

# WEEKLY REPORTS

Checklist  
1/10/2014

Elizabeth Miller/Aly Richards

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

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

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

**To: Governor Peter Shumlin**  
**From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development**  
**Date: January 10, 2014**  
**Re: Weekly Report**

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## LEGISLATIVE ACTIVITY

- Virtually every appointee within ACCD has made at least one, and in most cases several Committee appearances in only the first two days. ACCD senior management including Deputy Secretary Leriche, Commissioner Gosselin, Commissioner Smith, Commissioner MacKay, and CMO Nancy Driscoll provided a general overview of ACCD progress on previous year's work or goals for this session in both Senate and House Economic Development committees.
- Secretary Miller and Deputy Secretary Leriche Testified in House Commerce and House Appropriations on the proposal for ACCD to be granted \$500,000 in additional spending authority in the budget Adjustment bill for Entergy Settlement special funds for economic development in Windham county. There was much interest in ensuring performance-based measures and outcomes, as well as some interest among individual members in (somewhat parochially) exploring how other towns within the impacted region might also obtain funding assistance.
- Secretary Miller testified in House Institutions about the Saint Albans project.
- Deputy Secretary Leriche testified on the GMO bill in Senate Agriculture. She relayed the administrations position of supporting the consumers right to know, provided it can be done without putting Vermont food producers at a competitive disadvantage and also be done in a way that can survive a court challenge.
- Representatives Ralston and Scheuermann and legislative counsel David Hall requested a meeting with EB-5 director Brent Raymond and Commissioner Gosselin to explore opportunity of using EB-5 to roll up smaller projects, potentially in housing. Shared the current challenges that EB-5 applicants can face and suggested that it usually takes a strong project backed by a leader or leaders with good track records in their field to attract foreign investment of this type. Brent Raymond shared the competitive landscape Vermont faces on the EB-5 front. Offered to continue to work with them and suggested looking at other venues for finding financing for projects that don't currently meet EB-5 requirements.
- **Sales Tax Reallocation Rule Making:** Public meetings are set for next week. Key legislators and partners have been informed of the meetings. Rep. Ancel may request that we come into Ways and Means to discuss.
- **Emergency Housing:** Jen Hollar testified on the growing demand for emergency housing assistance before the House Appropriations, General, Housing and Military Affairs, and Human Services Committee. Described the national economic and political conditions that have collided to create a national rental affordability crisis that is also being felt in Vermont. Until these conditions change, it's necessary to put more resources – as the Governor recently proposed – into ensuring Vermonters are sheltered while continuing to invest in permanent housing to meet the underlying need and absorb future, cyclical demand.
- **Mobile Home Report:** Jen Hollar with Arthur Hamlin, presented the Department's Report on the Viability and Disaster Resilience of Mobile Home Ownership and Parks to the House General, Housing

and Military Affairs Committee.

## DEPARTMENT OF ECONOMIC DEVELOPMENT

- Key ED Department staff Met with Janette Bombardier and Janet Doyle of IBM. Discussed ways IBM could improve energy efficiency and make better use of Efficiency VT. Janette Bombardier shared concerns about availability of workers with strong tech skills and suggested a program, similar to STEM, to incent students to complete Vermont Tech associates degree. Discussed R&D tax credits and how to better leverage IBM campus.
- Dave Snedeker of NVDA helped to set up an initial call with Massachusetts Biomedical Initiatives, a Worcester, MA-based incubator. Incubator has several interesting start-ups in the biotech arena that are seeking funding and was inquiring about potential for EB-5 funding and locating them in Vermont. Brent Raymond will be following up.
- **Logic Supply - South Burlington:** The company is planning a \$3 million expansion to their existing building. The company has added field offices in China and in the Netherlands. Employment is at 50 and growing, and they are finding it difficult to fill positions in engineering, software development, IT management and technical assemblers. They have developed a new customizable chassis that Intel has discovered and they have become a major customer. Profitability is at an all-time high.
- **Polhemus – Colchester:** This electromagnetic sensor developer is doing well with employment at 30 full time. Half of their clients are in the U.S. with the rest from around the world. There is new management and keen interest in the Vermont Training Program and international trade assistance.

## VEGI

- Prepared a Pre-Application for potential expansion of Canadian company, Marie Morin, to Swanton
- Worked with Dealer, PBM, Farmer, and Bioteck to finalize VEGI application process and start incentive

## TIF

- Met with Richard Haesler and Brian Pine regarding imminent filing by City of Burlington of the first phase of the Burlington Downtown TIF District, called “the Gateway project,” which will involve Memorial Auditorium and the YMCA in a plan to revitalize the block that includes Memorial Auditorium.
- With Curt Carter from GBIC, met with Senix Corp, Hinesburg, regarding the potential growth of the company due to a new product line. May result in a VEGI application. May also look at VTP, VEDA, STEM. Already use PTAC.
- **Open Tempo:** On referral from Ann Carnell of VDOL, Beth visited with Open Tempo in Williston. The IT company specializes in writing a number of software packages that assist medical practices with scheduling of staff. The founders are former IDX employees and the company has quickly grown in its three years. In 2012 the company had nine employees, it currently has 25 and hopes to grow to 40 in the next year. Beth reviewed the Vermont Training Program and how it could help the company’s employees. Beth will continue to be in touch with Brian McNabb, the Director of Implementations.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

- **Mock Disaster – Business, Agriculture and Cultural and Historic Damage Assessment Form:** Held a mock disaster to test the new online damage assessment protocol. Over 15 of our partners volunteered to test the system and input ‘damage.’ We identified some minor improvements that will be corrected. Next steps will be a training of our partners on the process. Great partnership with Ag and DEMHS.

- **Statewide Parcel Mapping Workgroup:** The group met to discuss options for a long-term maintenance plan for updating parcel data. The group is building a "comparison matrix" to evaluate information about how other states have implemented and maintained digital parcel maps. Partners are also working on a return on investment report and identifying the organization best suited to own and maintain the data. The next meeting takes place in two weeks.
- **Historic Preservation:** A Letter of Inquiry was formally submitted to the National Park Service's National Historic Landmark program, asking for a determination of eligibility regarding the national significance of Hubbardton Battlefield. The letter included owner support for such an honorary designation by Commissioner Patrick Berry of Fish and Wildlife, Commissioner MacKay, and the SHPO.
- **All Digital Submittals Now Accepted!!** The Environmental Review, National Register and Archaeology Inventory programs are transitioning to a digital submittal system that acknowledges submittals, tracks internal review, and greatly helps DHP process intake and review requests. The webpage is being updated regularly to keep users informed and consultants have been engaged to serve as guinea pigs for submittal and processing. The IT team has been a great support! Presently a soft opening, electronic submittals will be the standard by March 1<sup>st</sup>.
- **Community Development Block Grant-Disaster Work:** Staff recommended that the Waterbury's Jan's Building Rehabilitation grant application be tabled at this time for lack of ability to fund non-LMI projects. The Waterbury Planning Grant for Floodplain Management scored low as it is not clear what the deliverables are, has 5 different components and seems to duplicate other efforts.
- **Vermont Life Editorial:** The spring issue is coming together, with a heavy emphasis on Vermont entrepreneurs who have capitalized on the Vermont lifestyle in very different ways.
- **Make Vermont Home:** Nancy pitched a possible new approach to this initiative to the senior management team meeting this week, to positive feedback, and she'll continue working to flesh out the concept. Here's the idea: Any out-of-state visitor staying at a resort/inn/hotel will be asked to fill out a simple comment card with their email address, home state, and the business sector they work in. That information will then be inputted into an email newsletter database, so that we can follow up with information designed to open their eyes to job opportunities in Vermont. Nancy had envisioned this e-newsletter as one that would be segmented by sector and include timely job openings supplied to us by key employers. Others (wisely) suggested starting with just one version of the newsletter that offers "curated content" from such entities as Vermont Life, VBM, Seven Days, etc. - spotlighting "featured employers" and exciting things going on in the state's economy, to support the message that Vermont is highly innovative, entrepreneurial, creative, healthy, etc. There may also be opportunities to sell ads in this e-newsletter, so that our staff-time costs can be self-supporting. Next steps: Nancy will discuss the idea with the ACCD intra-agency marketing group and, in particular, the Vermont Life team, and will also present the concept and get feedback from resorts at the next Vermont Travel Industry Conference meeting.

## Lawrence Miller

Weekly GPS report; health care assignment

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- Lawrence has completed delegation of ACCD day to day ops and now full time in Winooski effective Friday the 10th, but has been able to spend a lot of time there already. Considerable chaos; return to some order is the first priority.
- There are some terrific resources already here, just not used as effectively as they could be.
- On Friday the meeting and communications structure with CGI was reset. The structure was abandoned in October and the lack of cadence is making things more difficult than they need to be.
- On Monday the PMO will present their plans for improving their function.
- Next Tuesday will spend a half-day resetting team roles and responsibilities. Bringing in HES under contract to provide support on that and longer term planning. We absolutely MUST pause and get control of process, and we are running a critical risk with April 1 and beyond and will continue to miss deadlines unless we do.
- Lindsey is going on vacation from the 17th to the 27th. This whole team each need an individual reset and rolling vacations are being scheduled.
- Gartner is not currently under contract for oversight of the CGI contract. I am going to ask them to do a fast third party review of the CGI resources for our near term objectives.
- The carriers will receive lists daily showing who has registered and paid and will assign an ID number immediately so they can have coverage without waiting for the check to get to Omaha and the processing to happen.
- Mark is taking a day off starting at 2:00 and going to Lake Placid with his wife.
- We should talk to George Schindler early next week to ask for additional support since they have so many people getting done with the Feds.

## Memorandum

To: Governor Peter Shumlin

From: Annie Noonan, Commissioner VDOL

Weekly Report: Week ending January 10, 2014

**Unemployment and Wage Division:** UI Claims Center: For the week ending 01/04/14 we took 3,423 calls. We paid 7,084 claimants during the week ending 01/04/14 compared to 6,242 for the prior week, and processed 55 Mass claims for week including 31 from the Granite industry, and 20 from Ethan Allen. Multiple inquiries this week from the media about the EUC benefit loss. **Workforce Development:** VDOL's re-filed Trade Petition to USDOL on the IBM layoffs has already resulted in USDOL increasing the approved number from 115 to 185; VDOL has requested that they certify all the IBM displaced workers as "trade impacted", a significant benefit to the workers. Next Wednesday, 1/15, VDOL hosts a TAA benefit seminar in Burlington with the 185 "TAA approved" workers from Williston. We will host more Trade and Dislocated Workers benefit sessions shortly thereafter, as well as hosting numerous job fairs statewide for employers who have asked for our help with recruitment efforts. We estimate that we contacted 18,000 VT employers last year by phone to discuss hiring needs. VDOL hired the grant writers for the USDOL Youth Career Connect grant which is due 1/27. The many interested parties appear to be working well together. I have been including Aly Richards in the emails. **WC & Safety:** Federal OSHA provided its review of VDOL's WorkSAFE Program which exceeded all of the federally required benchmarks for PY2013. VDOL Tramway Inspectors report that many ski areas fell behind on their lift maintenance this fall which then resulted in our inspections being done later in the year. Several lifts were not ready for inspection when our inspectors arrived for mutually-scheduled reviews. **LMI Division** has also been asked to analyze the minimum wage increases introduced in both the House and Senate. Requests for help came from JFO, and Senator Campbell has asked if we have any data/research into impacts (+ or -) of MW increases. LMI provided annual wage totals to JFO at their request.

## Legislative Week in Review:

**House Commerce 1/8/14:** We presented the Unemployment Insurance Trust Fund analysis to the House Commerce Committee on Wednesday 1/8/14. Two models were presented (one with a theoretical recession built in). Both models show a continuing positive balance, accumulating about \$60M per year (post benefit payout). The 2010 UITF reforms set measures (Maximum Weekly Benefit, Taxable Wage Rate Schedules, etc.) that do not seem to be retiring sooner than predicted. MWB will increase July of this year. VDOL is running the costs of changes that are being suggested by different constituencies, per the Chairman who agrees we need to have these numbers readily available when these issues come up (including changes in Disregarded Earnings, elimination of 1-week waiting period, reducing employer's rate schedule, etc.). We are also going back to testify on VDOL's definition of "solvency" for the fund - a much needed statutory addition that other administrations have ignored due to political pressure. Good work was done on the UITF forecast and presentation by Mat Barewicz and Tracy Phillips. **House Commerce 1/9/14:** S.155 Workforce Development: Reps. Kupersmith and Toleno and I jointly testified about Vermont's workforce development system and S155 study. VDOL is preparing WETF report, and will present Next Generation recommendations, which may be completely ignored. **House Commerce: 1/9/14:** VDOL's VOSHA Program Manager Dan Whipple and Project WorkSAFE Manager Scott Meyer testified Thursday 1/9/14 on available assistance and programs for employers to implement workplace safety and health programs, and the positive impact on the safety of their workforce and their Worker Comp costs. WC Director Steve Monahan answered questions on Vt. WC system, including high-risk occupational injuries, such as logging and farming, and VDOL's work with employers, industry associations, UVM Extension, the Farm Safety & Health Task Force, Agency of Agriculture and Department of Health. House Commerce is interested in working with VDOL and FinReg to reduce WC costs. House Commerce Chair segued into opiate prescriptions in WC injury treatment as another avenue leading to addiction. **Senate Finance 1/10/14:** Meeting with Senator Ashe at his request to discuss info relating to large employers who may be relying on State social programs to subsidize their employees.

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

**CONFIDENTIAL and PRIVILEGED**

To: The Honorable Peter Shumlin, Governor  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: January 10, 2014  
Re: Weekly Report

*Susan L. Donegan*

**Banking Division:**

The Banking Division reports that the number of newly-filed foreclosures for the last quarter of 2013 returned to pre-recession levels and is slightly lower than the last two quarters of 2007. The number of newly-filed foreclosures in December 2013 dropped to 80, there were 105 in November and 121 in October bringing the total for the fourth quarter to 306. The fourth quarter of 2007, the year the department began collecting data on newly-filed foreclosures, was 325. The improvement has been credited to the fact that property values have begun to stabilize, the backlog of foreclosures seems to be dwindling and the economy continues to show improvement. In the same quarter of 2012, the number was 504, which was attributed to the backlog in the courts due to the large number of foreclosures resulting from robo-signing.

**Vermont Foreclosure Filings – Fourth Quarter**

\*Data collected by Court Administrators  
2007-2010 data compiled by DFR

2005*	140
2006*	230
2007	325
2008	392
2009	481
2010	285
2011	290
2012	504
2013	<u>306</u>
Total	2953





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## CONFIDENTIAL AND PRIVILEGED MEMORANDUM

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: January 10, 2014

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### Legislative Issues/Contacts:

I spent a great deal of the week in Committees, meeting with House and Senate Education Committees, as well as the Senate Appropriations Committee. I was confirmed Thursday afternoon by the Senate Education Committee, which will recommend my confirmation to the entire Senate. Other major topics of legislation the Agency testified on or provided information on this week include H.270 (the Pre-K bill), H.524 (Technical Corrections), Education Spending and Funding, Governance, and Independent Schools.

We anticipate the following to be the focus of testimony in the coming week:

#### **H.270 –Pre K**

We will continue to respond to requests and advocate for the Bill. We feel this is not likely to pass out of the Senate Appropriations Committee today.

#### **S.91 and Privatization of Schools**

The Senate Education Committee asked for Armando to testify on his report, and it was the most commonly discussed topic of the day in this committee. Privatization also came up Thursday during my confirmation hearing. We see two approaches in play:

- To seek legislation that will impose requirements on independent schools that accept a certain percentage of publicly funded students.
- To limit where a school district can send any tuition student. In essence, districts cannot pay tuition to an independent school for any student unless that school meets certain requirements, such as being



approved for special education. (Or at the least, commit as public schools must do, to staffing up to serve disabilities of any student who enters.)

The second approach is the approach taken in the Buxton Bill and does not impose more requirements on independent schools, but allows them to step up if they want a school district to be able to send them students.

Currently our rules prohibit public funds being paid to an independent school for students determined eligible for special education, unless the school has been approved for special education; this has some unintended consequences. Specifically, if the independent school does not seek approval, then technically it cannot accept students with IEPs. This has been a back door way to avoid having to enroll those students. The onus remains with the school district to provide the services and the student must attend another school. In one case, on which we will have to act, [Sharon Academy's website](#) states that families of students who need services must be actively involved in the coordination of the services, and are responsible for all costs, including transportation and scheduling of services. This is inaccurate: it is the responsibility of the students' town to provide these services. However, displaying this information on its website has the effect of discouraging attendance by students who live in Sharon but need special education services. Even as Sharon discourages enrollment by students with learning disabilities—students whose scores typically don't reflect their potential—it also markets itself by comparing its test scores favorably with those of neighboring schools that do welcome students with disabilities.

### **VTNEA's Re-licensure Issue**

Joel Cook and Martha Allen testified before the Senate Education Committee Thursday and said they want to take this issue to the VSBPE first, and are trying to get on the VSBPE's February agenda. They will also be talking to me about this next week. The fundamental concern is that the re-licensure process is cumbersome, and there seems to be agreement on that (VPA supports them in this change wholeheartedly). The reason for the legislative push is that things move slowly through the VSBPE, and the VTNEA expects the VSBPE won't want to take this up.

Our **primary concern is consistently improving teacher quality**. Teacher quality is the second biggest driver of student learning (after socioeconomics), and is the most important driver in our control. The most effective way to systematically improve teacher quality is through more disciplined, systematic approaches to teacher supervision and feedback, and better use of evidence regarding effectiveness. **If we**



**relinquish AOE control over licensure, we could use this as an opportunity to ensure support for a more robust teacher and school accountability model designed to support continuous, evidence-based improvements in learning.**

This model could make use of data from performance assessments, surveys of parents and students (in grades 7-12), surveys of teachers, student work samples, and audits of the breadth and depth of opportunities schools provide for learning. This would move us away from our current model's overreliance on scores on high stakes tests in only two subjects, and could expand our focus to include other critical factors which we know contribute to success in college and careers.

### **S.316, Childcare Unionization Bill**

This is an anticipated topic of discussion for next week.

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

On Wednesday, January 15, I will be interviewed by VPR on the Legislative Summit on Education at UVM, and education policy in Vermont, in general.

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

I have been asked to speak at lunch on Monday at the Legislative Summit on Education at UVM.

On Friday, January 17, I will address approximately 100 adult learners and staff from Learning Works, Vermont's Adult Education and Literacy System (AEL). House Speaker Shap Smith and Lieutenant Governor Phil Scott have also been invited.

### **Evolving Issues:**

#### **Consolidation**

This is going to hit us whether we want it to or not. The first person out of the door with a white paper will shape this conversation. My instinct is to suggest that the legislature commission an objective third party white paper on this issue that requires us to provide data regarding turnover, costs and potential models. This puts the burden of the proposal on an external party, and allows us to consider options without committing ourselves.



## **Legal Division**

Today Michael Proto is participating in a series of interviews with staff. Thanks to Jeff Theis and HR, we were able to reclassify the General Counsel position so that Proto would not have to take a large pay cut to come to the Agency. We are hopeful that he will take the position, but it is not a done deal. To be blunt, our legal division is in a shambles. It is looking increasingly possible that we will have 100% turnover in the division (all 7 people). This makes it all the more critical that the General Counsel we hire be a strong candidate. This leaves us at a disadvantage as we enter the legislative session. And, if we lose our attorneys before a new General Counsel is in place, we will need help in the interim. On the positive side, the new General Counsel will have a chance to build a strong division from the bottom up.

## **SBAC/Testing**

For the purposes of providing schools feedback on their efforts to improve learning, the Vermont AOE will provide schools with scale scores for each tested student, in each tested subject. We will also provide school and state level scores for comparison purposes.

The federal government requires us to report based on performance categories. However, this method of reporting is problematic because it can distort the actual story of underlying achievement in ways that scale scores do not. For example:

- a) Depending on where a school's distribution of test takers sits relative to the cut score, the proportion of students "crossing the line" associated with a one point increase in average scale score will vary widely across schools. Thus, a higher performing school with a scale score increase of ten points might have a lower increase in proportion above the standard than a lower scoring school with scale score increase of only one point, simply because most of its students are already above the standard. This might lead us to assume greater effectiveness on the part of the lower scoring school than is warranted.
- b) Reporting based on cut scores incentivizes schools to focus narrowly on moving students near the proficiency threshold a few points, rather than focusing on broad, generalizable improvements in learning across all students. There is some evidence in our score data that some schools might be doing this.
- b) Scale scores and percent above standard often tell different stories, especially when comparing the performance of different subgroups with different underlying levels of performance. See the attached examples from VT for reference. Whether or not this



school “closed the gap” between Free and Reduced Lunch eligible students and ineligible students depends on whether you look at percent proficient or the scale score. (A side issue, of course, is that in a small school like this both scale scores and measures based on percent proficient are likely to oscillate across years, rendering both somewhat problematic for high stakes purposes.) See the work of these three researchers and others for more information: Linn, Ho and Koretz.

Finally, we are mindful that federal policy attaches sanctions to schools based on these reporting categories, even though it will be several years before we have any evidence that performing at a certain level on the SBAC is predictive of performance on the critical career and college ready indicators we care about in Vermont. For example, we do not have evidence that for most students, their scores on the SBAC will predict the likelihood they will enroll in and succeed in post-secondary education, any better than, for example, their high schools grades.

We are not convinced reporting scores in terms of performance thresholds is defensible, given the growing body of research on the distortions caused by this approach. We will do so as required by federal law, but will focus our own reporting on scale scores.

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Rebecca



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**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Jan 10, 2014**  
**Re: Weekly Report**

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

n/a

**Legislative Issues/Contacts:**

n/a

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

House Bill 575 introduced, restricting bar & restaurants from being lottery agents.

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**Summary of Key Agency Department Activity:**

Adding new staff members and training in new positions.

**Executive Director's Commentary:**

I am working on my budget comments and recommendation for VCPG grant with Human Services.

OFFICE OF THE SECRETARY

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**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Deputy Secretary Sue Minter**

**DATE: Friday, January 10, 2014**

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

**NOTES FOR GOVERNOR**

**Legislative Session Off to Good Start**

Team VTrans has hit the ground running with the House & Senate Transportation Committees this week, offering overviews of all the work we have done since the members were last here, and emphasizing our Agency focus on performance (measurable outcomes), innovation and efficiency, and customer service. For the first time in many years, we brought our District folks in to share the “boots on the ground” perspective of our challenges and successes. We believe our BAA proposal to extend the Limited Service Positions from Irene has support (so far) from the House Trans. & Approps committees. I also spoke with both House and Senate Committees about the looming federal “fiscal cliff”. The Senate is looking to bring the Congressional Delegation in for additional testimony on this. We are not making it a big issue for now.

**Vilas Bridge Continued (Bellows Falls)**

The news media somehow this week picked up the information regarding Brian’s proposal with New Hampshire DOT to create a “win/win” situation to get the Vilas Bridge (closed since 2009) rehabbed. As you may already know, Brian’s idea is for us to build the Vilas Bridge (which is 91% NH owned) and have NH repay us by paying for the VT portion of future joint bridge projects (almost like a loan). There is no “new” news on this, but we are hopeful that the media interest may bring New Hampshire back to negotiate with us. The media reports also demonstrate that we are working on solutions to address this challenge to a Vermont downtown. NHDOT is in a transportation funding crisis due to the fact that they won’t pass a gas tax. (Note that their situation is quite dire and the deficient bridges connecting NH and Maine are major economic lifelines like I-95!) I know you don’t get involved in our neighbor’s business, but any nudging you can give to Gov. Hassan to supporting her DOT Commissioner (Chris Clement – great guy) in his quest for funding would be helpful. (You could tell her that the price of gas has only gone down since we imposed a tax...)

### **Salt Supply Challenges**

We heard from a few sources this week about concern regarding salt supplies. It appears that some towns in NY State are running out and suppliers are slow to refill the sheds. After the busy month of December, we are indeed using salt faster than our suppliers can keep up with. The trucks and trains simply don't move as much material as fast as we've been using it. However, we (VTrans) have plenty of reserve salt in storage and do not have any immediate concerns of running out. The vendors we have talked to also have some supply concerns. Some of their local depots are running low at the moment and if usage continues at the December pace, they may have a hard time meeting the seasonal commitments later in the winter. They are also dealing with the supply line issues as they can't quite keep up with the current orders. But, again, this is a supply chain issue and not a "no salt in the mines" issue. We continue to be in close communication with our vendors and are working together to keep abreast of the situation so we can do contingency planning if necessary.

### **Meeting with AGC**

I participated in a partnership meeting between VTrans and AGC which was the first such meeting in many years. AGC leadership expressed strong appreciation for the improved collaboration with our agency.

### **NOTES FOR STAFF**

#### **Fair Share and Ernie Pomerleau/Developer's Meeting**

Our policy team continues to work with ACCD (Lawrence/ Noelle) and Natural Resources Board (Ron) to roll out a "Transportation Improvement District" legislative proposal. (Note: no longer calling it Fair Share due to negative connotations in leg.) This week we met with a group of developers brought together by Ernie Pomerleau. We all learned a lot from this meeting and the developers in attendance were quite appreciative of our effort to reach out to them. We are adjusting our proposal -- primarily making it less ambitious (and hopefully more achievable -- by taking out the concept of Regional Planning Commissions developing large Transportation Improvement Districts. We will begin with a first step of enabling the state to establish a TID, and enabling the NRB to assess impact fees for projects and associated TIDs.

### **Railroad Bridges**

As VTrans reviews rail bridge inspection and load rating reports, some bridges do not meet the standard for current operations. On the first round of reports which examined bridges between Bennington and Rutland, four bridges were determined to have significant issues that warranted immediate repairs. Once we receive the report from the inspectors, we notify the railroad of the findings and then the railroad makes a decision on whether they can operate over these structures. In this instance the railroad closed the line for several days until they were satisfied that the train was safe to operate at walking speed over these structures. For this group of structures, VTrans was able to shift funding around to address the need. VTrans doesn't have sufficient funds to address future deficiencies identified in upcoming load rating reports and will have to work with

the Legislature to identify funds for such emergency repairs to keep the rail line open at the current load requirements.



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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** January 10, 2014

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AHS presented the first draft of our new AHS Scorecard Thursday to the two appropriations committees. (Most of the presentation was done by Dru, who has been a great addition to my office!) While the project is still under development, we have enough to show a lot of outcomes data, all within the Results Based Accountability model. This is part of our continuing effort to build accountability tools and measures and to present them to the legislature and the public. The feedback we received from committee members was uniformly positive. We should have this on our website within a week or two.

**Vermont Department of Health (VDH)**

The NEW Home for Vermont's Cessation Services is 802Quits:

The Department of Health launched a new brand for Tobacco Cessation named 802Quits. The inclusive feeling of 802Quits recognizes that it often takes 8 to 11 attempts before a successful quit. The new tagline "You can quit, we can help", clearly communicates motivation and support, opening the door to talk about the three services/ways of quitting that are available. Along with the new brand comes a new website, which has multiple entry points for Vermonters looking to quit and is also available as a fully functional mobile site.

**Department of Mental Health (DMH)**

Vermont Psychiatric Care Hospital (VPCH) Update:

- Electronic Health Record (EHR) with Fletcher Allen Health Care (FAHC) is on hold - Gardner Consultant is reviewing FAHC's proposal. DMH may have to go to an RFP Process.
- Contingency Plan Contract - DMH is working with Copley Hospital for them to continue pharmacy services at the VPCH, and to continue to utilize the current Psych Consult System until a fully operational system can be implemented.
- Psychiatry Contract negotiations with FAHC are near completion.

Suicide at Brattleboro Retreat (Retreat):

A New Hampshire teen, residing in residential care (not Hospital) at the Retreat committed suicide in the evening of Friday, January 3<sup>rd</sup>. The Retreat reported the incident to the DMH and appropriate licensing and oversight agencies. An investigation by proper authorities is currently underway.

Sam Hemingway of the Burlington Free Press (BFP), and Susan Keys of Vermont Public Radio (VPR), have inquired about the suicide.

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

House Appropriations expresses concerns about \$2.23M Developmental Services rescission:  
Rep. K. Toll read a letter from a constituent during Commissioner's Wehry testimony yesterday indicating that the service provider did not consult the constituent (whose child receives services) about a reduction in services, as is required by rescission protocol. The blowback will likely be on the provider for this failure and possibly DAIL for lack of oversight of the process. Statewide, 524 consumer budgets were affected by the rescission and agencies were required to give them a choice about what service to reduce. No individual lost all of their services.

### **House Appropriations to meet today with Joint Fiscal to analyze Choices for Care reinvestment proposal:**

House Appropriations Chair Martha Heath announced yesterday that the committee would meet today to review DAIL's Choices for Care proposal to spend \$3M of the reinvestment savings on the moderate needs group and to reserve \$2M to mitigate the risk of imposing a waitlist in the high needs group.

### **Adult Protective Services (APS) receives compliments from two former litigants:**

During yesterday's Advisory Board subcommittee meeting, both Joyce Lemire (Senior Solutions) and Sandy Conrad, (Executive Director, Southwestern VT Council on Aging) were very complimentary of the work of our investigative staff in Windham, Windsor, Rutland and Bennington counties. Both indicated that their staff have made a point of telling each of them how much they appreciate the good work and collaborative efforts of the APS staff. Special kudos to staff and our current and former leadership team of Veda Lyon, Program Chief and Suzanne Leavitt, former Director (now head of our Quality and Provider Relations Unit).

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

### **DOC Staff to testify at Legislature**

The agenda includes: aging population; credit for time spent in custody; furloughed offenders over 65; and pretrial services (such as risk assessments and criminal justice programs).

Dr. Dee Burroughs-Biron will speak to the House Corrections and Institutions about strategies to deal with an aging population on Wednesday. Cullen Bullard will go before the Senate Judiciary to speak about credit toward a sentence for time spent in custody and the furlough of offenders 65 years of age and older. And, on Friday, Program Director Kim Bushey will talk to Senate Judiciary about an act relating to pretrial services, risk assessments and criminal justice programs.

### **Corrections Corp. of America (CCA) Meeting:**

On Thursday, CCA Management met with DOC Senior Management, including Deputy Commissioner Lisa Menard. The DOC expressed concerns about two recent attacks in the CCA Kentucky Facility. After sharing her concerns, Deputy Commissioner Menard asked that CCA be more vigilant, increase staff presence and better monitor the inmate culture in Kentucky.

### **Newport Facility Superintendent:**

The Superintendent of the Northern State Correctional Facility (NSCF) in Newport, Carl Davis, has requested to step down and return to classified service. Mr. Davis will be the Manager of the

Newport Probation and Parole office. DOC will place an interim superintendent in the NSCF and move to full recruitment for the position.

Population:

The department's incarcerated population averaged 2,093 for the previous week. The incarcerated male population averaged 1,931 with 364 being presentenced inmates. The female population averaged 162 with 50 being presentenced inmates.

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

Legislative visit to Woodside Treatment Facility:

On December 20, 2013 Representatives Anne O'Brien, Diane Lampher and Linda Waite-Simpson visited Woodside Treatment Facility for several hours. They were given a tour, visited with the youth in the residence, spoke at length with staff, met with the Director and Interim Clinical Director, and reviewed data and program information. We were pleased to present our treatment program and the services and supports now being provided at Woodside.

The reviewed data included proximal measures showing that kids are engaging in treatment; educational scores are improving dramatically, restraints and seclusion are down, and the sense of safety is up for both staff and residents. Rep. O'Brien is eager to see outcomes on recidivism which we will provide as we move forward in our current project.

Update: Extraordinary Relief Request from Jody Marquis of Creative Minds in Newport:

This month, Ms. Marquis accepted an \$18,000 no interest loan as an advance on the Child Care Financial Assistance Program (CCFAP) payments from the DCF Child Development Division (CDD). Ms. Marquis has begun repayment of the total \$34,000 currently owed to DCF through an agreement to withhold 10% of biweekly CCFAP subsidy reimbursement payments to Creative Minds Children's Center.

Ms. Marquis met with Aly Richards of the Governor's Office and Reeva Murphy of the CDD on January 2, 2014 to discuss her situation. Local support for her business plan to relocate to Derby has not been as robust as she had hoped so she is taking time to regroup and consider all her options. She has made staffing changes in the Creative Minds Children's Center which she believes will allow her to continue operating at least through June of 2014. Ms. Marquis has decided not to pursue additional Emergency Relief Funds at this time.

It is likely that Ms. Marquis will seek opportunities to share her story with legislators in this session. As a single parent working her way out of poverty, she attained an education in child development and envisioned building an exemplary program providing high quality comprehensive early care and education services. Ms. Marquis has achieved this at Creative Minds Children's Center through a unique combination of local partnerships and state and federal funding. Over the long term, the cost of the services Ms. Marquis is providing is not sustainable through the subsidies and grants now available to her and the other high quality providers in Vermont. She is now deciding whether to adjust her vision or eventually close her doors.

There are currently 34 subsidized children, including 19 infants and toddlers, enrolled at Creative Minds which is approximately 90% of their overall enrollment. Creative Minds is a nationally accredited, 5 STAR program in Newport Center.

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

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

DVHA has worked with Maximus on a plan to increase staffing and reduce call wait time at the call center. The plan is to increase staffing from a base of 89 to 165, including a new overflow capacity in Chicago.

#### **Brattleboro Retreat:**

DVHA participated in a meeting today with Jeb Spaulding and the Brattleboro Retreat regarding payment for the first day of admission for Vermonters admitted for detoxification. DVHA and the Retreat have had ongoing conversations without resolution about clinical appropriateness and corresponding payment for these first days.

#### **Medicaid provider rate increase:**

The current budget proposal calls for a 2% increase in Medicaid provider rates. While a positive step in addressing the cost shift, this will be less than expected by the provider community. It may be important and appropriate to have some preliminary meetings with relevant provider stakeholders.

#### **Appeals/Grievances:**

Since the start of the exchange we have seen the number of appeals reduce drastically. During the previous quarter, DVHA received 21 appeals (7 expedited); while during this quarter the DVHA received just 6 appeals (0 expedited). Looking at the same quarter from last year, DVHA received 22 appeals with 9 of them being expedited. We are not certain of the root cause, but suspect that long call wait times at Maximus are preventing the receipt of appeals and grievance by beneficiaries as Maximus is the first point of contact for anyone wanting to grieve or appeal a decision.

#### **Graduate Medical Education (GME):**

We continue to work with the State Auditor's Office (SAO) to resolve the SAO's concerns over the Graduate Medical Education Program and payments made from FAHC to the University of Vermont (UVM).

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: January 10, 2014

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**Secretary's Top Issues**

**Avian Influenza Screening** - Animal Health inspector re- tested poultry for Maple Meadow Farm in Salisbury VT after a weak positive reaction to an Avian Influenza screening test.

**Chronic Wasting Disease** - State Veterinarian, Kristin Haas, communicated with the Director and cervid biologist at Fish and Wildlife regarding S.228, a bill that proposes to eliminate the Chronic Wasting Disease testing requirement for Vermont captive red deer. This proposal conflicts with current state and federal rules and would eliminate the ability of Vermont producers to export live animals; F&W will likely have to explain to the legislature why there is no surveillance testing of wild deer being performed in VT.

**Bed Bug Issue continued** - AAA Pest control has requested a hearing regarding the revocation of license action and the administrative penalty (\$275,000) proposed for pesticide misuse in Rutland. A pre-hearing conference is being scheduled.

**Weights and Measures Laboratory** - The Weights and Measures Metrology Lab has received the Certificate of Metrological Traceability from the National Institute of Standards and Technology (NIST) for 2014. The certification addresses factors such as proficiency, management systems, internal auditing, management reviews, as well as the adequacy of equipment, standards, and facilities. The certification allows the VT Lab to provide customers with calibration reports that are recognized by other state jurisdictions. This allows VT companies to do business in other states and for businesses in other states to utilize the VT facility (reciprocity). The W&M lab has seen a significant increase in activity during 2013. Generates income from other states!

**Rutland Bedbug Response Update;**

Extensive Outreach Completed

- Vermont has completed the outreach to potentially affected residents back to 2009. Should additional homeowners or renters want their homes tested, VT will continue to offer free sampling & laboratory analysis. Calls for initial are still trickling in, the EPA laboratory is testing these samples.

Clean up Status

- The EPA is currently working with 10 households. The EPA process starts with an extensive inventory of the contents of the residence, & initial decisions on cleanable items are made. The EPA is reimbursing residents for items they cannot clean, at a mutually agreed upon value. After the inventory & initial disposition of items, the EPA relocation specialists work with the residents to find suitable housing for the period of time that the EPA will need to clean the residence (pets are relocated as well).

To date

- The EPA has cleaned 2 apartments (the landlord finished the process in one)
- 3 homes are vacant, work is being done in all 3 vacant locations (inventories complete, cleaning started).
- Relocations for 4 homes are in progress/planned for first weeks of January
- 1 household has had difficulty scheduling and the EPA is working this week to catch that residence up

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STATE OF VERMONT  
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**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** January 10, 2014

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**Status of Governor's Priorities:**

**Legislative Activities and Issues**

1/7/14 Jim Leland and Cary Giguere of the Agricultural Resource Management Division were asked to testify on issues related to compost. Specifically its status relative to state sales tax, and persistent herbicides in compost.

On the sales tax issue, the Agency's position is that

- compost should be sales tax exempt when used for agricultural production purposes; and
- should be added to the list of exempt items in Title 32 Section 9741(3).

The update on persistent herbicides in compost:

- No new homeowner or gardener complaints of compost harming plants in 2013.
- Label changes appear to have worked for the Milestone herbicide (Aminopyralid). Hay and Pasture uses eliminated for New England and New York.
- Composters-Agency of Ag.- Vermont DEC-UVM extension collaborating on Bio-Assay methodologies.
- New analytical detection methodology expected early 2014- Vermont Agency of Agriculture collaborating as a peer review/method validation laboratory for Dow Agrochemical.
- Green Mountain Compost contamination was from legal uses that occurred in Vermont on grass hay sold to horse stables.

1/8/14 Henry Marckres in House Ag to discussed maple syrup labeling

- Vermont adopted new grades to assist consumers in making informed choices on the syrup they purchase.
- The new grades have a color and flavor descriptor to assist consumers.
- USDA, Agriculture Canada and other states are all in the process of changing their grading systems to mirror the ones adopted here.

1/9/14 Tim Schmalz and Chelsea Lewis attended Senate Ag the **H.112**, An act relating to the labeling of food produced with genetic engineering, and heard the following from the Vermont Law School Environmental and Natural Resources Law Clinic (ENRLC)) and Falko Schilling (Vermont Public Research Group).

- First amendment issues - Given the history of Vermont laws and challenges in Federal court, this law would withstand a challenge if reviewed under the Zauderer test (review of restrictions or compulsions on free speech as a disclosure requirement, as is the case with the GE labeling case) evaluation, rather than the restrictions type laws (when Central Hudson test applies, which was the test used in the RGBH case, which ENRLC feels was mis-applied).
- Preemption under Federal Food and Drug laws – The preemption under the Federal Food, Drug and Cosmetic Act would not apply, as there is no express preemption enumerated in this law applicable to GE/GMOs, and the Saving Clause does not allow for implied preemption for unlisted products.

- Dormant Commerce Clause – this bill would likely not be seen as ‘discriminatory’ against out-of-state interests, as the rule applies intra and interstate (which satisfies the first criteria for a commerce clause action), and it would also not create adverse or excessive burden on interstate commerce, as it satisfies the legitimate state interest concerns (protection of environment, public health and safety, local economic interests).

Lucy Leriche

- Discussion of the logistics of labeling and moving product out of state
- Sen. Starr forwarded the idea of a clause that the bill would only kick in if other states in the region passed similar laws
- Discussion of legal challenge
- Protection of the Vermont Brand – would this help or hinder
- Senators seemed confused that the Administration was supporting the bill, but seemed to have significant concerns

Jim Harrison

- Presentation of Westminster Crackers v. Nabisco – can they compete if the costs are higher? Will they stay in VT?
- Whole Foods – ability of the marketplace to influence change
- rBST challenges – burden fell to the retailer, became a logistical mess
- Put forward the concept of helping Vermont producers with voluntary GMO-labeling (could be a program out of VAAFM), rather than mandatory labeling – would be a positive rather than a negative approach
- Strongly advised to only pass the bill if it would be implemented in multiple states in the region (esp. NY, MA)

Stephanie Smith attended House Judiciary to monitor testimony on **S 119** Relating to Perpetual Conservation Easements

- Representative Rebecca Ellis spoke about the companion Bill H. 185.
- Legislative Council Aaron Adler did a brief overview of the S. 119, the bill currently before House Judiciary. The passage of the bill would institute a statutory process for amending perpetual conservation easements. Currently there is no statutory approval process. Without a process it was expressed that there could be legal vulnerability. He commented that the bill is “very complex” and contains three different categories of easement amendment approval processes, which are dependent on the kind of amendment request. One of the approval processes is a judicial process before the Environmental Division of the Superior Court. An approval process, a step down from the judicial process, is before a “panel” constituted to review amendment requests. The standard of review of an appeal of a decision to the Vermont Supreme Court would be highly deferential.
- Darby Bradley gave an overview of conservation easements and provided the following points
  - Frequently there are multiple holders of the easement, such as VHCB, VLT, UVLT, VAAFM, a municipality
  - An approval process will attempt to protect and balance public interests and conservation interests
  - There are certain types of amendments to conservation easements that would be exempt from this process
  - The bill contains clarification that if a holder of conservation easement owns a property fee simple it will not extinguish the conservation easement.

**Chronic Wasting Disease** - State Veterinarian, Kristin Haas, communicated with the Director and cervid biologist at Fish and Wildlife regarding **S.228**, a bill that proposes to eliminate the Chronic Wasting Disease testing requirement for Vermont captive red deer. This proposal conflicts with current state and federal rules and would eliminate the ability of Vermont producers to export live animals; F&W will likely have to explain to the legislature why there is no surveillance testing of wild deer being performed in VT.

## **Press and Communication**

### **Marketing & Communications**

- On Wednesday, Jan. 8, Deputy Secretary of the Vermont Agency of Agriculture, Food and Markets, Diane Bothfeld, discussed dairy pricing on Vermont Edition. Agri-Mark Senior Vice President, Bob Wellington, was also a guest.
- The Agency is finalizing its 2013 Annual Report. Sec. Ross intends to distribute this report during his address to House and Senate Ag next week.
- This year, the Agency will leverage Vermont Dairy Promotion Council funding to pilot a program which will bring Vermont school children to dairy farms for tours, as part of the Farm to School program. The Agency's new Farm to School program administrator, Johanna Herron, has surveyed teachers to better understand their needs, and convened partners on 1/9 to begin scoping out the program. The goal for 2014 is modest: to create a classroom dairy farm tour model and execute at least 4 tours. The outcomes and learnings from 2014 will be used to shape a broader program in 2015.
- The Agency is developing an editorial calendar and publication schedule for Agriview in 2014. New, regular contributors include The Vermont Sustainable Jobs Fund (Farm to Plate) and Dr. Leonard Perry, UVM Horticulturalist and author of the blog "Perry's Perennials."
- Burlington Free Press ran an article on Maple Grading on January 9, 2014.

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

**Animal Disease Traceability Rule** - Animal Health Section followed up with two veterinarians submitting out of date export paperwork for livestock movement. The Animal Disease Traceability Rule passed in January of 2013 by USDA puts specific timelines on the provision of movement paperwork to state agriculture agencies/departments. The Section took the opportunity to discuss electronic versions of Certificates of Veterinary Inspections and reminded the veterinarians that VAAFM will start charging for paper copies in July of this year.

**Prehearing result** - Animal Health resolved the issue of a delinquent livestock dealer in a pre-hearing. The dealer provided his missing documents at the pre-hearing and consented to an Assurance of Discontinuance that helps to ensure he renews his license by the required timeline.

### **Evolving Issues:**

**Animal Well Being Concern** - Animal Health received an email inquiry from a private individual regarding 'a dairy farm down the road from me who keeps his cows confined to a standing stall 24/7. They never get to walk or go outside, eat fresh grass or feel the sun on their backs'. The individual is questioning if this is a legal acceptable practice. The Section has asked the individual for more detail to properly answer the inquiry.

**Animal Health Testing and Raw Milk** - State veterinarians Haas and Mehlenbacher and Dairy section chief, Dan Scruton, worked to finalize a revision of the animal health testing requirements for raw milk producers. The revision will allow this sector to perform maintenance BRT testing rather than annual blood testing for Brucellosis, which will be more economical for them and still achieve the Agency's goals related to this issue. The change will be released to Rural Vermont and Vermont veterinarians on January 10<sup>th</sup>.

**Large Animal Vet Shortage** - State Veterinarian, Dr. Kristin Haas, was informed on 1/9 of the posting in the Federal Register of solicitations for shortage nominations for the Veterinary Medicine Loan Repayment Program. To date, 2 Vermont veterinarians have received up to \$25,000 annually in exchange for their willingness to practice in underserved VT areas. This office will be submitting two shortage areas again this year for consideration under the Program.



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

### **Administration**

**Renewable Energy** - Deputy Secretary Bothfeld took part in meeting of the Renewable Development Fund executive committee. Group discussed issues with methane digesters involving Hydrogen Sulfide gas and the transition of that gas to sulfuric Acid when exposed to moisture. Group also heard a presentation from VT Gas Systems on their interest to have methane biogas production be added to their supply and to possibly give consumers the options to purchase renewable natural gas. This could be marketed as FF gas – Frack Free Gas.

### **Agricultural Development**

**Current Use** - Sylvia Jensen, Land Use Administrator presented the VAAFM recommended 2014 tax year agricultural use value to the Current Use Advisory Board. The proposal is \$279/acre. The advisory board approved the value as presented. The Board also approved the Department of Forest, Parks, and Recreation's recommended forestland value of \$118.05/acre and \$89/acre if parcel is located more than a mile from a road.

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

**USDA Animal and Plant Health Inspection Service Training** - State Veterinarian, Dr. Haas, has been invited to participate in a USDA APHIS Training and Exercise working group, representing the New England States Animal Agricultural Security Alliance. The purpose of this working group will be to formulate and revise the national training and exercise plan for APHIS. It is anticipated that this responsibility will be shared with other New England state veterinarians on behalf of NESAAAS.

### **Animal Health**

- Animal Health animal welfare activity:
  - Provided assistance to the humane agent from the Hooved Animal Sanctuary on a complaint in Richmond regarding a thin horse and cattle without shelter. The Agency's assessment was that the cattle are in fine body condition. One horse was diagnosed with cancer in the fall and the owner needed help with the difficult decision of euthanizing a companion animal. There is one more horse that is a 2/5 body condition score and the owner agreed to pursue veterinary care.
  - Provided assistance to the humane agent in Danville regarding two cases of horses with reported inadequate shelter.
  - Discussed three reported cases with humane agent from the Central Vermont Humane Society and a few more cases with the humane agent in the Hardwick area, primarily involved horses and reported inadequate shelter.
- Animal Health Inspector attended the Addison County Commission Sales for Animal Disease Traceability (ADT) compliance and Market reporting.
- Animal Health inspector re- tested poultry for Maple Meadow Farm in Salisbury VT after a weak positive reaction to an Avian Influenza screening test. The 10 day window for export will expire before conformation testing is received; therefore a repeat testing of another random sample of 30 birds was required.
- Animal Health inspector initiated a tissue residue inspection as a commissioned FDA agent. The dairy farm had a positive drug test for Desfuroylceftiofur in a dairy cow and Neomycin in a bob veal calf. That is two too many.
- Animal Health inspector completed dairy surveys in the Stowe area.
- Animal Health inspector provided official identification cattle ear tags to a livestock dealer in Lamoille County.

### **Consumer Protection:**

- The Weights and Measures Metrology Lab has received the Certificate of Metrological Traceability from the National Institute of Standards and Technology (NIST) for 2014. The certification addresses factors such as proficiency, management systems, internal auditing, management reviews, as well as the adequacy of equipment, standards, and facilities. The certification allows the VT Lab to provide

customers with calibration reports that are recognized by other state jurisdictions. This allows VT companies to do business in other states and for businesses in other states to utilize the VT facility (reciprocity). The W&M lab has seen a significant increase in activity during 2013.

- Consumer Protection (CP) Specialist Dwight Brunnette completed the annual Weights and Measures certification of Department of Motor Vehicle (DMV) Commercial Vehicle Enforcement's portable Wheel Load Weighers. CP works in cooperation with DMV inspectors to complete these inspections. 294 documented tests were conducted resulting in 192 scales being certified. These scales are used to ensure commercial truck operators are in compliance with state and local laws. Considerable fines are levied using these scales and the CP specialist interacted with 18 VT DMV Inspectors as well as 8 local law enforcement agencies.
- Three separate Consumer Protection Specialists reported violations after conducting Price Verification Inspections (Scanner Audits) around the state. Several of the violations were egregious. All three violations will result in penalties being issued to the retail establishments.
- Weights and Measures Specialist Marc Paquette attended the Orleans County Maple Meeting held in Derby. The specialist tested numerous hydrometers brought by attendees. Numerous issues were discussed at the meeting including the new grading system, registration requirements, and the voluntary maple sugarhouse inspection certification program. The meeting was very well attended by local sugarmakers.

### **Agricultural Resource Management**

#### **Updates from ARM's**

- Jim Leland, Director -Testified @ House Ag regarding compost and sales tax exemptions. The Agency supports compost being exempt from sales tax when used for agricultural production purposes.
- AAA Pest control has requested a hearing regarding the revocation of license action and the administrative penalty (\$275,000) proposed for pesticide misuse in Rutland. A pre-hearing conference is being scheduled.
- Staff will be meeting informally with Representatives from Addison and Rutland Counties to discuss mosquito control district issues on Friday morning.
- Staff continue to meet with consultants (SLAM) regarding the Lab Feasibility report. The report is nearly complete and should be available for discussion with the appropriate legislative committees in a few weeks.

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

- Staff conducted technical assistance visits on 3 MFOs in Franklin County related to water quality Best Management Practices (BMPs). The visits were part of a training effort coordinated with the newly hired Ag Resource Specialist (ARS) for the North Lake Champlain watersheds.
- Staff are discussing and working toward developing a long term strategy with NRCS and other partners for nutrient management planning and cover cropping assistance throughout the state.
- Staff attended a Champlain Valley Farm Coalition meeting in Vergennes where the future of water quality and agriculture were discussed.
- Staff has contacted all grant recipients that have not submitted claims for payment for fall practices in the Farm Agronomic Practices (FAP) grant program. In addition, the program is wrapping up payment processing for fall practices implemented in 2013.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on becoming LFOs. This will be a major focus of the team for the coming months.

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

- General CREP related paperwork and grant processing.

- Staff is developing succession agreements for CREP projects on land that will change ownership. This will allow the CREP projects to continue when under new ownership.
- Staff met with US Fish and Wildlife to develop planting plans for spring projects.
- Desktop planning for CREP and EQIP projects.

### **Rutland Bedbug Response Update;**

#### **Extensive Outreach Completed**

- Vermont has completed the outreach to potentially affected residents back to 2009. Data from all sites tested indicates that the highest levels (C and D levels) have been seen in homes treated after late 2010. Outreach included letters, phone calls, media stories, and/or door to door visits. Should additional homeowners or renters want their homes tested, Vermont will continue to offer free sampling and laboratory analysis. Calls for initial are still trickling in, the EPA laboratory is testing these samples.

#### **Clean up methods identified**

- For lower level contamination (Category B), a method using ultra strength Joy detergent has been identified after contracting with a consultant. Instructions and a video on how to clean up lower level contaminated homes have been provided to homeowners. Vermont continues to offer follow-up testing once cleanup has been completed by the homeowner to “clear” the home.
- Working with the EPA, a cleanup method for higher level chlorpyrifos detections (Categories C and D) using a multi-step process. This process consists of multiple applications of an aggressive industrial cleaner/disinfectant and a soap and water rinse. After the multiple cleaning steps, a coat of water based primer/sealer is applied and finally a coat of paint. This process is primarily for walls. Other surfaces and items to be cleaned may require modifications to the process. Each home will present unique characteristics and the process will be modified accordingly. After cleanup occurs in each of the residences, samples will be taken to “clear” the home.

#### **Clean up Status**

- The EPA is currently working with 10 households. The EPA process starts with an extensive inventory of the contents of the residence, and initial decisions on cleanable items are made. The EPA is reimbursing residents for items they cannot clean, at a mutually agreed upon value. After the inventory and initial disposition of items, the EPA relocation specialists work with the residents to find suitable housing for the period of time that the EPA will need to clean the residence (pets are relocated as well). The EPA’s cleanup is not getting levels below Vermont’s level of concern but they are below EPA’s action level.

#### **To date**

- The EPA has cleaned 2 apartments (the landlord finished the process in one)
- 3 homes are vacant, work is being done in all 3 vacant locations (inventories complete, cleaning started).
- Relocations for 4 homes are in progress/planned for first weeks of January
- 1 household has had difficulty scheduling and the EPA is working this week to catch that residence up

An additional ask to the EPA (Boston) for the remaining 6 homes has happened. They are waiting to ask headquarters until they have cleaned a few homes.

### **Secretary’s Comments**

#### **Meetings**

Tutorial Center, Bennington: Meeting with youth agricultural organization to discuss their agricultural programs in Bennington County

Higher Education Food Systems Consortium, Montpelier: Local meeting with leadership team to discuss marketing consortium and construction of collaborative programmatic efforts

#### **Events**

Listening Session, Bennington: Attended listening session with ~25 people from Bennington County to discuss agricultural issues; issues that arose were GMO labeling, student education, water quality (fill in more)

Listening Session, St. Albans: Happening Friday afternoon.

Farm Visit, State Line Farm, Bennington County: Inspected on-farm biofuel energy project.

**Press**

WBTN Radio Station, Bennington: Provided interview to Frank Lamb on agricultural issues in Vermont and Bennington. Delayed broadcast until next week.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Deborah Markowitz, Secretary, Agency of Natural Resources**  
**Date: January 10, 2014**  
**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**ATV Trails:** The state lands team is finalizing a set of criteria by which we would evaluate the 3 proposals for ATV connector trails on state lands. When the blanket rule for these was repealed three years ago, we committed to finding a solution to this problem. Deputy Secretary Johnson is scheduled to speak at the VASA annual meeting Jan 18 to give an update on this process.

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**EVERYTHING ELSE:**

**Press Issues/Releases:**

**Vermont Turkey Hunters Had a Record Year:** Vermont wild turkey hunters had safe and successful spring and fall hunting seasons in 2013. A record 6,968 turkeys were taken by hunters during Vermont's three hunting seasons – the spring youth hunt, the regular May spring season, and the fall turkey hunt.

**Vermont Bear Hunters Had a Successful and Safe Season in 2013:** Fish & Wildlife reports that bear hunters in Vermont had a safe and successful hunting season in 2013. Hunters took 557 black bears during the 85 days of the two-part “early season” and “late season,” and there were no shooting-related incidents for hunters while pursuing bear.

**Recreational Trails Program Grants:** Governor Shumlin announced the Department of Forests, Parks and Recreation will be awarding \$504,279 in grants to 15 municipalities and non-

profit organizations across Vermont for recreational trail projects. Grants are provided through the Recreational Trails Program (RTP), and more money is on the way. RTP funds come from the Federal Highway Administration, and may be used for the development, rehabilitation and maintenance of trails and trailhead facilities for non-motorized, motorized, and/or multiple compatible recreational trail uses. Municipalities and non-profit organizations can now apply for Recreational Trails Program grant funds for fall 2014 and spring 2015 construction seasons. Applications are available at <http://www.vtfpr.org> . The deadline for grant applications is February 28, 2014.

**Fox 44 / ABC 22 Trail Grants Story:** Following the press release above, Commissioner Michael Snyder was interviewed for Tuesday evening's news. The story focused on where the grant money is being put to use in Vermont, and included a piece about the replacement of a bridge over a portion of the Catamount Trail in Lincoln where a culvert had been washed out during tropical storm Irene.

**Ice Storm Interviews:** Franklin/Grand Isle County Forester Nancy Patch was interviewed by the Burlington Free Press, and Chittenden County Forester Keith Thompson was interviewed on the WCAX news regarding ice and the associated effects on individual trees and the broader forest community.

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

**JARD, Superfund listing:** Waste Management and Prevention Division staff have proposed that the JARD site be added to the National Priority List. A draft letter stating this was sent to Secretary Markowitz to forward on to the Governor, who would ultimately send the letter to EPA. The Town of Bennington supports the listing.

**Morrisville Water & Light:** Justin Johnson and Streamflow Protection staff met with representatives of Morrisville Water and Light to discuss their latest proposal for bypass flows at Cadys Falls and Morrisville hydroelectric developments. The proposed bypass flows offered by Morrisville are still significantly less than the Agency has recommended based on water quality standards. Morrisville will prepare another proposal in the coming weeks for the Agency to review. Streamflow Protection staff also filed preliminary terms and conditions with FERC, as part of the relicensing of the Morrisville Hydroelectric Project. Those terms and conditions included bypass flows, Cadys Falls development, and water level management at Green River Reservoir. We will continue to meet with Morrisville to try to reach an agreement on these issues.

**Waterbury Hydroelectric Project:** Streamflow Protection, Dam Safety, and Fish & Wildlife staff met with representatives of Green Mountain Power to discuss the Waterbury Hydroelectric Project. The purpose of the meeting was to clarify draft water quality certification conditions that had been shared with GMP in late November. We addressed questions on how the project would operate; GMP will use that information to model the impact on generation. We also discussed the steps leading up to issuance of a water quality certification. (GMP recently reapplied for a 401).

A final meeting with GMP is planned for mid-January so we can hear the company's reaction to the draft conditions. A stakeholder meeting and public notice of the draft certification will take place soon after.

**VHG Technical Committee:** FPR staff and partners attended the first meeting of the Technical Committee for the Voluntary Harvesting Guidelines project on Jan 8, to develop draft guideline content.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Hartford High School Science Lab Cleanout:** Each year Environmental Assistance staff are able to direct a handful of on-site chemical sweeps at schools. This week staff conducted a two-day chemical sweep and cleanout of Hartford High School science labs, segregating chemicals for disposal and rearranging chemical storage areas for safety and compliance. On the first day we were assisted by two members of the state's Haz Mat team, a VOSHA Project WorkSafe staffer and a staff member of the Vermont School Board Insurance Trust.

**Compliance Update:** Fred Budzyn, doing business as Budzyn [Tire] Removal and Recycling, paid the \$17,301 fine assessed in an environmental court judgment for operating a solid waste facility without a certification at his location on the Barre-Montpelier Road in Berlin. The site is also now certified.

**Seymour Lake Level Bill:** A bill has been introduced in the Senate that would require DEC to use its authority to allow for the active management of the surface water level of Seymour Lake. The lake and the dam on the outlet of Seymour Lake are part of the Clyde River Hydroelectric Project. A water quality certification was issued for the project in 2004 that discontinued the winter drawdown, but allowed the Department to approve a winter drawdown if it found a significant increase in flooding as a result. The Department has completed two analyses of the water level data at Seymour Lake and presented our findings to the Seymour Lake Association. Our analyses show that flooding has not significantly increased since discontinuing the drawdown. We will be working with colleagues to prepare a blue sheet for this bill.

**Rutland MS4 Settlement Agreement-Third Party Review:** A draft Request for Proposals and Scope of work was received from Rutland City and comments were prepared and provided to Rutland. While we largely have agreement with Rutland on content and structure, there is one area of concern. Specifically, Rutland wants the stormwater modeling that was used to derive flow duration curves to be evaluated by the Reviewer, as they contend that the modeling is implicitly tied to the State's determination of stormwater as the key pollutant to Moon Brook.

**Acid Rain Long Term Monitoring Program / 5-year Grant Agreement in Development:** EPA's Office of Air Quality has reached out to our Acid Rain project managers with an offer of

a five-year grant to continue the program, prospectively with some modifications. They are proposing \$130K/yr. The same program staff is also bringing in \$16K of one-time support from the USFS to conduct field activities in USFS lands in 2014. Staff will work out the details of these agreements with the business office.

**Passumpsic and Upper CT River Basin Tactical Plan:** This plan is in program review presently, and will be released for internal ANR/VTRANS /AAFM comment at the end of next week.

## **Fish and Wildlife**

**Safety of the Stonecats in LaPlatte River:** The summary report covering the LaPlatte River stonecat population assessment and translocation in preparation for bridge repairs by the town of Charlotte was reviewed and commented upon. The report was required under the Endangered and Threatened Species permit issued to the town. It prescribes requirements for assessing the number of stonecats and, potentially, channel darters at large within the limits of the project area as well as their capture and relocation outside of the project area. Field activities and report preparation were done by Stantec on behalf of the town. A total of 14 stonecats were captured, measured, checked for tags and/or VIE marks, and released to suitable habitat outside of the enclosed project area. One stonecat was found to have been previously marked; all others were marked by the UVM graduate student conducting a stonecat population study in the river. No channel darters were observed. None of the stonecats were reported killed or injured during the activities.

**Ice Fishing:** Ice fishing on interior lakes and ponds is increasing and the cold weather has helped develop some good, hard water conditions. Wardens continue to encounter fishing violations, mainly limit and closed-season issues.

**Trapping Season:** Trapping season continues; and Wardens continue tagging many Bobcat and fishers. Wardens continue monitoring trap locations but report many trappers have pulled their traps.

**Water Quality Discussed at West Mountain Meeting:** Staff met with the West Mountain Area Partners to discuss agricultural practices and the effects on water quality at Dead Creek WMA. Outside interests expressed concerns that the Department is allowing agricultural practices to occur on the WMA that are detrimental to water quality. Staff explained how practices are controlled by a lease and the Department oversight to avoid impacts to water quality and to provide a valuable food resource for migratory birds. This is an issue that will be addressed through the LRMP process. Our staff later participated in a meeting to help prioritize culvert replacements on the West Mountain WMA. Poorly designed culverts can inhibit upstream passage of aquatic organisms and contribute to geomorphic instability, and their continual failure can add fine sediments to the stream.



**Caterpillars in the Snow:** The Department received an inquiry about caterpillars seen crawling across a snow-covered pasture. Trish Hanson of FPR identified these as Large Yellow Underwing (*Noctua pronuba*), an exotic species from Eurasia. She has received other sightings of caterpillars of this species on the snow in recent years.

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

**Confidential / State v. Riendeau:** This is an action seeking penalties for multiple violations of the AMPs and 10 VSA 1259 and the Heavy Cut law, 10 VSA 2625 by Reginald Riendeau on property he owns in Albany. The state will also soon be filing an additional complaint for violations (in Wheelock VT) of the AMPs, 10 VSA 1259 and 10 VSA 913 and the Vermont Wetland Rules for failure to comply with the AMPs resulting in discharges to state waters from logging activities and for conducting logging activities in a wetland resulting in discharges to state waters without a permit. The State is preparing a settlement demand letter to initiate settlement discussions encompassing both complaints with the intent to send that letter at the end of January.

The State is preparing responses to interrogatories submitted by Mr. Riendeau which will be filed this week. Also, the state will be filing interrogatory requests on Mr. Riendeau.

**State Parks Holiday Packages:** Sales of state park holiday gift packages were 17% ahead of last year's sales. Packages included a mix of day passes, state park merchandise and certificates for camping.

**Status of Burned Building:** The state's insurance coordinator and adjuster are working to establish a settlement for the recently destroyed toilet building at Smugglers' Notch. Replacement of this important building will begin as soon as possible.

**Recreation Grant Activity:** The successful municipal and non-profit recipients of FY13 Recreational Trails Grants have been notified and the cycle is beginning for FY14 immediately. The internal review of trail projects proposed for FPR lands using one half of the total allocation will take place this week.

**Backcountry Skiing:** An internal FPR working group meets next week to begin formulating a program to enhance management of backcountry skiing on FPR lands. A group of individuals representing external partners are organizing and will be drawn into the discussion later this month.

**Ice Storm Recovery:** The leaflet "Recovery of Stands Damaged by Ice Storms" has been updated, with new information based on long-term research following trees damaged in 1998. It was available as of January 8 on the FPR website:

<http://www.vtfpr.org/protection/documents/IceDamage2014.pdf>

Additional information can be found on the Storm Damage Resources page, by scrolling down to the section “Trees and Ice Storms” and clicking on the “Recovery of Stands Damaged by Ice Storms: Advice for Landowners and Foresters” link.

**FSA Practices:** As a result of the December Ice Storm, the USDA Farm Services Agency (FSA) in Franklin County has received 80 contacts from maple producers with damage to tubing and tree crowns. Producers in Lamoille, Orleans and Chittenden counties have contacted FSA, which is accepting Emergency Conservation Program applications for maple sugar bush debris removal. We may be looking at a total of somewhere around 100 damage assessments in those counties.

**Forest Health:** The 2013 Forest Health Highlights are available on the FPR website at: <http://www.vtfpr.org/protection/documents/2013VTForestHealthHighlights.pdf>

**UVA Values Set:** The Current Use Advisory Board, including Commissioner Snyder, met last week to set the Use Value tax rates for 2014. They are: \$118.05, with \$89.00 for remote forest land (more than one mile from a road). The Agricultural Use Value rate is \$279.00. Forest Use Value fell slightly, while Ag Use Value rose.

**Vegetation Management at Fort Dummer:** The Fort Dummer State Park campground tree thinning project is about half done. This is a mechanized timber harvest within the campground that includes chipping all of the low-value products. So far it is going well and we have received no complaints from the public or the folks on the road leading into the park.

**Big Tree:** On New Year's Day, Windham County Forester Bill Guenther ventured out to the wilds of Westminster on lands owned by the Windmill Hill Pinnacle Association. This parcel had contained the state's largest white ash tree. Bill had received a report that a larger white ash had been found in Bennington County, so he wanted to re-measure the tree on Pinnacle lands to see who would hold the crown for the largest. Previously the Pinnacle ash was listed at 323 points, but the Bennington County upstart came in at 324 points. But when re-measured, the Pinnacle ash had grown and was now up to 332 points with a circumference (at breast height) of 17 feet, one inch! The title stands.

**Project Learning Tree (PLT):** Conservation Education staff prepared the annual report on the Project Learning Tree program for national PLT. In 2013, 159 people participated in PLT workshops in Vermont. This included one facilitator training where 8 new facilitators were trained, an advanced pre-service workshop at Castleton State College, and a joint PLT/Project WILD workshop at an early education conference. The remainder were from typical educator workshops at a variety of school settings. This number of trained individuals is up from the 2006-2012 average of 104 people. Major income received by the PLT program last year included an \$8,000 grant from the Lattner Family Foundation to pay for facilitator trainings, and an \$8,000 grant from the French Foundation to pay for a new Vermont PLT website.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: January 10, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**S.25:** Passed third read in House today on voice vote, after proposed amendment by Poirier, Browning and Komline was withdrawn. We expect Senate to concur. All's well in the Public Service world.

**Clean Power Link and Regional Transmission Update:** I met yesterday with TDI again and received their FERC filing asking for merchant negotiated rate status. This is helpful for our regional discussion. We continue to work with other states about a letter to ISO on regional transmission, but need CT and to a lesser extent MA to give up on "load share" cost allocation, which is unacceptable. I think we'll get there in the next few days. Any regional RFP will need to accommodate merchant facilities such as the TDI project to at least give them a shot. I am still expecting a visual representation of what an overhead line might look like from Highgate to New Haven. I should have that from you next week. Hartwell wants to discuss Order 1000 (Anti-wind people are on him on that because they think it is a way of paying for stranded wind transmission). Darren and I will be meeting with him next

week.

**VY:** I did pre-file testimony this week, as did Entergy, in support of the MOU. Also presented with Sarah London to House W&M and Senate Finance on VY Settlement Agreement yesterday. Generally well received in House. A little more problematic, though not too much, in Senate. Mostly in Senate concern was that we constrained their authority (not true) and that Lyons is thinking they should be able to charge for SNF storage going forward. Also, Hartwell may want to redirect some of the Economic Development funding to Bennington County (as, of course, some of the workers were from there!) We emphasized that the \$5M payment in 2015 and the \$10M for economic development over the next 5 years needs to go through the appropriations process. We also emphasized that expenditures from the NDT were specifically not agreed to – hinting to Lyons that if they so a fee on SFM storage, Entergy will likely seek to take that out of the NDT.

#### **Legislature:**

**January 8:** Chris and Darren testified on net metering in HNRE;

**January 9:** Darren testified on Draft PSD Net Metering bill in HNRE; Porter testified on status of telecom efforts in Senate Finance; Recchia testified on VY in House Ways and Means and Senate Finance; S. 25 passes second read

**January 10:** Darren covers/testifies on Net Metering in HNRE; Porter testifies on Telecom Issues in House Commerce; S.25 passes third read.

#### **Bills affecting the PSD:**

- S.25 – An act relating to public advocacy in utility matters – passed House today
- Draft 14 -210 – PSD Net Metering bill; introduced on Wednesday to HNRE Committee.

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

**January 6:** Chris and Darren attend AARP press conference on bill S.25; Chris, Darren, Geoff and Autumn meet with PSB to discuss bill S.25; Chris participates on VY conference call; Darren facilitated PSD Legislative Team meeting and assigned bills PSD is tracking to staff for review

**January 7:** Chris participates on NE Regional Energy Infrastructure call

**January 8:** Chris, Darren and Asa testify on PSD Net Metering bill in HNRE Committee; State of the State Address; PSB Investigation Into the Potential Establishment of Sound Standards Docket 8167 pre-hearing conference at Pavilion

**January 9:** Chris meets with Adam Necrason for update on NE Clean Power Link

**January 10:** Chris attends meeting at ANR on stakeholder engagement and VY decommissioning

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

**January 13:** Chris and Darren attend Extended Cabinet Meeting

**January 14:** Chris participates of NE Regional Energy call with Synapse

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

**January 16:** Chris attends Land Use Meeting; Chris meets with Daniel Whyte of Brookfield Renewable Energy

**Media:** Chris spoke to Anne Galloway of VTDigger and Susan Keese of VPR; Geoff spoke to Bob Audette of Reformer; Times Argus/Rutland Herald article on Net Metering quoting Darren's testimony in HNRE.

## **Everything Else:**

### ***PERD***

#### **Legislative Activities**

Began refreshing TETF data on progress toward residential unit weatherization goals (80k units by 2020): incorporated data from VGS 2012 IRP. Awaiting data from OEO and EVT and began reviewing estimates of energy savings and inputs/outputs for previous REMI model run.

#### **Act 89**

- Staff reviewed the Board's report to the Legislature evaluating "whether there are barriers or inefficiencies in the markets for unregulated fuels that inhibit the efficient use of such fuels". The 18 page report summarizes stakeholder input from the Board workshop and comment process initiated in late 2013. The Board's report concludes the following...
  - *Vermont faces multiple barriers and inefficiencies in many of its energy markets, especially the markets for unregulated fuels. There are currently few programs directed at overcoming those barriers and inefficiencies, and significantly less public funding available than would be necessary for the achievement of the State's building energy goals, as articulated in 10 V.S.A. § 581. There are a number of policy alternatives, including raising additional public funds, that the Legislature could consider to facilitate achievement of the State's building energy goals. A comprehensive set of policies would be advantageous in addressing the barriers and inefficiencies faced by different unregulated fuels' customers and customer classes.*

#### **Total Energy Study**

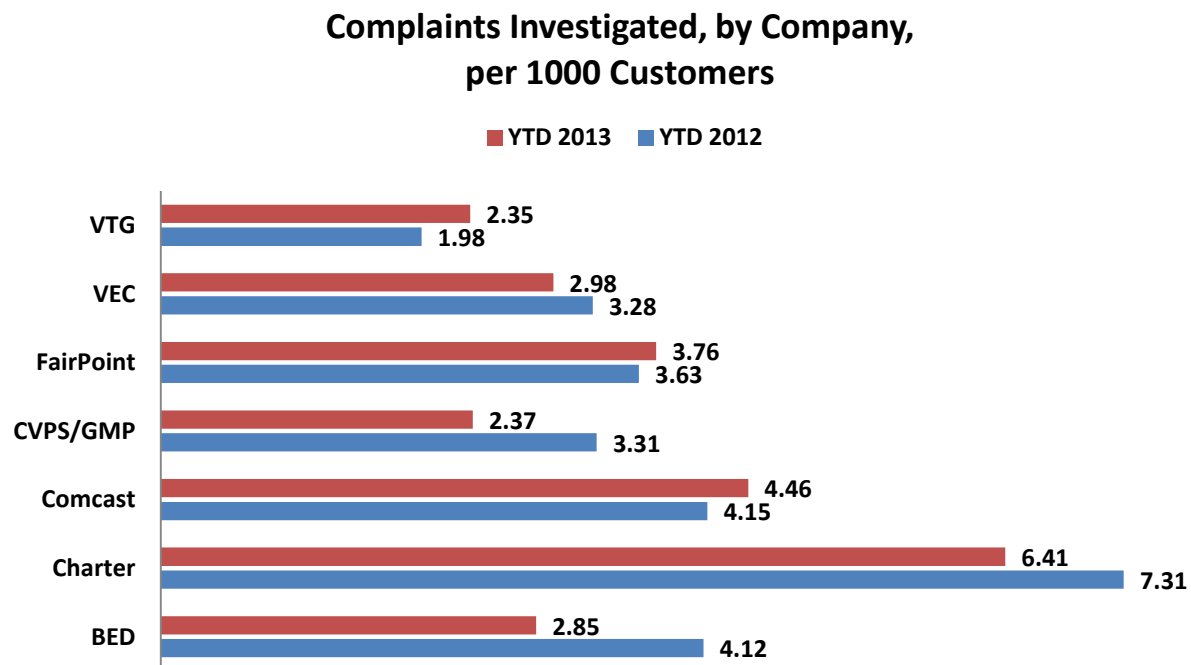
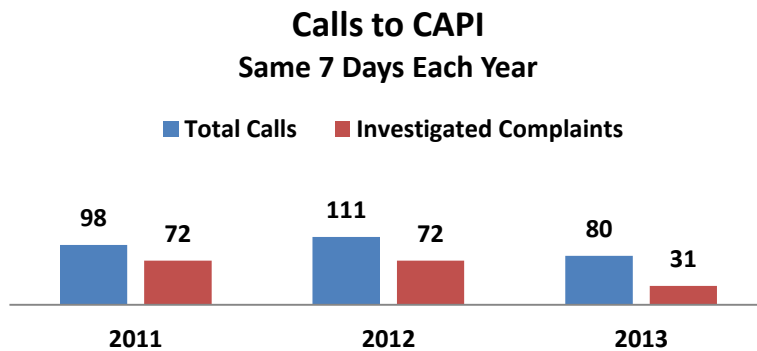
- Met with consultant Dunskey Energy in order to review their budget overruns and proposed amendments to the contract. After careful review, a portion of the current overruns can reasonably be considered work above and beyond the original scope of work. Further, additional future tasks have been requested. Together, contractor estimates overruns approximate \$60k. Staff proposes a contract amendment to increase the budget by \$20k is reasonable to account for this additional work (on the original budget of \$125k).

- Drafted and shared internally and with Dunskey a revised timeline and work plan for the remainder of the project.
- Began review of data inputs into Dunskey's energy model to ensure the baseline business as usual case appears reasonable.
- Finalized the Nov. 14<sup>th</sup> Public Meeting Q&A document and posted it to the TES webpage
- Began scanning and archiving participant responses to questions posed during the summer focus group sessions.

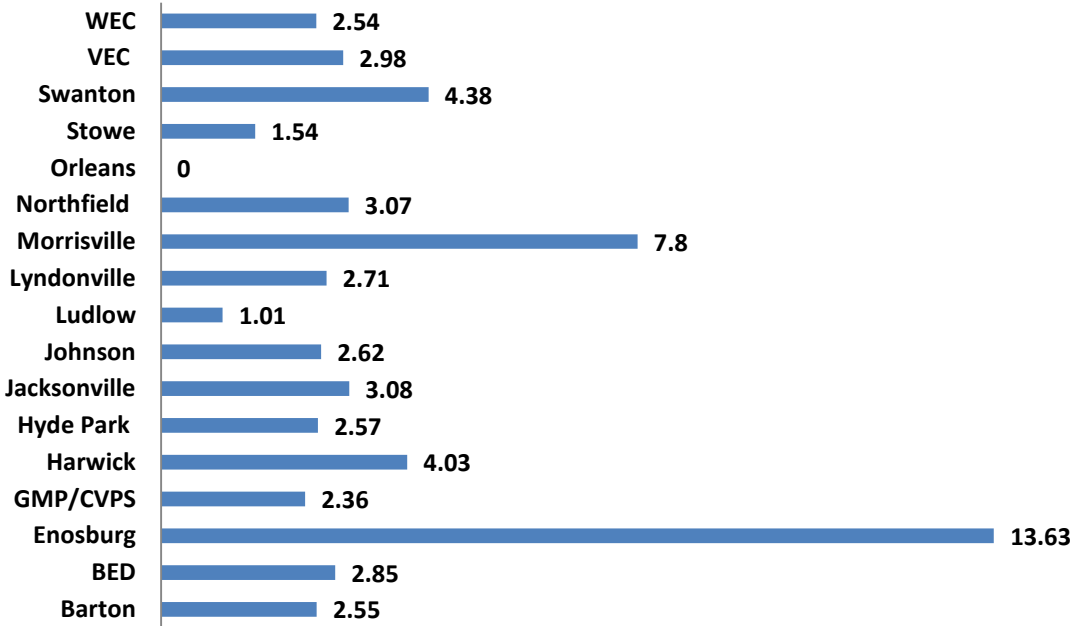
## **CAPI**

### **CALL DATA**

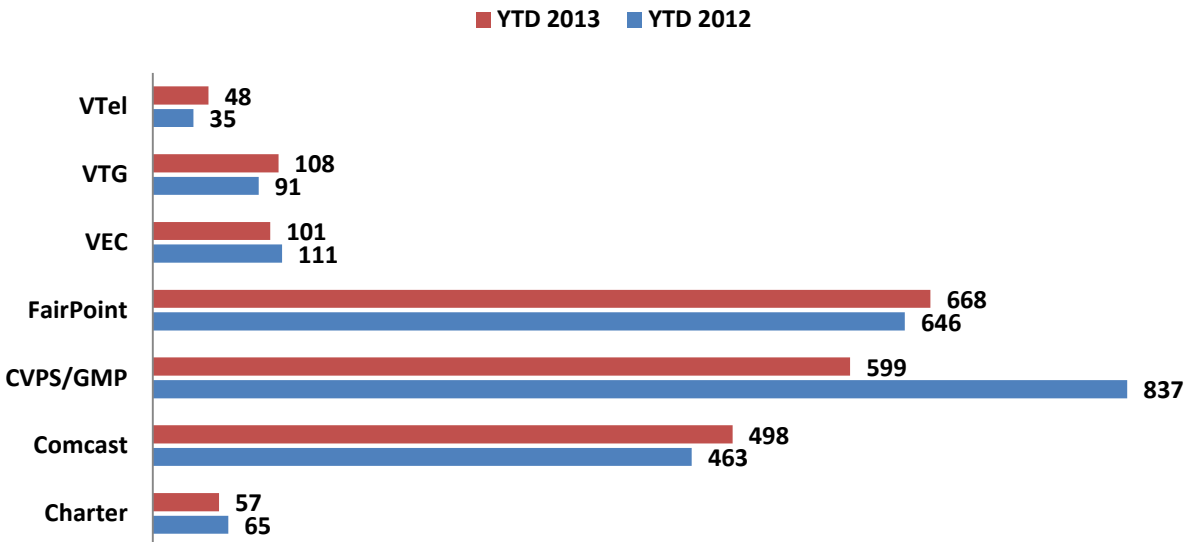
For date range December 29, 2013 to January 4, 2014:



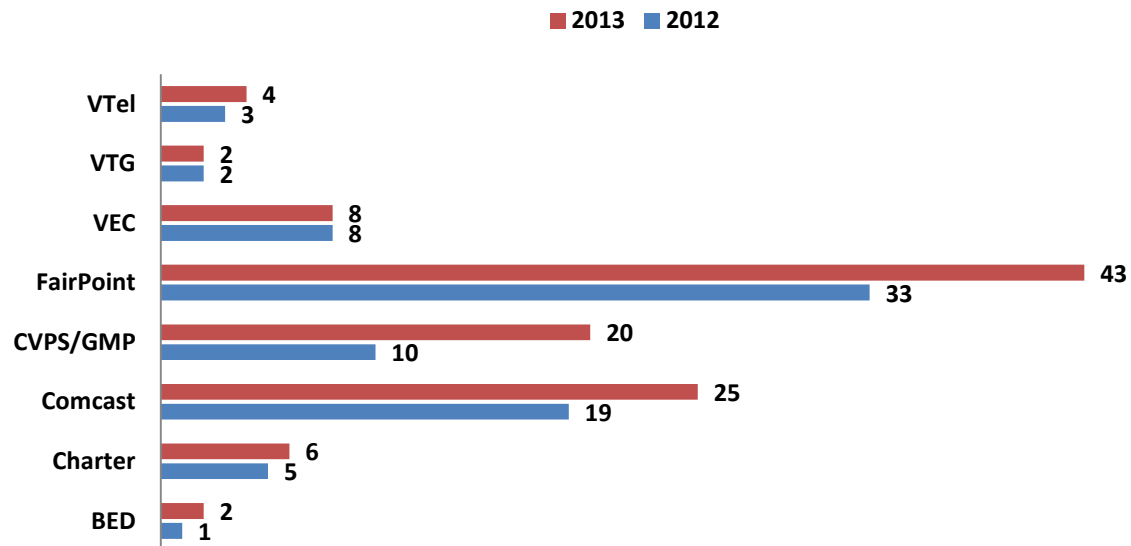
**Electric Utilities**  
**Complaints per 1000 customers**  
**2013 year total**



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



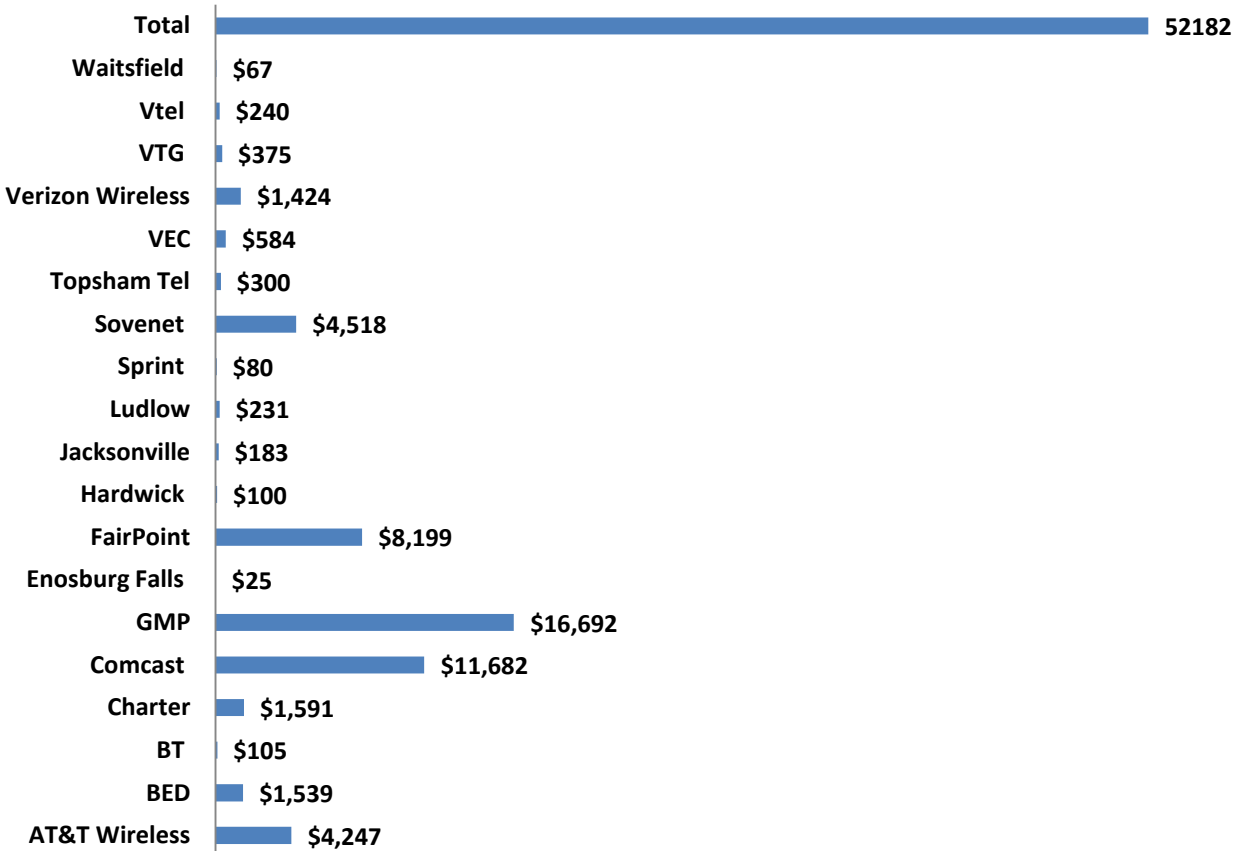
### Complaints Investigated, by Company Previous 4 weeks, each year



NOTE: The data on complaints by company is based on companies with the highest complaint volume. Absence from this chart does not mean there have been no complaints against a company.



**CAPI Resolved Complaints**  
**Total Dollars Saved by Consumers, by Company**  
**2013 year total**



**POST CPG WIND COMPLAINTS**

- Lowell Mountain (2), for noise
- Lowell Mountain (1), for health
- GMP net-metered in Vergennes (1), question about why turbines spin fast when wind doesn't seem to be blowing

***Public Advocacy***

NSSEP (Springfield Biomass) - Docket 7833- The Board heard oral argument from parties on 1/8/14 regarding the Proposal for Decision issued by the Board's Hearing Officer. Argument was offered by NSSEP, NoSag (Intervenors) and VNRC. NSSEP's main argument was that the Hearing Officer erred in denying a CPG on the 248(b)(1) Orderly Development criterion. NSSEP urged the Board to impose a CPG condition requiring compliance with the MOU between NSSEP and the Town of Springfield for construction of a new access road but conceded upon Board questioning that the MOU was not in the evidentiary record. NoSag's arguments primarily

focused on the lack of a carbon analysis of the proposed facility's operations and urged the Board to consider the GHG impacts that the facility would have. VNRC argued that the low efficiency of the facility's use of woody biomass (estimated to be about 26%) should cause the Board to deny a CPG under the general good criterion in 248(a). ANR and the Town of Springfield made very brief comments and the Department rested on its written filing.

Noise Investigation – Docket 8167 – On January 8 the PSB held a well-attended prehearing conference in the Pavilion auditorium. The Board sought comments on the goals and format of the docket. Many of the people who spoke supported an informal process with workshops, with several arguing for retroactive application of any noise standards that result from the docket. VCE and others made the point that affected members of the public have already raised and spent significant amounts of money for experts whose testimony was “ignored” by the PSB. REV and wind developers who spoke tended to support a leading role for the Dept. of Health. Counsel for VDH was present but neither he nor PSD counsel spoke (PSD had filed written comments). The PSD, with VDH, is currently interviewing potential consultants to work on this docket.

Entergy Vt. Yankee – Docket 7862 – On Jan. 2 the PSB held a status conference to discuss procedure for review of the Entergy/PSD settlement. On Jan. 3 the PSB issued an order setting a schedule largely as agreed to by the parties, adding a public hearing on Jan. 14 and an opportunity for other parties to file testimony on Jan. 27. The Board also included a list of questions for the MOU signatories to answer. PSD testimony is due 1/9; Commissioner Recchia and Secretary Miller will testify.

Ryegate Biomass Facility to amend CPG to install Selective Catalytic Reduction System - Docket 8129 – The Department filed comments on 12/20/13 stating that we had no objection to the issuance of a permit amendment under Section 248(j) for the installation of a selective catalytic reduction system, so long as Ryegate agreed to operate that system whenever the facility was in operation.

Addison Expansion—Docket 7970 –Motions for Reconsideration are due by January 8. The Palmers have filed a Motion to Amend citing several errors, including the Board impermissibly naming a specific route across the Palmer property. The Department also filed a Motion to Amend or Alter due to the Board's failure to apply the full and correct standard for orderly development [248(b)(1)] with respect to gas transmission lines. The Department is confident that the Project meets the correct standard when applied.

Kingdom Community Wind – Docket 7628 – The Department filed comments in response to GMP's continuous monitoring feasibility study submitted in late December. The Department identified shortcomings in the GMP report and requested that the Board allow two rounds of discovery on GMP related to the feasibility study and to submit additional comments and recommendations at the conclusion of the discovery process.

Penn Energy (Clarendon) Solar – Docket 7647 – The Department met with the petitioner, along with ANR and AAFM, to discuss a potential change to the project and CPG. A CPG for the Project was issued approximately six months ago. Petitioner seeks to mount concrete ballasts in lieu of screw mountings approved by the Board. The Department identified increased transportation as having a potential impact on the § 248 criteria. It will further review petitioner's proposed changes and seek to address any adverse impacts that may be identified.

Stowe Rate Investigation – Docket 8074 – The Department and SED continue to work toward a stipulation in the Docket. The Department has forwarded a draft MOU memorializing a uniform 3.5% rate decrease, as well as the initiation of a business process review of SED operations. SED has raised concerns regarding the timing of customer refunds as well as the calculation of a refund to the utility's largest customer, Mansfield Mountain Company. The Department anticipates that these issues will be resolved without problem. The Department continues to draft a business process review request for proposals, which the parties intend to issue shortly after the issuance of a Board Order related to the MOU. The Board has set a deadline of January 10, 2014 for filing of the stipulation.

Washington Electric Cooperative, Inc. 2014 IRP – No Docket – In a letter to the Board, the Department requested until April 1, 2014 to review and discuss the IRP with WEC. At that time, the Department will provide a status report, recommend approval of the IRP, or file a stipulation. WEC has agreed to this schedule.

Barton Solar – Docket 8148 – The petitioner responded to ANR's first set of information requests. The Hearing Officer issued his first set of information requests upon the petitioner. The Hearing Officer denied the Menards' motion to intervene, without prejudice to renewal of the motion. Subsequently, the Menards revised their motion.

Sale of Berlin Water Company – Docket 8118 – In a letter to the Board, the Department recommended the Board close Docket No. 8000 (the docket that involved the water system's alleged unpermitted interconnection and use of the City of Montpelier's water) due to inactivity and the lack of response from the City's attorney regarding any outstanding issues. Allowing that docket to remain open creates uncertainty in both dockets. Upon resolution of Docket No. 8000, the Department recommended the petition be approved without further investigation.

Montpelier vs. Berlin Water Co. – Docket 8000 – On January 8 the Hearing Officer issued an order responding to the Department's suggestion that the docket should be dismissed. The City of Montpelier's attorney has been almost totally unresponsive to inquiries about the status of the docket, and has failed to pursue the complaint. The Hearing Officer gave parties until January 29 to show cause, if any, why the complaint should not be dismissed.

Middle Road Ventures Middlebury Solar – Docket 8060 – Pursuant to a condition of its CPG, the petitioner filed its post-construction assessment with the Board and informed the Board that it was commencing operation. Additionally, the petitioner filed a notice of transfer of CPG for interconnected net metered power system to reflect change in ownership.

VELCO/GMP Bennington Substation Project – Docket 7763 – In a memo, the Board requested VELCO clarify whether the Town of Bennington received a copy of the final design plans. The Board allowed the town two weeks to comment after receiving a copy of the plans from VELCO. In a letter response, the VELCO informed the Board that the town was informed and had no comment.

TracFone Eligible Telecommunications Carrier – Docket 7817 – TracFone’s prefiled testimony is due to the Board on January 15<sup>th</sup>. TracFone is expected to provide the PSD with a draft before filing with the Board.

VEC Decommission & Replace Madonna Substation in Cambridge – Docket 8171 – A prehearing conference was held on January 6th. The Department’s first discovery requests are due on January 17<sup>th</sup>, and a site visit and public hearing will be held during the week on January 27<sup>th</sup>.

Johnson/Morrisville Change in Ownership/Financing for a 34.5 kV Subtransmission Line – no docket – The Department filed a letter on January 3<sup>rd</sup> recommending approval of the Petitioners’ requests to transfer and finance a 15% ownership interest in the 34.5 kV line.

Regulation of Voice Over Internet Protocol – Docket 7316 – A technical hearing will be held on January 15<sup>th</sup> to decide the issue remanded by the Vermont Supreme Court: whether Comcast’s fixed VoIP service is a telecommunications service or information service under federal law.

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

#### Legislative Issues/Contacts:

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

#### Electric

Rutland Regional Energy, LLC (RRE) has filed a 248j petition for approval as a merchant generator to build the “City Solar Garden Project”. Staff is continuing its review of the project to assess its financial and economic viability and provide support to the PA Division. GMP has signed a power purchase agreement for all of the output of this proposed facility at prices that are above the market for comparable solar power.

#### Gas

Vermont Gas Systems Inc. (VGS) – filed a quarterly Purchased Gas Adjustment (PGA) rate change (Tariff 8479). VGS requests a 4.61% or (\$4,114,861) decrease in its natural gas rates which represents an overall 2.08% decrease in firm rates effective with bills rendered on and

after February 6, 2014. The rate change is largely due to a decrease in the TransCanada Pipeline tolls of about 23% and a slight decrease in the wholesale cost of gas. Our recommendation is due to the Board by January 21, 2014.

### ***Telecommunications***

VT USF high-cost fund recommendations report – PSD consultant RLSA has prepared two draft reports on the VT USF. The Phase II report relates the costs and profitability of telephone service in Vermont, and shows that the Vermont companies had a loss of approximately \$40M in 2011, although broke even on an EBITA basis. The PSD plans to release this report this week. The Phase III report offers RLSA recommendations on how to develop and implement a support system for telephone companies. PSD staff is still working with RLSA on revisions to the draft.

FCC IP Transition trial – PSD staff participated in a call with FCC staff and staff of the PUCs from most states. The FCC chairman and staff described a draft decision soon to be released in which the FCC would authorize trials for companies to experiment with a transition to alternative technologies. This would likely entail the companies requesting temporary authority to discontinue plain telephone service, and replace the service with IP-based and/or wireless services. The order will also include several other proposals, including funding for broadband in rural areas that would not be restricted to the incumbent telephone companies.

Telecom Survey – If the PSD decides to do another telecom survey as part of the Telecom plan, this survey can likely be funded through funds in the NTIA broadband mapping grant if it also includes questions that can be used to verify the BMI data.

NTIA broadband mapping grant – The last BMI report funded by the NTIA will be 6/30/14, and will be submitted to the NTIA in October 2014. It will cost approximately \$100,000 to continue the process as it is now in place. The BMI team requested that the PDS consider whether this should continue, and if so, whether the process should be revised to save money.

FairPoint broadband data – The BMI team identified an issue with FairPoint data, where the BMI has marked some locations as served that may not be in the list of served locations provided by Fairpoint. The BMI team will meet with FairPoint to discuss.

Pericle wireless report – The Pericle has provided the final 2013 wireless analysis. The report provides the information requested, but it is highly technical and does not address some key questions. ConnectVT should determine whether and how the report should be released, and whether additional reporting and/or summary documentation is needed.

2811(c) Legislative Report – Staff is finalizing a report due to the Legislature on the “savings realized through the use of smart meters. This report outlines the cost of implementing smart grid programs and the benefits of each program to date. Staff hopes to have this ready by the end of week.

## ***Regional Policy***

### **Regional Infrastructure Initiative**

- Massachusetts discussed its report regarding the benefits of increased hydroelectric imports. States had several questions regarding the assumptions and conclusions of the report, and Massachusetts is making the study authors available next week to answer questions.
- NESCOE drafted a letter to ISO-NE on behalf of the states requesting ISO's assistance with the development of a tariff to recover costs associated with natural gas pipeline and hydroelectric transmission infrastructure. PSD staff provided edits removing any reference to the concept that the costs of the infrastructure would be allocated to states according to each state's load share. The New Hampshire PUC concurred with the VT edits. The Connecticut Commissioner accused Vermont of changing its position on cost allocation at the last minute and insisted that the letter include language to the effect that states have agreed to allocate costs on a pro rata basis, absent additional information. This issue is not resolved as of January 8.

**From:** Flynn, Keith  
**Sent:** Friday, January 10, 2014 4:22 PM  
**To:** London, Sarah; Spaulding, Jeb  
**Subject:** Weekly report : 1/10/14

### **Commissioner Notes:**

Deputy Commissioner John Wood retired on Friday. John was a dedicated employee and was truly committed to serving the people of the State of Vermont.

Attached you will find a DPS Vision Statement and Organization Chart. The proposal seeks to reflect the Department's commitment to utilizing technology and data as we move to the next generation of Public Safety Services. These changes will promote efficiencies and innovation within the Department as it leads State law enforcement in developing evidence based strategies that will allow the creation of measurable goals and outcomes.

I will wait for approval from the Governor or Secretary Spaulding before the proposed organizational changes are made.  
(See attached).

### **Fire Safety**

Issues / Updates:

The division reviewed \$615,000.00 in new construction valuation collecting \$4,500.00 in permit fee revenue.

Working on reviewing the proposed bills and will compile a response to them by the end of the day January 10, 2014, I also added Robert Patterson as a delegate so he can be copied on these.

We are in the process of discussing our two electrical inspector vacancies and hope to fill the licensing position in the next week or so.

We had a double fire fatality in Dummerston (father and son). Initially thoughts are a cigarette may have caused the fire. Due to damage it's not known if the house was provided with smoke alarms but highly likely there were no alarms.

### **Fire Academy:**

Berlin FFII finishing up / testing out this weekend.

ICS for Structural Collapse next weekend – 1/18,19 at VFA

The contract documents and draft sole source letter are completed and have been forwarded on to the Administration for approvals.

### **Emergency Management/Homeland Security**

Issues/Updates:

The Director and staff members attended the Tri-State Director meeting in Framingham, MA at Massachusetts Emergency Management Agency. This meeting brings radiological preparedness personnel from MA, NH, VT, Nuclear Power plants, and the federal government 3 times a year to discuss issues and updates.

The Tri-State Director's meeting shed some additional insight regarding what the Emergency Planning requirements in the EPZ might look like in the near future. The Director has sent the letter announcing the new Local EOP template available for use to all local EMDs and other local officials through VLCT. This follows a letter to RPCs last week. Public Information is also being released through the newsletter. The Director and Planning Chief met with MEMA personnel to discuss their use of WebEOC disaster management software and how they utilize it in the SEOC. The Director attended a CYBORG meeting and briefing.

DEMHS staff is tracking potential issues as they relate to ice jams. As of this writing ice jams are known in Berlin, Hardwick, East Middlebury, Poultney and one earlier in the week in North Pownal. The DEMHS Duty Officer will maintain the watch and provide any requested or required services.

Regarding the recent ice storm, joint FEMA/State Preliminary Damage Assessments resumed on 01/07. We anticipate having numbers by county by end of the week with a Governor's request for declaration likely to be ready for review early next week.

ERAF Outreach Team met on 01/07. Preparing an ERAF mailing to all towns to go out from Agency of Administration in February.

FEMA's internal conference call about Roxbury Fish Hatchery (re Codes and Standards applicability) was postponed until 01/09. We have requested a phone conference to get a status report and clarity on timelines, as soon as FEMA can provide. This is urgent with the Sandy Recovery Act deadline for accepting fixed estimate PW's coming up on Feb. 20.

FEMA's DR4022 close-out team continues working in Vermont. Scope change requests were granted this week in response to submittals by PAO Kim Canarecci for Northfield's Fairground Road Bridge (+\$234,507) and Cavendish's Davis Road Bridge (+\$211,987). A scope change request has been submitted for additional costs associated with repairing Brattleboro's Outfall Pipe.

DHS Office of Emergency Communications preparing for the Commissioner's requested Independent Review of all state communications. HS Chief continues to focus on multiple interoperable communications enhancements to include VCOMM, FirstNet and state projects.

PROPANE SUPPLY – continued meetings held with key partners (DMV, private sector) to discuss the status of the possible propane supply shortage. The Emergency Declaration to transport propane beyond normal operating hours has been extended through DMV Commissioner Ide. While the original Declaration pertained to supply carriers, the Declaration now includes distributors to homes.

Social Media

Facebook

9,537 likes

10,774 weekly reach

Twitter

3,698 followers

**Vermont State Police**

A Troop



FF

This week saw multiple crash investigations related to ice storm on the interstate.

BCI

Fugitive from Justice at NWSCF, 26 year old male wanted for Burglary in Missouri.

Sexting/Cyber Bullying presentation to 800 students at U32,

Subject arrested on warrant for escape in Waitsfield by Smith, follow up tip from USMS  
Suicide, 74 year old male, East Montpelier, found in childhood home garage, shot himself in the head, he left a note indicating that he ended his life due to financial problems and was going to lose the home.

B Troop

FF

Arrested Dylan Lohr (18) after a lengthy investigation for a string of residential burglaries that occurred in the towns of Burke, Lyndon, Sheffield, St. Johnsbury, Sutton and Wheelock; closed out 15 cases. Lohr was issued a citation to appear in Caledonia Criminal Court on February 10.

C Troop

FF

Tpr. investigated a fatal car accident in Starksboro where a young female was the lone occupant and was found deceased, no seatbelt.

BCI

7 year-old reporting being touched while visiting father at residence in West Rutland. Investigation continues.

D Troop

FF

Assist BCI with Armed Robbery in Rockingham, arrest made.

BCI

Assisted with Sex offender registry check in Brattleboro-

New Sex Assault intake. 13 yr old female reportedly having sex with multiple men 18-22 yr old range.

### **Arson**

Fire investigation in Bennington – Commercial fire to a furniture store, after investigation the fire is listed as undetermined but believed to have started within the upper ceiling area

Criminal Justice Services

### **VCIC**

#### **Marijuana Program**

The oversight committee is ready to meet. Lindsey Wells, the marijuana program administrator, has prepared a report that is due to the legislature on behalf of the committee but it needs to be reviewed by the committee and approved. This committee has never met.

#### **Laboratory Issues**

#### **Office of Technology Management**

VJISS

A big week for OTM as we released the second phase of VJSISS along with the Vermont Crime Analysis and Mapping Portal (VCAMP). The staff did an outstanding job in getting these applications ready for implementation.

It must be kept in mind that the information that is being queried and pushed into VCAMP comes from the police records management systems. This information is in real time as defined by when the police enter the data. This information is inherently inaccurate as it contains raw call for services data. Our strategy is that once a police agency starts to see the value in plotting law incidents and calls for services they will work to enhance the quality of the data they are putting into their records management systems.

Also talked with Sam Hemingway from the Burlington Free Press and Mark Davis of 7 Days about the Department of Public Safety's plans regarding information sharing and about the Heroin problem.

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## Vermont Department of Public Safety

### Vision

The purpose of the Department of Public Safety is to consolidate certain existing police and investigative agencies, *to promote the detection and prevention of crime generally*, and to participate in searches for lost or missing persons, and to *assist in case of state-wide or local disasters or emergencies*.

The Department of Public Safety is the best organization, due to its organization structure and its legislative purpose, to be leaders, facilitators and collaborators regarding solutions and best practices in response, regulation, information sharing, training, information technology, education and enforcement with regards to public safety and criminal justice issues in Vermont.

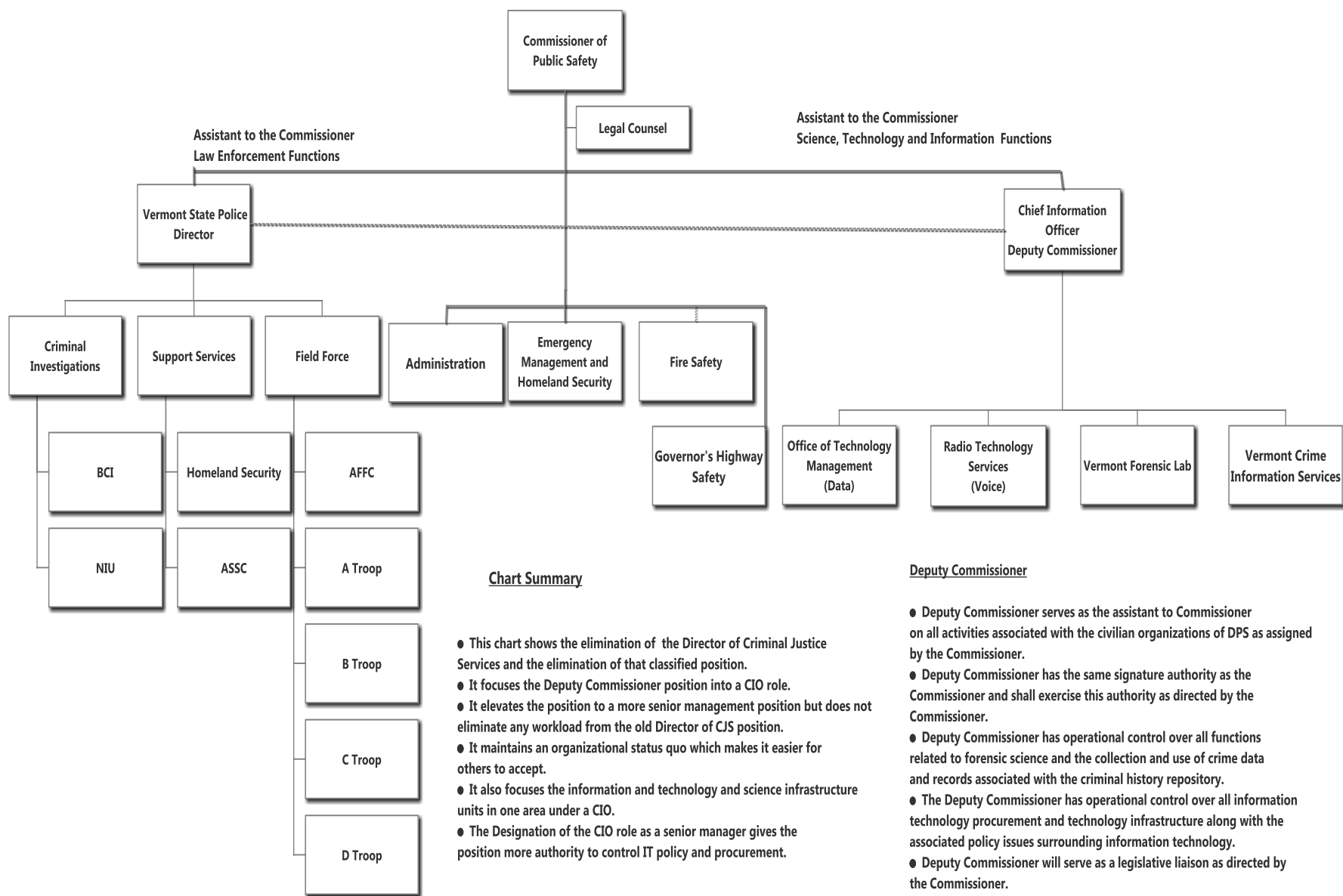
Successful strategies for managing crime problems in communities will be found through effective analysis of information. Evidence-based practices are the key to solving many of our communities' problems. Adopting evidence-based strategic and tactical approaches to managing the criminal justice system responses to public safety problems requires *data* that statisticians, program evaluators, government budget analysts, and operations researchers can turn into critical *information*. The Department of Public Safety will support the creation of this critical information through its diverse organizational structure and will deploy its resources tactically to deal with emerging problems based on the analysis of information.

Evidence based practices must become a cornerstone of our strategies in order to provide for this response in a cost effective manner. There are three parts to this strategy;

- Establish a governance structure that guides the collection of information and its subsequent use, ensuring that we protect the confidentiality and privacy requirements associated with the data to be collected.
- Ensure that we develop the technology tools that will allow for the analysis of the information.
- Ensure that we have, whenever possible, personnel who can analyze the information this includes that we train personnel appropriately.

The Department of Public Safety will be re-organized to create a senior management position in the form of a Deputy Commissioner to serve as the Chief Information Officer. This position will have operational oversight of the forensic science and technology services of the department. The Deputy Commissioner will serve as the second in command of the Department's civilian staff and have control over information technology procurement and policy. The Deputy Commissioner will ensure that all operational units are adopting proper information technology policy with regard to the implementation of technology applications. The Deputy Commissioner will also lead the Department's effort to promote a justice information sharing program and organize to

the extent possible the Department's commitment to managing its resources based on evidence and by measuring performance.



#### Chart Summary

- This chart shows the elimination of the Director of Criminal Justice Services and the elimination of that classified position.
- It focuses the Deputy Commissioner position into a CIO role.
- It elevates the position to a more senior management position but does not eliminate any workload from the old Director of CJS position.
- It maintains an organizational status quo which makes it easier for others to accept.
- It also focuses the information and technology and science infrastructure units in one area under a CIO.
- The Designation of the CIO role as a senior manager gives the position more authority to control IT policy and procurement.

#### Deputy Commissioner

- Deputy Commissioner serves as the assistant to Commissioner on all activities associated with the civilian organizations of DPS as assigned by the Commissioner.
- Deputy Commissioner has the same signature authority as the Commissioner and shall exercise this authority as directed by the Commissioner.
- Deputy Commissioner has operational control over all functions related to forensic science and the collection and use of crime data and records associated with the criminal history repository.
- The Deputy Commissioner has operational control over all information technology procurement and technology infrastructure along with the associated policy issues surrounding information technology.
- Deputy Commissioner will serve as a legislative liaison as directed by the Commissioner.
- Deputy Commissioner will take on special projects across Divisions lines as directed by the Commissioner.
- The dotted line authority is indicative of the authority of these positions when directed by the Commissioner or in his absence.

#### Colonel, Director, Vermont State Police

- Serves as the assistant to the Commissioner on all law enforcement activities and all civilian activities when directed by the Commissioner.
- The Colonel has the same signature authority as the Commissioner and shall exercise this authority as directed by the Commissioner.
- The Colonel has operational control over all units associated with the Vermont State Police.
- The dotted line authority is indicative of the authority of these positions when directed by the Commissioner or in his absence.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: January 10, 2014**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Issue Updates:**

National Life Parking: FMS staff monitored the NL parking lot monitoring Tuesday morning to see how the first Legislative session day was and....there was only 1 parking space available in the parking garage and NO PARKING open in the main lot. Detail sent to Wanda Minoli and Michael Clasen.

**Legislative Issues/Contacts:**

- Meeting with Rep. Hooper re: energy efficiency strategy
- Lunch with Rep. Emmons re: 2014 session goals, collaboration and cooperation
- Testified before House Corrections & Institutions re: Sec. 63 of the Budget Adjustment and the Treasurer's energy strategy report. Update on Heat plant.
- Testified before Senate Institutions re: St. Albans SOB 20 Houghton Street project & Montpelier Heat plant. Testifying Friday on State House Jurisdiction as it relates to the Curator and Capitol Police.

**Significant Events/Meetings:**

- Efficiency Vermont – continued discussion with Richard Donnelly and his team
- Met with Route 802 staff Al Levy, along with Ed von Turkovich re: technology in welcome centers
- Meeting with Greg Johnson, President of Kilawatt Technologies to discuss energy savings options.

- Meeting with Don Wells, Bill Laferriere and Bob Rea to discuss White River Junction SOB lease

### **Evolving Issues:**

Sent out a revised parking map along with a memo to all state employees that it is imperative that they display proper parking credentials.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

Staff is spending time at the Legislature assisting members with the new expense system and filing expense reports.

A reorganization of the Payroll and Time & Labor units of the Department of Finance and Management was announced to staff today. These units will be combined with HRIS, Security, and some help desk personnel under the direction of Angela Rouelle within the Secretary of Administration's office.

Budget staff is working to complete all budget materials in advance of the budget address on Wednesday, January 15, 2014. Staff plans to complete all budget presentation materials (Little and Big Budget Books) by the end of this coming weekend.

Commissioner Reardon and Deputy Commissioner Clark will testify on the FY 2014 Budget Adjustment Act on Friday, January 10 in the Senate Appropriations Committee.

Next Thursday, January 16<sup>th</sup> will be Budget Director Matt Riven's last day with the budget office. He is transitioning to a job as the CFO of the Judiciary.

## **HEALTH CARE REFORM**

No report.

## **HUMAN RESOURCES**

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

Commissioner Duffy spoke with Senator Baruth regarding DHR's efforts to craft a new attorney pay plan and the potential impact on collective bargaining for deputy state's attorneys.

Commissioner Duffy testified before Senate Government Operations on the ERP project and the entry of time and expenses by legislators.

Commissioner Duffy testified before House Government Operations generally on comments made by Auditor Hoffer when testifying on a proposed whistleblower statute. Commissioner Duffy stated that she would like an opportunity to review the proposal and have the Administration present its position on any potential legislation.

Commissioner Duffy appeared and testified briefly on a committee bill before Senate Education that would permit collective bargaining for early childhood educators. The bill was passed out of Committee and will go to Senate Appropriations.

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

Commissioner Duffy and General Counsel Collier attended a moot court to assist the AGO in preparing for oral argument before the Vermont Supreme Court on the VSEA's appeal of the double pay case.

### **Evolving Issues:**

DHR is working with Deputy Secretary Clasen on a restructuring of the VTHR system personnel and payroll staff into a unified organization under the Agency of Administration. This change will be announced to staff today.

VSEA has postponed a meeting that was scheduled for this week to address issues pertaining to the Employer Group Waiver Program (EGWP). Commissioner Duffy advised Gary Hoadley of the VSEA that as a result the State may be required to seek legislation prior to any rescheduled meeting.

DHR is working with Secretary Spaulding and Agency of Human Services representatives to transfer personnel to AHS for it to form an investigations unit to focus on DOC investigations.

DHR has forwarded a draft of the Annual and Workforce Reports to Secretary Spaulding and Deputy Secretary Clasen for review prior to submission. As part of the report, DHR may include information gleaned from a survey it conducted of state employees, as called for in the Agency's Strategic Plan.

## **INFORMATION AND INNOVATION**

Nothing to report.

## **LIBRARIES**

No report.

## **TAXES**

### **Legislative Update:**

Miscellaneous Tax Bill: The Commissioner reviewed potential provisions with Sen. Ashe, including housekeeping and the major substantive provision, which would be increasing the exemption for the solar generating tax from over 10kwh to over 150. He did not express dismay over anything he heard.

Current Use: Sen. Ashe shared what he called a draft Senate bill. From the Department's perspective, administering a provision that calls for audit of appraisals of current use values in towns requires more



staff (we currently do townwide sales-ratio studies for equalization, but not appraisals of individual properties).

Internet Sales Tax: From committee discussion in W&M, versus private conversation with Sen. Ashe, it looks like the House might be interested in immediate enactment of the affiliate law, while the Senate might be interested in postponing by raising the trigger higher than 15 states (since there is no indication that threshold is the game changer that would entice Amazon and friends to maintain their VT affiliates). With respect to the federal legislation, Tax and JFO agree that uncollected revenue from taxable internet sales totals \$52.6M - but a \$1M small seller exemption eats up half of that, so the annual revenue from the current federal bill would be \$26.3M. We need to watch if the small seller exemption gets bigger (assuming the bill ever moves in the US House).

Communication from the Tax Dept to Retailers: W&M heard from retailers how difficult collection of the complex sales tax is, particularly when an establishment does not use bar codes or point of sale software (a surprising number of VT businesses). The committee was not entirely sympathetic, and even roundly complimented the Dept's new outreach efforts. Snapping defeat from the jaws of victory, the Commissioner did feel compelled, along with Rep. Condon, to point out what Jim Harrison and Tasha Wallis danced around – many states with a sales tax allow vendors to retain some kind of collection fee (presumably to invest in collection aids). This actually has been proposed in the federal Internet legislation as well.

Sales Tax on Compost: The House Ag committee continues to look at exempting compost from sales tax. Both Ag and Tax staff tried to explain that they might be cautious about the cost of potentially exempting most of Home Depot's garden shop (language to limit the exemption to bulk sales to farmers was suggested). They appear poised to forge fearlessly ahead with broad exemption language, which will be interesting to watch in the money committees.

Education Symposium: The Picus framing paper appeared pretty well received in W&M; they had Mark Perrault walk them through it. Mark does not hide his strong opinions, and only signaled his discomfort with the income sensitivity section which he labeled "controversial". However, I only had to remind the Committee once that Picus himself was not suggesting anything, he was just framing the background and likely areas of discussion. Rep. Greshin was the most enthusiastic about the paper, pleased with the explanation of the history of Act 60/68, and very interested in the discussion about "tax price". There was a lively discussion about the fact that now low wealth towns get more for their buck (the whole point of the law). Mark and Adam and others engaged in how this town phenomenon can flow in some dimension to individual taxpayers – the same residence in a ski town costs more, so the same tax rate will often translate into a higher bill. The Chair was having none of it. Mark tried to frame the issue as whether we are at a point where you could say the law has accomplished its task in equalizing taxes, and we might sacrifice some of that to damper spending. Rep. Sharpe is very vocal that in his opinion, if you look at private schools, a world class education probably costs \$25,000, so our public schools are a bargain. Rep. Branagan used her own family to make a quite different point – both the state and the family spent a great deal, and sacrificed, to educate her three girls, but now 2 of them are working out of state. Could we change that result if we balanced school spending with economic development.

The Chair told members that she had invited Reps. Greshin and Sharpe; anyone else could go but she has the Committee meeting on the Fee Bill. On the other hand, all of House Ed and Approps will be there.

Property Tax Exemptions: W&M heard from the study committee; not apparent that the proposed bill has any momentum.

### **Operations:**

Bulk Distribution of Forms: The Dept has been advertising that it will no longer distribute booklets in mass to town offices, post offices and libraries – it will supply these outlets with reference copies, and posters and fliers to explain how filers can obtain instructions and forms either online or by phone. Less than 30% of filers file by paper, and less than 5% of filers got that paper from bulk distribution – it is more efficient to deal with those filers one on one. We have a dedicated phone line to handle forms request.

Unfortunately for all of paper filers, it takes the Dept much longer to process their returns – they often require manual intervention and have a higher rate of error. We continue to encourage even the online adverse to consider using the free online tax preparation services offered to low income filers in local communities (through AARP and United Way).

FAST Contract for Integrated Tax System: We got to yes with FAST the very same day that at least some members of W&M decided that the BAA language to allow payment from the computer system modernization fund on a benefits basis was too broadly drafted – the Chair had “misgivings” about the whole arrangement. Approps actually already heard testimony and had been satisfied (we thought the Senate was going to be the trouble spot).

The fund was established in 2007 with the intent of funding an integrated tax system. The BAA language tracks that 2007 language, as well as the amendment in 2011. The change is necessary to allow benefits from the integrated tax system contract itself to be tracked, and 80% used to pay this vendor. The Chair’s stated concern was that the language allowed 80% of all state revenue growth to be used to pay this vendor (if only) and for some reason, Sara Teachout was tasked with re-drafting. Her first attempt would have blown up the FAST contract, but she was very reasonable with suggestions.

The contract has FAST starting work on 1/21 – it will be interesting to see if they get spooked. To do this by appropriation, VT would need \$25M over 6 years. Under the contract we negotiated, FAST will be paid up to \$28M, but over a 10 year period, only if they demonstrate \$35M in revenue growth attributed to the project.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: January 10, 2014**  
**Re: Weekly Report**

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

**Legislative Issues/Contacts/Updates:**

- ICAR review set for regulation changes set for January 13.
- Spoke to Senate Econ Dev Committee with an overview of past year and current issues.
- Most of what I am seeing in new legislation is to do with sampling changes, tobacco, new license venues, and marijuana. Will speak to both House and Senate committees next week on some of these bills.
- I will keep your staff aware of any new issues.

**Press Issues/Releases/Contacts:** Department working with State Police on seizure of alcohol during a traffic stop last week. Product is in our warehouse and waiting on disposition. Hopefully DLC will be able to resell and make a profit for the state.

**Significant Events/Meetings:** Next Board Meeting 01/15/2014 13 Enforcement Hearings.

**Evolving Issues:**

- Finalizing vendor contract for ERP/POS Project-ongoing.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Met with Auditors Office and consultant along with Department staff.

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**Summary of Key Department Activity:**

- January is starting out good with strong sales.

**Commissioner's Commentary:** Have a great weekend. Great State of the State speech!