$200. Mr. Gage told the committee the additional money generated would be used to increase VIC services to the State. It occurred to me during Mr. Gage's testimony that we should form a position on this issue.
- Commissioner Boes testified in Senate Gov Ops on IT contracts where he responded to a request from last week to provide a list of target dates on healthcare projects. The committee responded positively to the timeline provided and we talked about the process of moving from RFP to contract and best practices for holding vendors accountable to schedules.
- Dave Brotzman (VCGI Exec Director) received a call this morning from Steve Kline telling Dave that his staff was in the process of writing up legislation to move VCGI into state government to be included in H. 530 for the Conference Committee to review. He mentioned that the current language they were developing would put VCGI into ACCD and DII spent a few minutes explaining why they believe DII would be the better path. He told Dave to contact the H. 530 Conference Committee members to speak with them about my reasons for preferring DII. Dave will be contacting the Committee tomorrow to try to schedule a few minutes in the room over the next week to make his case.

Evolving Issues

Web: DCF has completed the data clean-up required to launch the Child Support Payment Service. The site is now live at secure.vermont.gov/DCF/ezpay4kids/.

LIBRARIES

Nothing to report.

TAXES

Legislative Update:

Ed Finance/Governance: The Committee unveiled a couple drafts early in the week. Highlights:

Rates: No rates stated yet, they are having Mark Perrault do runs, with the principles that the rates will be no higher than the “Commissioner’s Recommendation,” and will not rely on one time money. They do not have any extension of the slope.

Form of Budget Vote/Spending Penalty: Retain these provisions from the House version.

Intent to Reform: Stripped the intent to move to an income based finance system.

Miscellaneous Tax Bill: Committee is meandering through a draft, although they are supposed to vote it out by Friday afternoon. They have retained the Department technical changes, the increased downtown credits and the solar provisions. Other highlights:

Wood Manufacturer’s Credit: Out

R&D Credit: Taking testimony on the House changes that lower the percentage and require disclosure; some indication that they might strip

Recreation and Health Facilities: For several years, a temporary 50% exemption has been allowed in session law. The Committee appears poised to make it permanent; ironic given their review of exemptions this year and disbelief when Ways & Means added frats and sororities back in.

Valuation of Natural Gas Facilities: The current draft has the Department valuing facilities at cost, with depreciation no lower than 30% of cost. As also seen in some of the current use drafts, there will be increased pressure on the Department going forward to take over listing from local listers, which is not illogical but a resource concern. Also, the Department will engage with DPS to consider the issue of taxation when lines run underwater.

Use Tax: Sen. Ashe was deaf to suggestions that we should increase the number of taxpayers reporting use tax rather than the default amount for each. Our certification line this year, even without much outreach, increased reporting to 10% of returns (from 7%) with over \$400,000 increase in revenue.

Dispensaries: Provides dispensaries with the ability to take expenses against income disallowed by feds.

Employer Assessment: Appear poised to include, although heard testimony from Grocers and LCCC against it.

Member Amendments

Estate Tax: Sen. Galbraith introduced a proposal that seemed fairly solid on first blush – raising the exemption to the federal level, including gifts in the estate as the feds do (prospectively) and imposing a flat rate. This appears similar, and possibly even more favorable than NY's recent change. The Commissioner has solicited comment from practitioners on the technical details. And the difficulty is the risk to revenues given the inexact estimates – a very small number of taxpayer pay the tax, which currently is very volatile. Vermont should follow the trend in reforming this tax, the question is whether the time is right.

Fuel Gross Receipts: Sen. Lyons proposed raising this tax by .5% to go to weatherization fund, committee appeared ambivalent.

Contractors: The Committee is entertaining Rep. Bouchard's rather convoluted changes to how sales tax is applied by contractors. Darned if we do...this is an area where the Department has done extensive education, which would be undermined by the changes.

Senator Pollina: Proposed three amendments, raising the top personal income tax rate, having unclaimed bottle receipts escheat to the state, and giving a successful claimant under the Lemon Law a refund of purchase and use tax. Committee appeared unlikely to adopt any of these.

Current Use: The Commissioner testified to the Department's concerns over the Ag version, particularly around valuations and regulations. These provisions were stripped in the bare bone version passed by Senate Resources, leaving the Department only the duty to develop a valuation handbook.

Operation:

Returns Processing: Our paid returns processing has pretty much wrapped up, short of the revenue mark. This April proved that day to day comparisons are no longer valid year to year, with the move to electronic filing. On the other hand, particularly as we modernize our processing, we will have more sophisticated reports, analysis and tracking of data. Early reports from a few other states show mixed results; FTA will hold a conference call on May 7 that should have extensive comparisons.

VTAX Project: A training environment is now available to staff. We are negotiating a contract with Berry, Dunn to provide us with security policies, necessary for the IRS and the project.

CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

From: Susan Spaulding
Date: April 25, 2014
RE: Boards and Commissions Update

Appointments Made April 23, 2014

Community Development Board:

REAPPOINTED: Amelia Silver, Pownal
REAPPOINTED: Bruce MacLean, Peacham

New Motor Vehicle Arbitration Board:

APPOINTED: Gina Germond, Sudbury (Alternate Public Member)
APPOINTED: Michael Loschiavo, Bradford (Alternate New Car Dealer)
REAPPOINTED: David Curtis, Calais (Public Member)

Vermont Sustainable Jobs Fund:

REAPPOINTED: Bill Murray, Guilford

Vermont Pension Investment Committee:

APPOINTED: Karen Paul, Burlington (FULL MEMBER)

Consumer Advisory Council on Health Care Reform:

APPOINTED: James Haslam, Burlington

State Rehabilitation Council:

APPOINTED: Leslie Mitchell, East Ryegate (Community Rehabilitation Rep)
APPOINTED: Neal Meier, Georgia (SILC Rep)
REAPPOINTED: Allen “Chip” Evans, Middlesex

Statewide Independent Living Council:

REAPPOINTED: Sarah Launderville, Williamstown (VCIL)

Tobacco Evaluation & Review Board:

DESIGNATED CHAIR: Amy Brewer, Williston

Governor’s Council on Energy and the Environment:

APPOINTED: Thomas Dunn, Montpelier

Building Bright Futures:

APPOINTED: Mary Smit, Hartford (Parent Child Centers)

Board of Nursing:

APPOINTED: Jennifer Laurent (APRN)

Interagency Coordinating Council for Families, Infants and Toddlers:

APPOINTED: Andreas Koenig, Shelburne

APPOINTED: Christy Robertson, Montpelier

Agricultural and Forest Products Development Board:

APPOINTED: Ted Brady, Williston (Agricultural Lender)

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: April 25, 2014
Re: Weekly Report

Status of Governor's Priorities: Senate marking up Budget- no issues with DLC.

Legislative Issues/Contacts/Updates:

- S299: would allow for licensees to serve flights of various products for comparison purposes. The bill was passed out of Senate and is in House General.
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business.
- House General Committee has consolidated these three bills into one: S299 on behalf of the late Sen. Sally Fox as she originally introduced S299.
- Senate Econ Development added some language to S299 for a study regarding the recent national news blitz on a Powdered Alcohol product called "Palcohol". A powdered substance that could be added to water for an instant alcohol drink. My department can see multiple regulatory, public safety, and health related issues from this type of product. Should the language pass, I will conduct the study with input from the Department of Health.
- H884 Miss Tax Bill: Will speak again this afternoon on some changes to the spirits tax that will affect in state manufacturers.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 05/07/2014 - Enforcement Hearings.

Evolving Issues:

- ERP/POS Project underway.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in May.

Summary of Key Department Activity:

- April sales so far are at 4-5% which is a good sign. We are still year to date in a good position.

Commissioner's Commentary: Have a great weekend.