

# WEEKLY REPORTS

Checklist

11/8/2013

Elizabeth Miller/Aly Richards

- ACCD – Lawrence Miller (**no report this week**)
- Department of Labor – Annie Noonan
- Department of Financial Regulation – Susan Donegan
- Agency of Education – Armando Vilaseca
- VT Commission on Lottery – Greg Smith (**no report this week**)

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
- Department of Liquor Control

## Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report - Week Ending November 8, 2013

Unemployment Compensation: National unemployment rate rose one-tenth of a percent to 7.3%. Vermont's number will be released on 11/22, but Mat B will have an estimate on 11/18 which we will share. UI Call Center Stats: For the week ending November 2<sup>nd</sup>, we took 2,466 calls. This is an increase of 52 calls from the week ending 10/26/13. We processed 520 initial and 527 additional claims. This is an increase of 76 initial claims and an increase of 57 Add claims from the week ending 10/26/13. 5 claimants exhausted all tiers of benefits with the week ending 11/02/13 compared to 5 claimants the prior week. 3 claimants exhausted Tier 1 benefits with the week ending 11/02/13 compared to 3 claimants the prior week. We paid 4,101 claimants during the week ending 11/02/13 compared to 4,021 for the week ending 10/26/13. A Rapid Response was conducted for Country Curtain (6 workers) in South Burlington the week ending 11/02/13. UI Computer Modernization: We have a 2-day consortium meeting in Washington, DC with Maryland and West Virginia, our partners, to move forward on the build of the computer. Tracy Phillips, UI Director, will attend for Vermont.

Workforce Development: (good news) USCIS had originally said FCI would have to eliminate 50 Vermont jobs due to relocation of work BUT has since reversed itself and all jobs are staying. Job Fairs: Veterans Jobs Fair had great participation and coverage. Burlington DOL Office held job fair for City Market and Aerotek. We have been told that Summit Construction may decide to close the company, 14 workers. Barre DOL Office working with Freedom Foods in Randolph for 36 job openings in upcoming months.

Workers Comp and Safety: Hearthstone Stoves in Morrisville has been issued VOSHA citations for unsafe working conditions that sent employees to the hospital. The Governor's office may get complaints from the owner. VDOL's conference for WC Adjusters on 10/25 received good reviews. WorkSAFE met with VT League of Cities and Towns, VDH Wellness and Chronic Disease Program and SBDC to plan for the Safety and Health Conference - Governors Work Place Safety and Health Awards. We are working with Green Mountain Power on confined space programs. Passenger Tramway reports that all ski area inspections are on schedule, and that Magic Mountain's delays are not related to any issue at VDOL. A sink hole on Route 11 may impact Bromley's lift tower foundation.

VDOL General Counsel reports: The Paid Family Leave study committee met on Wednesday. New members appointed by Senator Campbell are Senator Don Collins, Gretchen Naylor of VSEA and Howard Aiken of Vermont Information Processing, a software company in Colchester. We still don't have a member appointed by the Governor's office, but Lindsay DesLauriers is attending all the meetings as a member of the public and taking an active role. The committee's report is not due to the legislature until January 15, but it looks like Senator Collins will try and team up with Senator Cummings who already has a paid family leave bill in (S.36). VDOL and AoE met this week to ensure that high schools and tech centers do not run afoul of labor laws when they place students in work experience programs. VOSHA Review Board hearing officer found in the department's favor on two out of three citations issued to R.E.E. & C. Capital Management of Manchester Center.

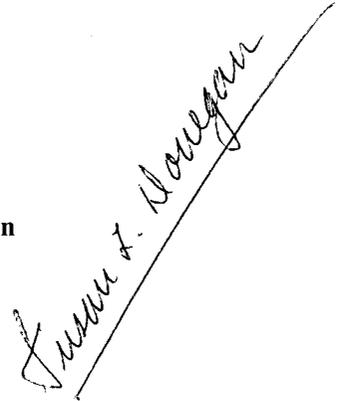
Meetings this week: WETF Grants; NEK Workforce Development; Veterans Employment and Credentialing; UI ESB; S.155 Study Committee; House General Chair Helen Head; Burlington Firefighters and UVM on EMT grant; USDOL on A133 findings; WDC on job specs development; AoE Deputy John Fischer on workforce development and education. Monday: meeting with Rep. Kupersmith and Lawrence Miller on workforce development systems/issues.

**State of Vermont**  
**Department of Financial Regulation**  
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**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: November 1, 2013**  
**Re: Weekly Report**



**Securities Division:**

Commissioner Susan Donegan this week signed an order that returned more than \$130,000 to five Vermonters who invested in an oil and gas exploration project in Texas. An additional \$5,000 was paid in administrative fees, \$10,000 in penalties (to the general fund) and \$5,000 was contributed to DFR's consumer education fund. An investigation by the department determined that Luther Gutknecht and Kenneth P. Smith, both sales representatives for Surety Services LLC of Delaware, were doing business in Vermont but were not registered to do so.





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**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: November 8, 2013

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**Secretary Transition:** Rebecca spent Tuesday at the AOE and met with me, Deputy Fischer, Secretary Racine and a few others. She is scheduled to be back here next week to meet with Senate Appropriations and several other agency staff.

**General Counsel:** Mark Oettinger's last day at the AOE is Friday, November 8, 2013. He will be officially retiring or resigning from the SOV by December 16, 2013. Rebecca and I met with an interested candidate for this position earlier this week, after which Rebecca decided that we should post the General Counsel position. We will be doing so as soon as possible.

**VT Youth Conference:** Thank you for providing a greeting via video for this year's conference titled, "Imagine a World without Hate". The turnout was very good with over 400 students gathered in Montpelier in hopes of making a difference and putting an end to bullying. This was an excellent opportunity to hear directly from youth and it meshed well with the work that the Hazing, Harassment, and Bullying Advisory Council is doing through their listening tours. Ernie Green's message to the group was very powerful.

**The Rowland Foundation:** Wednesday I made a brief appearance at Rowland's third annual state conference titled, "Real Learning – Rigor, Relevance and Relationships". This conference was open to all educators and an AOE team attended as well. The keynote address was delivered by Dennis Littky, co-founder and co-director of Big Picture Learning.

**WCAX:** In response to my recent Op Ed, I was interviewed by Anson Tebbetts for "You Can Quote Me" to further discuss the Common Core State Standards. This is scheduled to air Sunday.

**School Visits:** Wednesday evening I was invited to Robinson Elementary School in Starksboro to attend a retirement celebration for Joyce Shepard, who has worked in the school's kitchen for 48 years.

**VT's Energy Star Schools/Project Green School:** Thursday I traveled to Camel's Hump Middle School to recognize the 11 ground-breaking Vermont schools that have achieved the stringent ENERGY STAR standard for energy performance in their buildings. These schools are among the top 25% in the nation for energy efficiency, while also meeting high standards for health ventilation, comfort, and lighting quality. The second purpose of this ceremony was to launch "Project Green School", a joint initiative of Efficiency Vermont and the Vermont Superintendents Association's School Energy Management Program (VSA-SEMP). This project hopes to take collaboration to the next level and put all Vermont schools on the path toward ENERGY STAR designation by 2020. Efficiency Vermont and VSA-SEMP have a long history of collaboration with Vermont's schools to help them save money and energy. Together, they have worked on over 1200 projects at 350 different schools that will deliver \$43 million in lifetime savings (an economic benefit to both the school and the taxpayer). To learn more about Project Green School, click here: <http://goo.gl/ZcchPr>.

**Make Vermont Home:** Our second AOE panel has been installed at the Bennington Welcome Center. Photos are attached. Different panels with the same message are slated to be installed in the Alburg, Williston, Waterford, Fair Haven, and Guilford welcome centers. The purpose of the panels is to showcase Vermont's educational system in hopes that this will attract families to "Make Vermont Home" and increase our student population.

**Education - Join the Conversation:** On Thursday, we recorded November's roundtable discussion which focused on the Common Core State Standards. Participants included Pat Fitzsimmons, AOE Common Core Implementation Coordinator; Alysia Backman, Literacy Coach, South Burlington High School; Corrie Sweet, Math Specialist, Fairfield Center School; and Ryan Parkman, principal, Northfield Middle and High School. October's episode, titled "Pre-K & Early Childhood Education", can be accessed via this link: <http://bit.ly/16Dmzi8>.

**Vermont Vision Conference:** Today I attended the 2nd Annual Vermont Vision conference at Mt. Snow. This is a conference for minority professionals hoping to strategize on how to make Vermont a more multi-cultural state.



# Vermont Schools



Vermont has one of the highest rated educational systems in the country. Our schools provide our students with 21st-century skills and experiences while maintaining stellar general learning environments. Vermont's vibrant culture and outdoor learning opportunities while across being here is an educational opportunity. Below these opportunities, our students can explore college, work, and life skills at high schools, and high-quality education that Vermont is able to provide your children, college and beyond. ... creating unique learning opportunities. Come and see our educational facility.

**VERMONT**  
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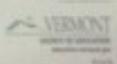
# Vermont Fish & Wildlife



### Vermont Fish & Wildlife



### Vermont Schools



## Window into Bennington's Past

### ARCHAEOLOGICAL SURVEY COMPLETION DURING

the Bennington Region highway project... The survey... of Bennington... and the... of Bennington... and the... of Bennington...



### The Covered Site A 4000-Year Old Native American Community

**F**ossil remains... 4000-year-old... Native American community... The site... of Bennington... and the... of Bennington...

OPEN 10:00 AM TO 5:00 PM  
SHADE VILLAGE  
FEATURE WALL  
1 OCTOBER 1997

### Stockbridge-Munsee Community Band of Mohican Indians

"People of the Waters that are Never Still"

**W**elcome to the Stockbridge-Munsee Community Band of Mohican Indians. We are a proud and historic people with a rich cultural heritage. Our ancestors lived in the region of the Stockbridge and Munsee tribes in the 17th and 18th centuries. Today, we are a vibrant community with a strong sense of identity and pride in our traditions.



**Many Trails**  
The Stockbridge-Munsee Community Band of Mohican Indians is a vibrant and historic people with a rich cultural heritage. Our ancestors lived in the region of the Stockbridge and Munsee tribes in the 17th and 18th centuries. Today, we are a vibrant community with a strong sense of identity and pride in our traditions.

**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, November 8, 2013**

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

**NOTES FOR GOVERNOR**

**Emergency Landing at Rutland**

An *Air Georgian* Beech 1900D Turbo Prop, with 6 people on board, including crew, bound for Montreal from Bradley Airport in Hartford, CT made an emergency landing at Rutland at 0823 this morning due to an engine fire. The plane remains at the airport while plans are being made for passengers to continue their trip. Emergency responders from Rutland and North Clarendon responded according to plan in 11 minutes and no injuries were reported.

**Bridge Data**

A national report in a trade magazine called Better Roads has listed states according to a combination of “structurally deficient” and “functionally obsolete”. As usual, Vermont doesn’t fare well because of the high level of “functionally obsolete” bridges according to AASHTO standards. As a reminder, we have our own standards, approved by USDOT, that allow for smaller and often historic bridges (covered and truss) to remain in service even though they are categorized as functionally obsolete. This does not equate to unsafe in any way. We have been targeting the structurally deficient category aggressively and are down to 8% from a high of over 20% a few years ago. Not sure if this report will engender local press interest.

**Champlain Parkway**

Chris Cole, John Dunleavy and I participated in a three hour negotiating session on Wednesday that resulted in the elements of a potential agreement with another of the Parkway opponents, Maple St. resident Allan Hunt. Hunt had filed an appeal over the Act 250 permit and his appeal is in the late stages of pre-trial discovery. This information is embargoed until the City Council acts to ratify the agreement on Monday, November 18.

### **Exit 8 “on-ramp”, NB.**

The closure of this ramp is likely to last no more than one week from today as blasting is complete and clean up and guardrail work is happening now.

### **Putney Park & Ride Appealed**

A proposed project would convert an abandoned District 2 maintenance facility into an 82-space Park & Ride at the Putney/Dummerston town line off Route 5. It would also have a bus turn-around and bike racks. Putney resident Daniel Hoviss has appealed the approval from the two towns to the Environmental Court on the grounds that the project is out-of-scale for the small towns.

### **Affirmative Action Plan**

Under the direction of Deputy Minter and DHR Commissioner Duffy, VTrans is now back in compliance with USDOT Affirmative Action guidelines and our AAP has been fully accepted and received glowing reviews. Kudos to Sue and Kate, along with Scott Rogers and Wayne Gammell of our Operations Division for resolving this situation which had not had any emphasis that we could discern during the previous Administration.

### **New Inter-City Service**

Premier Coach has been awarded the Burlington-Albany and Rutland-White River service with Greyhound doing the White River-Springfield, MA service. We need a brand for this service and are considering two: *Vermont Transit* (which we now own the rights to) and *VTransit*. If anyone has an opinion, please share it. We could also make this the subject of a social media contest.

### **NOTES FOR STAFF**

#### **Champlain Parkway**

If this agreement doesn't fall apart and is ratified by the Burlington City Council, it represents the elimination of the single biggest remaining obstacle to construction. The Vermont Railway System has already agreed to end their opposition and the Hunt opposition was considered the one most likely to be litigated. The two remaining objectors to the Parkway are Fortieth Burlington LLC (owner of the former General Electric/General Dynamics building on Lakeside Avenue) and GP Burlington South LLC (owner of the large parking lot across the street) who have joined in opposition due to what they see as increasing traffic congestion on their street. The City of Burlington is confident that with the objections of the railroad and Hunt dealt with the remaining two will settle.

#### **DMV Road Test at Superior Court**

A suit was filed in Vermont Superior Court, Washington Unit, seeking judicial review of an October 11, 2013 decision by a VTrans Hearing Officer that concluded DMV had acted properly when it failed to issue a driver's license to an 83 year old Stowe resident when he failed his driver's test for the third time. The plaintiff argues that he has been driving since 1948 with no crashes so should be allowed to continue.

This case is not singularly significant but does point to a by-product of an increasing number of retests of elderly drivers, a trend that will likely continue as the number of elderly Vermonters increases over the next 20 years. For transportation planning purposes it points out the increasing importance of the availability of alternatives to the single occupant automobile.

### **Western Corridor Rail Project**

Yesterday Chris Cole, most of the rail staff and I accompanied a number of legislators, including Senator Mazza, on a visit by rail to several construction projects between Burlington and Rutland. There are numerous projects going on in conjunction with our Capital Program, and projects beginning in conjunction with the TIGER 5 grant awarded earlier this year.

When complete, the currently funded projects will put us just 12 miles away from moving the *Ethan Allen Express* up to Burlington from Rutland providing NYC service to Burlington on the shorter route through Rutland and Albany. It also will set the scene for service to Manchester and Bennington.

We anticipate TIGER 6 in 2014 and are already developing a project that will be the basis of an application that we will have ready to go when the announcement comes. The 12 miles remaining needs \$21 million in work and although we can and will request a significant amount in state funds this year, we need continued FRA involvement to get to Burlington in two years.

### **Montreal Connection**

Not much news except that Brent Raymond and Karen Songhurst are working on a letter for the Governor's signature urging the push for *Beyond the Border* treaty action on expansion of "preclearance" for cross-border passenger transport.

### **Rail Trail Promotion**

Our planning staff is participating with staff from Forest, Parks and Recreation and Tourism and Marketing to develop plans for the promotion of state-owned rail trails. Getting information on the Tourism and Marketing web site will be the first step but other wider promotion efforts can be expected to come from this collaboration.

### **Irene Recovery Update**

There are 25 projects underway that represent the final stages of recovery for the state highway system. Ten of these are corridor projects that involve a series of small projects such as culverts and paving and fifteen "sites" that are larger individual projects such as bridges. Below is a list of those projects with notes from our Highway Safety and Design section. If anyone wants further elaboration on any of these projects, let me know.

#### **Irene Corridors**

- **Andover-Chester STP 016-1(30):** Extending corridor limits into Londonderry

- **Rutland-Killington NH 020-2(36):** Consultant developing scope and fee for added sites on corridor
- **Bridgewater-Woodstock NH 020-2(38):** On hold pending consultant authorization
- **Randolph-Roxbury STP 0187(11):** Preliminary plans HS&D review complete, consultant addressing comments. Submitted for Environmental permitting. Rail crossings reviewed with NECR
- **Roxbury-Northfield STP 0187(13):** On hold pending consultant authorization. Rail crossings reviewed with NECR
- **Killington-Stockbridge STP 022-1(25):** Consultant incorporating preliminary plan comments. Utilities completing relocation review. Submitted for Environmental permitting
- **Marlboro-Brattleboro STP 013-3(9):** Extending corridor limits into Wilmington.  
Consultant preparing scope and fee proposal. Additional survey to be authorized
- **Plymouth-Bridgewater STP 013-3(9):** Extending corridor limits into Ludlow. Additional survey authorized
- **Goshen-Rochester STP 0162(21):** Extending corridor limits into Brandon. Additional survey authorized
- **Stockbridge-Rochester STP 013-4(41):** Extending corridor limits further into Rochester. Additional survey authorized

**Irene Sites**

- **Woodford NH 010-1(47):** Developing conceptual alternative memo
- **Searsburg NH 010-1(48):** Final plans submitted 10-29-13
- **Sharon STP 014-7(20):** Property owner meetings scheduled 11/12/13
- **Hancock STP 017-4(18):** Determining eligibility with FHWA
- **Ripton STP 017-4(19):** Preliminary plans expected
- **Granville STP 013-4(40):** Preliminary plans expected
- **Moretown STP 0167(15):** Developing EPSC plans
- **Braintree STP 0187(12):** Final plans submitted 11/5/13
- **Woodstock STP 0241(40):** Consultant preparing final plan submission
- **Mendon ER 020-2(39):** Consultant preparing preliminary plans
- **Plymouth STP 013-3(10):** Conceptual alternatives expected
- **Ludlow ER 013-3(11):** Consultant developing scope and fee proposal
- **Plymouth ER 0149(6):** Consultant developing scope and fee proposal
- **West Windsor ER 0148(10):** Consultant developing scope and fee proposal
- **Granville ER 0187(15):** Consultant developing scope and fee proposal. Survey authorized

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** November 8, 2013

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Melissa Bailey the Director of Integrated Family Services (IFS) in my office, was invited by the Green Mountain Care Board (GMCB) to present the child and family system reform efforts we are making across all of AHS. The IFS presentation included the conceptual framework for improved health promotion all the way through treatment and long term supports for children and families interacting with our agency on a variety of levels. It also included a description of the current pilots, overview of the operational activities and the Center for Medicare and Medicaid innovation grant application. The presentation was well received by the GMCB. They were supportive and excited about the work happening within IFS. They encouraged Melissa to keep them informed on the progress of IFS and identify interaction between the larger healthcare reform efforts that could support the state-wide implementation of IFS.

**Vermont Department of Health (VDH)**

**Board of Medical Practice:**

On November 6<sup>th</sup>, the Board of Medical Practice passed a motion recommending against requesting an exemption from the Centers for Medicare and Medicaid Services (CMS) regulations regarding supervision of Certified Registered Nurse Anesthetists by Medical Doctors (MD's) or Osteopathic Physicians (DO's) as passed. The motion indicated that there was a lack of evidence to show that access to medical care would be improved in any way by granting the exemption and that there was likewise no evidence to suggest that quality of anesthesia services would be improved by the elimination of the requirement for supervision by more highly trained professionals.

**Grantee Training:**

The VDH held two trainings for community prevention grantees to increase their ability to communicate effectively using data and stories. Local grantees often see powerful examples of change in their communities but are not always equipped with the story-telling skills or data background to use these examples to further their work. This type of skills-based training is an important component of the VDH's integrated approach to community work.

**Department of Mental Health (DMH)**

**Brattleboro Retreat (Retreat):**

The CMS survey was completed on Wednesday. We have received communication from the Retreat and CMS that they are no longer under State Survey Agency jurisdiction. They have achieved compliance with the Medicare conditions of participation.

### Mental Health Oversight Committee (MHOC) and House Health Care Committee:

Commissioner Dupre will report to the Mental Health Oversight Committee and Health Care Committee on Friday. The discussion will include adequacy of the Level 1 system, community system funding projections and the projected personnel needs at the Berlin psychiatric hospital.

### Emergency Room Waits:

Individuals in Emergency Rooms and Corrections continue to wait for Level 1 beds. Disability Rights Vermont has recently made inquiries into the practice of re-evaluating individuals who are in emergency departments at least every 24 hours for continued eligibility for emergency examination. These inquiries are being scrutinized with the AAG's in the event that this process is called into question.

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

#### Interest around recent suicide at the Brattleboro Retreat:

Representative Anne Donahue contacted the Division of Licensing and Protection (DLP) to discuss the Division's investigation into the suicide of a young woman who had been discharged from the Retreat's inpatient care shortly before her death in early September. Of particular concern to Rep. Donahue was whether the Retreat made a full disclosure to the DLP to permit the division to make a thorough assessment of the division's jurisdiction over the matter. Pam Cota, Chief of the Division's Survey and Certification unit, advised Rep. Donahue that the survey team conducted a thorough interview of the Retreat staff and, following its review of the structure of the Retreat's Birches outpatient program and the Ripley lodging, concluded that since the Ripley Building does not fall under the hospital's provider number, the surveyors have no jurisdiction over the events that occurred there.

Anne Galloway of VT Digger also contacted the DLP asking which entity has jurisdiction over the premises where the suicide occurred. Pam Cota advised Ms. Galloway that CMS does not have jurisdiction over the building in which the suicide occurred and that following an investigation of the Retreat concerning its discharge planning and outpatient services, the hospital survey team concluded there were no regulatory violations.

#### MHOC discusses mental health needs of seniors:

Following Commissioner Wehry's October 31<sup>st</sup> testimony before the MHOC on both appropriate and inappropriate use of antipsychotics in elderly, Sen. Sally Fox alerted Commissioner Wehry to the testimony the Committee had received that highlighted the difficulties in finding residential placements for individuals in hospital emergency rooms and units who present challenging mental health behaviors. Specifically, Sen. Fox was interested to know whether DAIL was aware of these types of cases and what steps, if any, are being taken to address these issues. Commissioner Wehry submitted a written response, in which she advised the Committee that DAIL is keenly aware of these issues, having fielded numerous calls about special rates and out-of-state placements for this population. The Commissioner informed the Committee that DAIL has launched a web-based training for the staffs of Adult Day programs, is concluding a 9-month process looking at rates for dementia care, and has been collaborating with VDH, DMH and DVHA on its approach to mental health and aging issues.

DAIL sends notice of \$2.23M rescission to developmental services (DS) providers:

Commissioner Wehry sent out instructions to address how provider agencies are to achieve a \$2.23M reduction in their waiver allocations. The Commissioner noted that a reduction in spending for each individual does not have to mean cutting services. She also asked agencies to look for administrative efficiencies where possible and to consider changes to models of services. In response to input received from the DS State Program Standing Committee, Commissioner Wehry emphasized the importance of providing individuals and their guardians a voice in the decision-making process and clarified that no aspects of a person's plan or any particular service may be held harmless.

DAIL explores multiple options for providing services at Anderson Parkway housing co-op:

As reported last week, Commissioner Wehry spoke with Chittenden County Visiting Nurse Association (VNA) Executive Director Judy Peterson and offered a package of increased rates and a risk sharing arrangement. Ms. Peterson agreed to take the proposal back to her Board but despite the cordial conversation, it was pretty clear that there was little to no interest in finding a compromise. In the midst of the Department's exploration of multiple contingencies, Ms. Peterson contacted Commissioner Wehry and requested additional time to submit a revised proposal. We are awaiting receipt of that proposal, as we continue to consider alternative providers.

Final Event Scheduled to celebrate the 20<sup>th</sup> Anniversary of the closing of Brandon Training School:

The official celebration of the 20<sup>th</sup> anniversary of the closing of the Brandon Training School draws to an end on November 15<sup>th</sup> at the Killington Grand Resort Hotel. This event marks the final event in the series that began in September, emphasizing the theme of remembering the past, celebrating the present and imagining the future.

**Department of Corrections (DOC)**

Corrections Oversight Committee (COC):

The Committee is scheduled to meet on November 12<sup>th</sup>. An agenda has not yet been published but the COC would like to discuss the suicide in August at the Northern State Correctional Facility in Newport. The DOC will not say much about this other than to confirm that the Vermont State Police (VSP) report is complete. The report is still in the confidential stage but does end with the following statement:

“During the course of the investigation, there was not any evidence or information found to indicate that this death was anything other than an unassisted suicide by hanging”.

Salvation Farms:

The gleaning program is in full swing in Windsor and multiple media outlets have covered this story.

Correctional Officer Charged:

In August, the DOC received a tip that a Correctional Officer (CO) at the Southeast State Correctional Facility (SESCF) was bringing marijuana in to the facility. This information was turned over to the VSP who charged the CO this week. This has attracted the attention of multiple media outlets.

### Population:

The department's incarcerated population averaged 2,099 for the previous week. The incarcerated male population averaged 1,940 with 383 being presentenced inmates. The female population averaged 159 with 49 being presentenced inmates.

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

#### Reach Up Program Recommendations:

Act 50 mandated that DCF create and lead a Reach Up Policy Work Group to identify ways the Reach Up program can be more effective. A report detailing the group's findings will be published and distributed to the legislature and other stakeholders later this month. The work group members included many well-known and vocal advocates who will likely take the group's recommendations to the statehouse and push their particular interests. It may make sense to forge a partnership with those advocates where there are aligned priorities.

The top recommendations to emerge from the process include: 1) increase the Reach Up program's staffing capacity – both substance abuse/mental health and general case management capacity, 2) mitigate the impact of the benefits cliff and increase participant financial literacy and stability, and 3) support education goals including incentivizing high school completion and achieving other credentials.

In addition to these specific recommendations, the inadequate IT infrastructure the program is saddled with, and the need for greater service integration, also received substantial attention and will be featured in the final report.

Financial investments will be required to implement most of the top recommendations. The Department shares an interest in several of the group's priorities, including: increasing staffing (both general case management and addictions specialists), building financial empowerment strategies, and reducing housing instability for the highest risk families. These program enhancements will require additional resources and/or a repurposing of existing resources.

#### High Cost of Care:

Child Care Aware recently labeled Vermont as the fourth least affordable state for center-based child care for a 4-year-old. The average cost for a 4-year-old in a center-based program is \$9,200 annually and represents 11.6% of the state median income for a married couple, and 38% of the median income for a Vermont single parent family.

#### Supplemental Nutrition Assistance Program (SNAP):

The Economic Services Division (ESD) expected its federal SNAP-Ed nutrition education grant to rise from \$35,559 in 2013 to \$128,770 in 2014 and as high as \$475,000 by 2018. The increase was due to an Obesity Prevention Block Grant allocation formula that increasingly weighed each state's share of the total SNAP (3SquaresVT) caseload, starting with FFY14. In late October, USDA Food & Nutrition Service (FNS) notified ESD that its FFY14 SNAP-Ed allocation under the Continuing Resolution is just \$38,133, a \$90,637 reduction. We asked FNS to clarify how that amount was derived and what it represents. Pending clarification, the initiatives ESD planned to undertake through the VDH and Hunger Free Vermont are on hold.

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

### **Brattleboro Retreat:**

Deputy Commissioner Aaron French and Dr. Tom Simpatico traveled to the Brattleboro Retreat on Tuesday to meet with approximately 12 members of their Executive Team including Rob Simpson, CEO; Peter Albert, Senior VP of Govt. Relations; Dr. Fritz Engstrom, CMO; Dr. Robyn Ostrander, Medical Director for Child & Adolescent Services; Jeffrey Corrigan, VP of Human Resources; and John Blaha, CFO.

The meeting was mutually requested and resulted in an agreement for DVHA to work closely with the Retreat regarding ongoing care and quality improvement strategies. Initial areas of focus would include but not be limited to:

- Inpatient detoxification strategies
  - both pre- and post-opiate replacement therapy hub and spoke implementation
- Lengths of stay for child and adolescent psychiatric hospitalizations
  - coordination with community providers to optimize effective community reentry
- Discussion of Opioid Detoxification denied first day stays discussed; the Retreat holds firm that the patient's needed to be inpatient; DVHA explained that we follow evidence based guidelines and utilization principles and emphasized that clinical criteria must be met for these first days. DVHA will proactively work with the Retreat and AHS departments to strengthen understanding of requirements for detoxification admissions. The Retreat still seeks back payment of these denied days, totaling now over 500 days.

### **Health Home State Plan Amendment (SPA):**

DVHA spoke with CMS on November 1<sup>st</sup> to discuss the Hub & Spoke payment methodologies. The CMS central office was of the opinion that Vermont's payment model is well aligned with the Health Home requirements as well as submissions from other states and does not pose a barrier toward completion of the SPA. DVHA received updated Request for Additional Information and questions this week and do not anticipate additional barriers to the approval of this State Plan Amendment.

### **Medicare medical home demonstration issue:**

Medicare funding for Patient-Centered Medical Home (PCMH) update based on proposed new regulations for 2015. Through the CMS Multi-payer Advanced Primary Care Practice (MAPCP) demonstration, the Blueprint helps providers create recognized PCMHs and has wrap-around local services (Community Health Teams) with payment reforms involving all public and major private insurers. The proposed new regulations conflict with how we operate, potentially destroy the infrastructure we have built by moving back to fee-for-service (with burdensome eligibility and documentation requirements), ignoring what has been learned through the waiver-funded MAPCP demonstration. We need the rule to change or continue with waiver, both decisions being made by CMS/HHS. A draft letter to Marilyn Tavenner and Kathleen Sebelius for the Governor's approval is with Robin Lunge for the appropriate next steps.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** November 8, 2013

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**Secretary's Top Issues**

**Tuberculosis**

- Animal Health is working with a farm in West Haven that is under quarantine for a positive tuberculosis confirmatory test. The cow was slaughtered to collect lymph nodes for histochemical testing and culture for *M. tuberculosis*. The initial tests are negative, however the farm will remain under quarantine until the culture results come back, which generally takes 8 weeks.
- Dr. Mehlenbacher performed a tuberculosis confirmatory test on a cow belonging to a raw milk producing in Springfield VT. The test will be read on Friday. A quarantine has been placed on the farm until the test is read. No raw milk can be sold during the quarantine.
- Animal Health worked diligently this week to facilitate the transport of bob calves directly to slaughter from a Vermont farm quarantined for Tuberculosis. Despite the licensed livestock dealer's assurances that these calves would be shipped directly to slaughter, he offloaded them on his own property, thereby exposing other calves from VT and NY and necessitating a multi-state coordination effort to resolve the matter. This problem was created in part by the fact that the slaughter facility the calves were shipped to was shut down by FSIS for unknown reasons. Going forward, it will be the policy of the AH section that all cull calves shipped to slaughter from quarantined farms will be transported in a sealed trailer.

**Rabies** - Animal Health applied three month quarantine to a horse property in Brookline Vermont after a report of a positive rabies in a skunk that had contact with the horses. There are three horses on the property overdue for rabies vaccination.

**Good Agricultural Practices Audits** – Consumer Protection Specialists completed the USDA GAP audits for the year. The total was 41 audits on 19 farms, for the following commodities: apples, basil, cucumbers, eggplant, greenhouse tomatoes, hydroponic lettuce, kale, potatoes, summer squash, sweet corn and turnips. Also completed were apple cold storage inspections at 2 orchards, to allow them to ship gift boxes of apples into AZ, CA and WA.

**Deer Serology Survey** - This weekend marks the first of the two scheduled deer sero survey events for 2013. Will be collecting blood from deer taken during the youth hunting weekend for arbovirus antibody analyses (EEE as well as West Nile Virus). A sero survey effort is also scheduled for the opening weekend of adult rifle season (November 16 & 17).

**China Trade Mission** - Secretary Ross & Agricultural Policy Administrator Chelsea Bardot Lewis began the first leg of the Vermont Food and Agriculture Trade Mission in Hong Kong this week. The Vermont Cheese Council, Bascom Family Farms maple, and Caledonia Spirits are participating in this mission, which is being supported by NASDA and food Export Northeast.

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**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

Dr. Haas spoke with the morning anchor from WCAX this week regarding a series of stories on pet adoption best management practices. This is follow up to the joint press release sent out this week by Ag on the same topic. There is a need to educate consumers on this issue in order to protect public health and welfare.

Dr. McNamara prepared some statistics for Candy Page of the Burlington Free Press documenting number of poultry slaughter establishments in VT that are inspected. She is scheduled to speak with Randy Quenneville on Monday.

**Significant Events/Meetings:**

**Animal Health**

- Animal Health is working with a farm in West Haven that is under quarantine for a positive tuberculosis confirmatory test. The cow was slaughtered to collect lymph nodes for histochemical testing and culture for *M. tuberculosis*. The initial tests are negative, however the farm will remain under quarantine until the culture results come back, which generally takes 8 weeks.
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- Dr. Mehlenbacher performed a tuberculosis confirmatory test on a cow belonging to a raw milk producing in Springfield VT. The test will be read on Friday. Quarantine has been placed on the farm until the test is read.

**Livestock Care Advisory Committee** - A meeting of the Livestock Care Standards Advisory Council was held this week. The Council decided to partner with other Vermont-based industry organizations in the development and dissemination of livestock wellbeing toolkit materials for stakeholders involved in livestock production and transport.

**VDART** - State Veterinarians participated this week in a Vermont Disaster Animal Response Team (VDART) meeting. The purpose of the meeting was to begin to characterize the future of the VDART organization, which supports VAAF by coordinating regional DART teams for animal sheltering during disasters. VDART is struggling financially and with regard to human capacity, and its future is unknown. During the meeting, the Board decided to not pursue the \$10,000 of training money that was allocated through the RERP grant. This funding will be rerouted to another organization for the same purpose.

**Evolving Issues:**

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**Fallow Deer** - Animal health received a report of two separate properties containing captive fallow deer. Neither property is registered with the Agency to be in compliance with Vermont's Captive Cervid Regulations. One owner has retained a lawyer who is requesting all communication go through her. Diane Zamos, AGG is involved in the communication going forward.

**Cervids** - The Animal Health section was made aware this week of two Vermont premises that own cervids that have not been subject to VAAFM oversight. One property has owned fallow deer for the past 20 years. The Section will be taking immediate steps to ensure that these cervid producers are in compliance with the captive cervid rules; it is unlikely that they are. One owner has already hired an attorney.

**Tuberculosis** - Animal Health worked diligently this week to facilitate the transport of bob calves directly to slaughter from a Vermont farm quarantined for Tuberculosis. Despite the licensed livestock dealer's assurances that these calves would be shipped directly to slaughter, he offloaded them on his own property, thereby exposing other calves from VT and NY and necessitating a multi-state coordination effort to resolve the matter. This problem was created in part by the fact that the slaughter facility the calves were shipped to was shut down by FSIS for unknown reasons. Going forward, it will be the policy of the AH section that all cull calves shipped to slaughter from quarantined farms will be transported in a sealed trailer.

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

#### **Administration**

**H.448 and 449** - Deputy Secretary Bothfeld, Assistant Attorney General Zamos and Legal Intern Durand met with representatives of Natural Resource Board to discuss potential changes to legislation introduced last year H.448 and H.449 to make ACT 250 Criteria 9(b) primary ag soils more manageable and clear for applicants as well as increase flexibility for both on-site and off-site mitigation of impacted primary ag soils.

**Vermont Higher Ed Food Systems Council:** Deputy Secretary LaClair, on behalf Secretary Ross, attended and spoke at the Press Conference today announcing a Higher Ed Food Systems collaborative including UVM, VSC/VTC, VT Law School, Green Mountain and Sterling Colleges. Presidents of each higher ed institution along with Secretary Spaulding praised this landmark collaborative - emphasizing a commitment to not only growing Vermont's student population but attracting a new workforce energized by the huge growth/innovation in Vermont's farm and food systems. Additional higher ed institutions, starting with Middlebury College, will be invited to join the collaborative which is just formulating a framework for an operational and marketing plan. The Vermont Council on Rural Development/Paul Costello has facilitated the process. Secretary Ross and former Ag Secretary Allbee were given strong recognition for their leadership and vision to chart this course.

**VT Ag and Forest Products Development Board:** This monthly meeting was held in North Springfield, hosted by Black River Produce owner Mark Curran, who also led the board on a tour of the newly operational Black River Meats. Eight employees today; 80 expected in 3 years when a slaughter facility is also co-located with the processing facility. Many new or expanded farms producing meat - beef, lamb, pork - are needed to supply the growing demand of Vermont's brand of specialty and high quality meats. Black River is building a model which will reach from Vermont to Boston and the NY markets. The Vermont Agency of Agriculture continues to play a significant role in providing technical assistance and regulatory guidance to get each slaughter and processing facility on line, as well as market development.

#### **Agricultural Development**

**China Trade Mission** - Secretary Ross & Agricultural Policy Administrator Chelsea Bardot Lewis began the first leg of the Vermont Food and Agriculture Trade Mission in Hong Kong this week. The Vermont Cheese Council, Bascom Family Farms maple, and Caledonia Spirits are participating in this mission, which is being supported by NASDA and food Export Northeast. The delegation met with local trade specialists, the USDA-FAS post, buyers from Dah Chong Hong (the largest distributor in Hong Kong), and PARKnSHOP (another

large buyer). The delegation also visited the Hong Kong Wine and Spirits Fair, during which Caledonia Spirits was named “Best Gin” and received a gold medal award. Secretary Ross accepted the award on behalf of the company and the state of Vermont.

**Dairy Promotion** - Deputy Secretary Bothfeld attended the New England Dairy Promotion Board annual meeting at Jay Peak. Dairy farmers in attendance from all the New England States and Western New York. Farmers reviewed promotion activities and voted on a \$5 million budget for 2014 promotion and research activities.

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

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### **Animal Health Updates**

- Animal Health tested poultry for Pullorum at the last bird swap of the season in the Bethel and also attend the annual meeting of the Vermont Bird Fancier’s Club. The Club reports having issues advertising in Agriview and Dr. Mehlenbacher will follow up on that. The meeting provided an opportunity for the Agency to review the statutory requirement regarding poultry for sale, show, or exhibit. There is the potential for more bird swaps to occur next year. In the past, 8 swaps have been held spring through fall. The Agency was able to provide input that any more swaps will max out field staff resources and other options (training private individuals for testing, charging time and mileage) would need to be discussed.
- Animal Health contacted three businesses acting as pet shops without being licensed with the Agency. Two were pet shops and one was a rescue organization who has not obtained 501 3 c status and therefore, by law, is not able to register as an animal shelter.
- Animal Inspectors have completed annual livestock dealer inspections for: Patrick LaJoie, Tony Brault, Bruce Gonyaw, and Jim Young.
- Animal Health completed an annual cervid inspection in West Charleston. Deer were inventoried and field personnel assisted in the application of official identification.
- Animal Health conducted a tissue residue inspection on a dairy farm in Shelburne.
- Animal Health field inspector attended the Addison County Commission Sales for ADT compliance and Marketing report.
- Animal Health inspectors and Assistant State Veterinarian assisted a farm under quarantine with the marketing of bob veal calves. As Vermont does not have a slaughterhouse that processes bob veal the only option is to market out of state. Because of the quarantine Vermont’s animal health officials have been working with our neighboring states to accept these calves to be processed.
- AH sent out two NOV’s this week to producers charged with multiple tissue residue violations in animals sold for slaughter.
- AH met this week with legal counsel to discuss next steps for two ongoing compliance cases, one involving a delinquent livestock dealer and the other a noncompliant cervid producer.

**Good Agricultural Practices Audits** - Consumer Protection Specialist, Scott Dolan and Consumer Protection Agricultural Production Specialist, Steve Parise completed the USDA GAP audits for the year. The total was 41 audits on 19 farms, for the following commodities: apples, basil, cucumbers, eggplant, greenhouse tomatoes, hydroponic lettuce, kale, potatoes, summer squash, sweet corn and turnips. Also completed were apple cold storage inspections at 2 orchards, to allow them to ship gift boxes of apples into AZ, CA and WA.

### **Meat Inspection**

- Annual audit for USDA FSIS is being worked on. We are requesting an extension because we are having difficulty getting it completed while covering other duties. **Again the need for a meat inspector ASAP – supervisors are covering plant duties and unable to get other supervisor related duties completed in a timely manner.**

- Federal Budget call received and documents are being prepared for the federal Fiscal year 2014 50/50 funding

### **Meat Inspection Compliance activities**

- Compliance is working in conjunction with the Department of Health at a retail establishment that is producing product in insanitary conditions, and has been found previously with the same violations. The investigation is ongoing.

### **Agricultural Resource Management**

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

- Staff conducted one compliance follow-up and technical assistance visit on a MFO in Franklin County regarding the BMP (best management practice) program for several water quality concerns.
- Staff is working with grantees in the Capital Equipment Assistance Program (CEAP) to verify equipment purchases, implementation and make program payments. Staff visited one small farm to look at equipment purchased through the program.
- Staff is processing Farm Agronomic Practices (FAP) grant program payments for farms that implemented winter cover cropping and manure injection on annual cropland.
- Staff are continuing to work on a response to a former LFO farm in Franklin County that would like to become a MFO. The farm is changing its management of the facility and would like to be regulated as a MFO rather than a LFO.
- Staff attended a NRCS Technical Training day where changes to NRCS program standards were reviewed and program implementation was discussed.
- Staff are working with colleagues in house and with partners to design and implement water quality BMP projects on MFOs and LFOs.
- 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.
- Staff are continuing to work the AGs office regarding an enforcement case against a farm owner that manages 2 MFOs in Orleans County.
- To assist in the workload demands brought on by the current pesticide investigation, MFO/LFO staff are continuing to respond to all AAP complaints on small farms until further notice.

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

- Met with other agency staff and representatives from VLT, VHCB, and VT DEC to discuss Buffer Easement proposals for Lower Lamoille River (reaches impacted by dam inundation) which would be funded by Green Mountain Power as part of dam relicensing process.
- Farm visit with NRCS, VACD, and USFWS in Troy to plan potential CREP projects on two separate tracts of small farm.
- Met with Lamoille county NRCS staff and VACD staff to strategize/plan approach on small farm in Cambridge with multiple resource concerns.
- Performed first part of site visit to small farm in E. Johnson to assist NRCS with EQIP planning and evaluate CREP/River Corridor Easement potential for farmland along Gihon River.
- Processed state CREP paperwork for two new Lamoille Co. contracts.
- Continued work with Agency Attorney to craft “demand letters” to request repayment of state incentive payments on terminated CREP contracts.

#### **AAP Enforcement activities**

Hearings have been requested by two small farmers appealing the Agency’s decisions in granting/denying variances to the Accepted Agricultural Practices Regulations (AAPs). One individual that raises horses requested a variance to the AAP requirement that livestock be buried at least 150 feet from property lines. Her

request was denied as the AAPs do not allow for the granting of a variance to this requirement. She is appealing this denial. A small dairy farmer was given permission to build a barn within the required 50 foot setback to top-of-bank of surface water since he was rebuilding a barn within an existing footprint (grandfathered) but additional restrictions were included in the variance to ensure the protection of surface water (i.e., no pasturing of animals, storage of manure or feed, or construction of barnyard between barn and top-of-bank). The farmer is appealing these additional restrictions.

### **Land Use**

The Agency has been made aware of a farmer that has constructed a pole barn/shed in a floodplain/floodway area of a conserved farm. The farmer did not notify the Town or the Agency of the proposed construction. The Agency is coordinating with DEC's floodplain management section and Vermont Land Trust to determine the exact location of the shed. If it is in the floodway, it must be moved. If in the floodplain, the structure may need to go through some modification in order to be in compliance with National Flood Insurance Program (NFIP) Standards.

### **Plant Industry**

- Forest Pest Outreach - On November 6<sup>th</sup>, plant industry staff attended the Youth Environmental Summit at the Barre Civic center. This event is an annual conference for middle and high school students. YES provides students with an opportunity to learn about environmental issues and get involved in local communities. Emilie and Alex hosted two workshops focusing on emerald ash borer and Asian longhorned beetle and maintained a forest pest outreach tabletop exhibit for the day.
- Arbovirus Program – All of the mosquito traps have been collected, and survey activities for 2013 are concluded. Between June 16 and October 27, 2013, 32,727 individual mosquitoes of 32 species were captured. Of these, 16,729 were pooled (1338 pools) and analyzed for Eastern Equine Encephalitis and West Nile Virus. 22 and 27 pools were positive for EEE and WNV, respectively. The Vermont Department of Health lab conducted 1063 real time PCR analyses (of the 1338, the remainder were performed by the New York laboratory used in 2012) after their facility came online in July. 31 towns were surveyed during the 2013 season, in Addison, Rutland, Chittenden, Franklin and Grand Isle counties. There were two human WNV cases reported in 2013, and two EEE positive horse cases. The humans recovered without complications, the horses had to either be put down or died.
- This weekend marks the first of the two scheduled deer sero survey events for 2013. We will be collecting blood from deer taken during the youth hunting weekend for arbovirus antibody analyses. A sero survey effort is also scheduled for the opening weekend of adult rifle season (November 16 and 17).

### **Secretary's Comments**

#### **Events**

- Trade Mission, Hong Kong, China: Participating in first of four legs of trade mission in China ( with three VT organizations; VT Cheese Council, Bascom' Maple and Caledonia Spirits). Met with USDA Agricultural Trade Office personnel and a number of potential buyers in Hong Kong on first day.
- #1 Gin, Hong Kong, China: On behalf of Caledonia Spirits and the Hong Kong importer Spiriteca, Sec Ross accepted award as the top gin at the Hong Kong International Wine and Spirits Fair. Met with importer and Caledonia Spirits trade representative. Very positive for Vermont and will be issuing press release
- Next – finish business meetings in Hong Kong and then traveling to mainland China for next three legs of trip: Guangzhou, Chengdu and Shanghai.

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Deborah L. Markowitz  
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Deputy Secretary

**State of Vermont**  
**Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Deborah Markowitz, Secretary, Agency of Natural Resources**  
**Date: November 8, 2013**  
**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Lake Champlain Cleanup Plan:** Discussions with EPA over the framework and elements of a plan to address polluted runoff into Lake Champlain continue. At an all-day meeting last week, DEC presented a draft set of proposals for EPA's consideration and EPA presented the agency's latest modeling results. We will meet again in mid-November with EPA to finalize the details and logistics of how the state and EPA will roll-out the process, modeling results and draft plan in a series of public meetings to be held in December.

**Brabant Matter has been Settled:** Kate Duffy's legal team deserves tremendous credit for negotiating a settlement in the Brabant matter. While we were confident we would win before the labor board (largely because of the incredible work done on the investigation report by Gary Kessler, Brabant's supervisor) it made sense to agree to a settlement to avoid any possibility of a crazy result, as well as for the nuisance value. We agreed to a token payment and made it possible for him to be eligible to buy into his retirement. A great result for the state!

**Stream Gage Funding:** We appear to have solved the USGS gage funding problem for the remainder of the current state fiscal year. Commitments of support for specific gages from the Lake Champlain Basin Program, TransCanada Hydro Northeast and Green Mountain Power were major factors. The staff at USGS helped identify additional cooperative gaging funds that resulted in a more favorable (to the state) cost-share ratio, enabling us to add seven Lake Champlain gages to our current agreement. We should receive a final agreement from USGS shortly.

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## **EVERYTHING ELSE:**

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

**Stormwater Program:** I testified before the House and Senate Committees on Natural Resources and Energy Joint Meeting on Electric Generation along with the head of our stormwater program. Testimony provided covered the role of stormwater permitting in high-elevation settings (i.e. wind projects).

**Stormwater/Agriculture:** DEC staff met with House Fish, Wildlife and Water Resources Committee Chair Deen, along with representatives from the Agency of Agriculture to discuss Representative Deen's potential legislation regarding the reduction of water pollution from agriculture.

**Shorelands Commission:** DEC participated in a meeting of the legislative commission considering legislation to provide greater protection to lake and pond shorelands. The commission is developing a report to the full legislature summarizing the public comments received over the course of their summer listening sessions. The House passed bill from the last session will be taken up by the Senate Natural Resources and Energy Committee early in the coming session.

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

**Lampricide Application:** WPTZ – News Channel 5 ran an interview about the chemical treatment of the Lamoille River to control sea lamprey populations.

<http://m.wptz.com/news/biologists-launch-seasons-final-treatment-of-lake-champlain-tributaries/-/17442258/22721928/-/bffpdg/-/index.html>.

**Deer Hunters Reminded of Later Season Start Dates in 2013:** Fish & Wildlife is reminding deer hunters that Vermont's youth, rifle, and muzzleloader seasons fall on relatively late dates this year. Youth weekend is Nov 9 – 10 and rifle season begins on Nov 16. Both seasons are beginning one weekend later than normal. Muzzleloader season begins on Dec 7.

**Watershed Grants Application Deadline is Nov 22:** It's not too late to apply for a 2014 Vermont Watershed Grant to fund projects that help Vermonters protect, restore and enjoy the state's watersheds. Applications are due to the Vermont Watershed Grants office by Nov 22.

**Vermont Youth Deer Hunt Weekend is Nov. 9-10:** A youngster's first hunt can mark the beginning of a lifelong passion for the outdoors and a commitment to wildlife conservation. There is no finer time to begin this journey than during Vermont's upcoming youth deer hunting weekend on Nov 9 and 10, the Saturday and Sunday before the rifle deer season opens.

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

**Hannaford Store (Hinesburg):** The Wetlands Program held a public comment meeting in Hinesburg concerning a wetland classification determination. The Agency is proposing to keep the wetland in question classified as a Class III wetland as it does not provide significant functions and values. All of those who attended the hearing spoke in favor of making the wetland a Class II wetland. Several written comments were sent in on the final day of the comment period complaining about the process. All comments will be addressed in our responsiveness summary.

**Low Emission Vehicle (LEV) Rule Amendments:** Air Quality & Climate Division filed final proposed amendments to the LEV rules in the Air Pollution Control Regulations with the Secretary of State and LCAR this week. Written comments were received from five interested parties during the public comment period. The primary purpose of these amendments is to adopt the next generation of California's zero emission vehicle (ZEV) standards for model years 2018 through 2025. Vermont first adopted California's motor vehicle emissions standards in 1996 and has periodically adopted updates and new standards since then, including California's ZEV standards through model year 2017.

**Regional Greenhouse Gas Initiative (RGGI):** We filed the adopted rule amendments to Vermont's CO<sub>2</sub> Budget Trading Program Regulations, which implement RGGI in Vermont. The amendments incorporate updates to the RGGI model rule, which resulted from a comprehensive program review conducted by the RGGI states. The most notable changes include: lowering the regional cap from 165 million tons to 91 million tons in 2014 and maintaining a 2.5% annual cap reduction thereafter; adding an interim control period, which requires regulated entities to acquire CO<sub>2</sub> allowances for 50 percent of their CO<sub>2</sub> emissions in each of the first two years of each three-year compliance period; and expanding the afforestation offset category to include reforestation, improved forest management, and avoided conversion.

**Sunset Farms Mobile Home Park:** This park is located in Bennington and has continuing water supply issues. The owner of the park is no longer actively seeking to comply with an issued water supply permit that he applied for. The bank that holds a mortgage on the park has started the foreclosure process because of a lack of payment. A meeting was held this week with DEC, ACCD, Town of Bennington and Shires Housing. Shires Housing has agreed to take on a limited role in running the park. DEC will be seeking an Emergency Order asking the Court to appoint a receiver to operate the MHP. At this point it is anticipated that the MHP may be closed and residents relocated.

**Onsite Wastewater Training provided through collaboration with Vermont Technical College:** Drinking Water & Groundwater Protection Division held a successful two day training program for fifty-five designers and regulators relating to onsite wastewater system design. Both classes were well received and VTC is compiling the results of the class evaluations which will be provided to us soon.

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Unifirst (Williamstown and Randolph):** One of the properties that was contaminated by disposal operations of the Unifirst Corp (the former Bressette property in Randolph) in the 1980s, has fallen on hard times and Waste Management staff are discussing options with Unifirst. The Randolph property was sold with an easement held by Unifirst, the easement provided access for sampling and maintenance of the remedial system on the site, but the current owner has vacated the premises and the mortgage holder may choose to abandon the property instead of taking the property back through foreclosure, leaving the property to deteriorate rapidly due to exposure to the elements, freeze/thaw, and potential vandalism. We are taking steps to secure the property, through the discussions with Unifirst, to winterize the property and at least buy time for discussions about further options.

**Recycling/Food scrap/Trash Statewide Symbols:** We are establishing recycling, food scrap, and trash collection symbols designed to be used statewide. A selection of symbols came about through an Act 148 Work Group comprised of municipal, waste management, and industry stakeholders. After several weeks of soliciting ideas, the group has decided to mirror the color coding adopted by major municipalities such as Seattle and San Francisco. Blue will remain the color associated with recycling, green will be used for food scraps and compostable materials, and black will be used for trash/landfill material. The hope with adopting this consistency statewide and bi-coastally is to also provide an impetus for national messaging to catch on where it has languished for decades.

The unveiling of the selected symbols is scheduled for November 13 which will happen during a media event at Main Street Middle School in Montpelier. ANR Secretary will be joined by representative haulers, school officials and environmental student group representatives.

**Village of Swanton Drinking Water System Upgrade:** A Drinking Water State Revolving Fund (DWSRF) loan was awarded in the amount of \$149,675 to fund final design of drinking water pipeline improvements to the Village's municipal water system. The design includes a directional bore beneath the Missisquoi River. Facilities Engineering division is currently processing a loan amendment request to add \$608,887 for the construction phase. This loan is part of a much larger \$7.27M project that includes additional distribution system improvements and a major upgrade of the water treatment facility.

**Dam Order for Thompson Pond Upper:** The project, located in Pownal on the South Stream tributary within the Walloomsac River Basin, consists of the replacement of the primary outfall structure and pipe. The new structure and pipe are intended to match the existing in capacity and function except it will have a submerged inlet intended to minimize clogging by beavers. The pond will be lowered to the normal low level and a cofferdam installed around the structure during construction. The dam is owned by the Vermont Outing Club.

**Great Averill Lake:** Watershed Management division staff followed up on reports of high water at Great Averill Lake potentially threatening a road. We talked to the citizen who reported the high water and to the operators at Coaticook Hydro who operate the dam. Coaticook indicated that the current water level is 6 inches below the dam crest (confirmed with a photograph) with a 2 inch gate opening, but that the lake level had risen 10 inches from the summer low. The problem may be an undersized culvert rather than anything related to operation of the dam. Currently, we are working with the Averill Lakes Association monitoring the water level at Little Averill and Averill Creek to gain a better understanding of how the dams are being operated, with plans to monitor Great Averill and Norton Pond next year. We will continue to follow up with the local citizens on the water level issues.

**Calais Poor Fen:** The Wetlands Program issued a final determination on the Calais poor fen; a Class II wetland with an irregular buffer to protect the sensitive hydrology of the fen, and a large forested buffer for amphibians that use the fen as a breeding pool.

### **Fish and Wildlife**

**Preparation for Ice-Fishing Outreach:** Staff drafted documents that will be used to develop a webpage and other public outreach materials relating to ice fishing. The material is designed to help educate anglers who are new to ice fishing on the basics, in an attempt to promote the newly established and upcoming Fish Fishing Day, scheduled for January 25, 2014. Staff also began investigating the potential for the Department to partner with groups to hold an Ice Fishing Festival that day, which the public can be invited to, to learn about ice fishing.

**Berlin Pond Research:** Staff spent 2 days gill netting Berlin Pond to collect size structure and age composition information on yellow perch. This information will help inform future fisheries management strategies for this evolving fishery. Berlin Pond was opened to fishing in 2012 for the first time in many decades following a Vermont Supreme Court Ruling overturning a prohibition on surface uses. High fishing effort and harvest of large yellow perch lead to the Department reducing daily creel limits on yellow perch from 50 to 10 per day.

**Unlicensed Hydro Projects:** There are approximately 17 active hydro projects and 10 additional storage reservoirs in Vermont that are unlicensed because their existence pre-dated the Federal Power Act as amended in 1935. Most have no environmental requirements such as maintaining conservation flows and as a result are a concern for the Department. Staff prioritized the projects that are believed to be causing significant fisheries impacts and provided the list to DEC. DEC and F&W will meet later this month to discuss how to deal with these projects.

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

**Confidential Attorney Client Privileged and Attorney Work Product / State v. Riendeau:** A hearing on the State's Motion for Preliminary Injunction regarding the AMP and heavy Cut violations was scheduled for last Tuesday, October 29. Prior to the commencement of the

hearing, the parties reached agreement on the remediation items the State was seeking. A Preliminary Injunction Order was signed by the Court requiring Mr. Riendeau to hire a consulting forester to develop a plan and submit to FPR for approval outlining the remedial measures that the Riendeaus would complete by November 20 to fix AMP violations, site restoration work related to AMPs that will be conducted in the spring, and consent for the Department to conduct a heavy cut violation inspection on an additional portion of the land owned by Mr. Riendeau that is adjacent to the documented heavy cut violation. This is the initial process in this litigation to restore the site and prevent further discharges to state waters. The State will proceed with negotiation of penalties and investigation of the additional area that appears to be heavily cut.

**Sunrise Homeowners Association / High Altitude Adventure:** ANR staff conducted a site visit of the state land in Parker's Gore, Killington where Sunrise/High Altitude constructed structures in a Class II wetland that is significant for bear habitat (which prompted the conservation), among other features. Sunrise/High Altitude has been conducting commercial operations including snowshoe tours, dinners and concerts at this site without permission. Vermont Land Trust holds a conservation easement on this land and the structures and commercial activities violate the easement and Act 250 requirements and are also encroachments/trespass on state land. ANR is coordinating with VLT and the Natural Resources Board to address these violations with the landowner. ANR enforcement is also proceeding with results of the site investigation likely to result in wetland violations.

**Leases and Licenses:** Work continues on a master utility license agreement with Green Mountain Power for all of their utility lines on Department lands. We are close to finalizing a cooperative agreement with Fairpoint which will eventually lead to the development of a similar master utility license with that company.

**CCC Road/Coolidge State Forest:** This road repair project is temporarily on hold due to cost-saving amendments by the geotechnical and project engineers. It is hoped the delay will be brief so the project can be completed before winter.

### **Business Office**

**Vantage System:** We were informed that the Vantage system position data had been corrected for step increases, but our initial review shows that much of the data is still not correct.

**Time and Labor System:** We have discovered that most of the data query reports in the new Time and Labor System only include data of "current" employees. Once a person moves on, their data is lost from most of the reports that we have been relying on. We use the data for historical tracking, financial trend information, and for records needed for future audits. The DHR Reporting Group is working with DII on a fix.

**Phone Usage Data:** We are continuing to gather phone data from our records and from the phone companies to help the Departments in making decisions on their phone options. We hope to begin sending out some information next week.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: November 8, 2013

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** The Board on 10/30 issued an order allowing another round of briefing so that parties could respond to the reply briefs submitted earlier. On 11/1, after consultation with us, Entergy submitted a request for two additional weeks to make the final filing; on 11/5 the PSB issued an order granting the extension. Final briefs are now due 11/22. Entergy is expecting a response to their last settlement draft if we're going to provide one, and I will finish that for review by Liz and Sarah this weekend, with the hope we can get something to them by the middle of next week after review by AGO and Wilmer Hale if Sarah and Liz think this is worthwhile.

Yesterday, VY "lost" another flood seal. They notified us and NRC yesterday that on 11/7 they discovered a seal missing between an outside manhole and the west switchgear room compromising the flood integrity of both east and west switchgear rooms. Internal flooding of both switch gear rooms would affect the plant's ability to perform safe shutdown, removal of decay heat, control of release of radioactive material, and mitigate an accident. Last year, all

seals were supposedly inspected and replaced when it was discovered some were leaking, then again this summer when work crews directing water during excavation noticed water infiltrating a manhole. At this stage, VY needs to do a root-cause analysis of the problem and what is happening to these seals. Luckily, we are not in flood stage, but this is not a good situation.

**Regional Infrastructure, ISO:** This seems to be unraveling a bit – though support for gas pipeline is strong, MA will not do it without transmission efforts as well. I am concerned about the relationship to Order 1000 cost allocations being voted on as I write this by the Participants Committee in NEPOOL, and Ed and I spent the last two days with ISO staff, Board, NEPOOL, Transmission Organizations and the States on these various regional issues. Vote is in – both 70/30 and 30/70 options failed to win a majority of PC members – but the TO’s and ISO may still file with FERC as the vote today is only advisory. We have preserved our options, however.

**Georgia Mountain Community Wind – Docket 7508:** GMCW filed a response to the Department’s motion to alter, alerting the Board that it intends to comply with the Department’s proposed changes to the Board’s order addressing Reggie Johnson’s noise complaint. GMCW will ensure that the cooling fans at the base of the turbine are not operational during the 30 minute facility shutdown periods used to gather background noise readings during noise monitoring sessions. GMCW is currently conducting the last quarterly monitoring session.

Relatedly, the Board is intending to hold a workshop on noise if we do not request one. We are expecting responses to our RFQ for experts by the 11<sup>th</sup>. I recommend we do what MA did and say that in the interest of advancing renewable energy projects and getting additional well-conceived applications before the Board that we hold a workshop on a variety of issues – noise, setbacks, testing protocol, interconnection standards, etc., so that there is greater understanding by developers about what is expected and greater predictability to them about this process.

**GMP Rate Filing & IBM Costs:** As part of year two of the MOU we agreed to with GMP, they are working on next-year’s rates and at the moment are coming in to talk with us next weeks about a 0.6% increase. We will work to get that to 0% or lower. This includes transmission. You may recall that by the terms of the MOU they are limited to 2.5% this year and a maximum of 2.5% next year. If we can get this to be negative that would be very good news.

Lawrence and I met with IBM this week to discuss Department ideas for reducing their energy costs in both the short and longer term. I will be following up with staff on a short-term option to levelize power adjusters over time, as it seems predictability is even a bit more important to them than price.

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

**November 4:** Chris/Darren met with AARP; Chris attends Energy Solutions meeting; Darren attended IBM/Sandia Solar Test Center groundbreaking with the Governor.

**November 5:** Darren attended EVT/Fuel Dealer meeting.

**November 6:** Chris visits IBM; Chris and Ed met with ISO Board along with PSB.

**November 7:** Chris attended ISO-NE/NE Regional Energy Meeting in Boston; Darren met with Bill Driscoll of AIV and Tony Klein to discuss retail choice in electricity; Darren met with Aaron Adler to discuss net metering legislation.

**November 8:** Chris attended ISO Board Meeting and NEPOOL Meeting in Boston.

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

**November 12:** Chris speaks at AIV Annual Meeting; Chris attends VT Connectivity Workgroup;

**November 14:** Chris, Darren and Asa meet with Liz and Louis to discuss Net Metering; TES public meeting at State House; VSNAP Meeting in Vernon that evening.

**November 15:** Chris meets with Iberdola; Darren discusses Net Metering on Mark Johnson show.

**Media:** Chris spoke with Digger re TDI's New England Clean Power Link; Chris spoke with John Dillon about transmission costs. Asa spoke with WCAX about heating fuel prices in light of VGS rate decrease. Darren is going on Mark Johnson Show on 11/15 to discuss net metering.

### **Everything Else:**

#### ***PERD***

- Demand Resources Plan Proceeding
  - Staff expressed concerns to VEIC about expecting to claim Behavior program savings in the DRP modeling process. On the Residential side, such savings represent more than 25% of the portfolio in the 3 and 20 year forecast. Staff communicated to VEIC the DPS position that there may be value in operating such programs as Non-Resource Acquisition for their education, marketing and potential to drive increased participation in "hardware" programs. Such activity may reduce education and marketing costs in other areas of the budgets for this sector. VEIC bristled at the comments, yet the VEIC project manager was responsive to DPS request model with and without Behavior programs on the Residential side for now. Staff will take action to learn more about how such programs may be evaluated and savings verified as "real".
  - Staff met with VEIC to discuss the complexity of heat-pump technology in the mix of emerging measures that are cost-effective. Staff requested a proposal

from VEIC to document a number of concepts that were discussed, such as establishment of the correct baselines. Treatment of heat-pumps is complex. It is likely an agreement will be needed for how this technology is treated in it various residential and commercial applications. Since this technology shares electric and thermal attributes care will need to be taken in the DRP modeling process.

Clean Energy Development Fund

- Finalized and sent out the Competitive Wind Energy RFP. Wind projects with community involvement and support are encouraged.

Total Energy Study

- TES page added to DPS website, also added TES to quick links. Posted Nov 14 meeting announcement on front page of website.

Net Metering

**Net Metering Activity 10/22/13 – 11/1/13**

	Registrations	Applications	CPGs Granted
<b>Count</b>	20	0	4
<b>kWAC</b>	94.127	0	28.816
<b>Ave Size kW</b>	4.706	0	7.204

**Cumulative Capacity of Registrations and Applications Submitted**

Year To Date		Total Since 1999	
2012 kW	2013 kW	1999 – 2013 kW	% of CAP
6509.44	10772.75	37963.33	~ 94.9%

***Engineering***

GMP Stafford Hill Solar Farm

GMP and the Department were to have filed a stipulation or litigation schedule by 5 November, but GMP has requested an enlargement of the Docket and new testimony and schedules to accommodate a significant change to their proposed project. GMP has received a \$50,000 CEDF grant and a DOE grant of approximately \$235,000 to help underwrite the installation of an innovative battery energy storage system at this project site. The Department has agreed to the enlargement of time and GMP proposes to file supplemental testimony by January 15, 2014. The PSD and ANR will have a rolling discovery period until February 14 and a litigation

schedule or stipulation by March 4, 2014. This will be the first project of this type in the state.

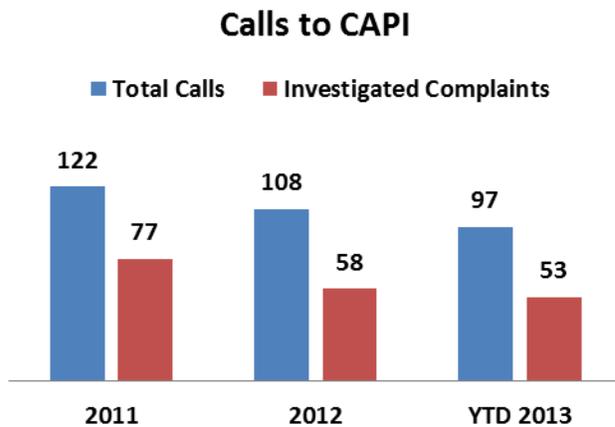
### WEC AMI Plan

The Department met with WEC to discuss its AMI Plan. At issue is that WEC's meter vendor, Cooper, no longer provides a meter with both a power-line carrier chip and a Zigbee chip, and WEC is proposing two alternate schemes that allow usage information to be transmitted to an in-home display (IHD) via Zigbee, but a price signal would not be able to be transmitted to an IHD. WEC believes technologies such as text messaging or Internet-based applications will be able to accomplish this task, and will research whether its AMI system can communicate pricing and usage information as required.

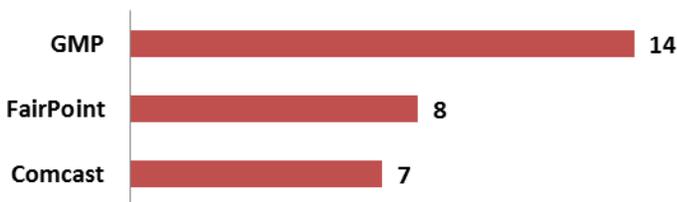
### **CAPI**

#### CALL DATA

For date range 10/27 to 11/2/13



#### Top Companies with Investigated Complaints



#### POST CPG WIND COMPLAINTS

CAPI took in one health-related complaint regarding Sheffield/First Wind and two noise complaints regarding Lowell Wind, both of the latter complaints were about loud turbine sounds over the weekend. One complainant described the sounds as "like I was living next to an airport and the planes never landed." This person also said that his property value has been degraded by \$100,000 because of the wind turbines, according to a local real estate agent.

Additionally, one person who has filed noise complaints in the past about Georgia Mountain Community Wind contacted CAPI about GMCW conducting its fall monitoring session before the Board's deadline for filing comments in response to the Department's recommendations regarding the "upcoming" GMCW monitoring session. This was with regards to a docket opened in response to another GMCW complainant about fan noise from the wind farm. The complainant also made it known to the Board that monitoring had already started at GMCW.

### ***Public Advocacy***

GMP Stafford Hill Solar in Rutland – Docket 8098 – The petitioner responded to the second set of Department discovery requests. These discovery requests focused on the aesthetics of the proposed project and did not raise any new aesthetic issues. Additionally, in a letter to the Board, supported by the Department, the petitioner requested an enlargement of the schedule. The petitioner has requested until January 15<sup>th</sup> to provide supplemental testimony explaining the battery storage component and updating its cost analysis based on the construction RFP.

Middle Road Ventures Middlebury Solar – Docket 8060: The Board denied the petitioner's motion to amend its CPG. The petitioner had requested the Board remove CPG Condition # 2, which determined the Project's system-rated capacity by multiplying the total array output measured in DC watts by a factor of 0.95. In denying the motion the Board stated that it will continue to apply this conversion factor to all net metered installations. The Board held the conversion factor is required by 30 V.S.A. § 219a. The Board supported its read of this statute by noting the 219a(a)(3)(A) definition of a net metering system as having a capacity of "no more than 500 kW" and the 30 V.S.A. § 219a(a)(3)(A)(5) definition of "kW" as being AC. Interestingly, the Board admits that it erroneously referred to the inverter rating as the system capacity in the project at issue in Docket 8045 (the IBM solar test center) and states that it will address the issue in that proceeding.

Swanton Electric – Rate Investigation – Docket No. 8024 – On November 6, Swanton will file a response to the Board's memorandum seeking additional information on the difficulties Swanton has articulated in providing refunds in its latest rate case. Per a conversation with Swanton's counsel, it appears that Swanton will be able to make customer-specific refunds after all, with only a modest upgrade to its billing system costing in the range of \$5,000. If the comments reflect counsel's representations, the Department anticipates supporting this method.

Stowe Electric Dept. Rate Investigation – Docket No. 8074 – On October 22, the Board issued a memorandum seeking comment on whether to require Stowe to have a comprehensive business process review in light of Board concerns about Stowe's management, recent bonding practices, and its historical relationship with regulators. In a November 1 letter, the Department noted that it too had concerns about Stowe's management, and its relationship with the Board and Department. The Department supported the business process review and

urged the Board to set a status conference to discuss this issue as well as the current status of the case. Stowe did not oppose the business process review but was not particularly excited about the idea.

Gage Consumer Complaint – Docket No. 8132 – A former Citizens customer/contractor has been receiving power at his hunting camp without paying for it for a number of years. VEC discovered the meter in October 2012, and VEC replaced the meter with a smart meter in April 2013. During that time the customer appears to have accrued a bill of approximately \$3,500. The consumer filed a complaint at the PSB. On November 5, a prehearing conference was held, initial papers were shared, and a schedule was set. VEC will respond to the complaint formally in early December.

Alternative Regulation – No Docket – On November 4, Department staff met with staff from AARP to discuss AARP's thoughts on Alt Reg. The Board will hold a workshop on alternative regulation on November 25 and has issued a memo with topics that will be covered.

Appointment of a Natural Gas Energy Efficiency Utility D 7676 – The Department has been consulting with Vermont Gas Systems about a schedule for drafting revisions to the Process and Administration and Order of Appointment documents that will govern VGS energy efficiency activities. Given the large share of Department resources currently devoted to the ongoing Demand Resource Plan proceeding (to set the three year efficiency budgets and goals for Efficiency Vermont and Burlington Electric Department), we are jointly requesting that the deadline for submission of final draft documents be delayed until June 2014, with a status conference in January to give the board an update on informal progress on the revisions.

Demand Resource Plan Proceeding EEU 2013-06 – Department staff participated in a workshop on Thermal Efficiency Process Fuel scenarios and modeling for Efficiency Vermont and Burlington Electric Department's 2015-2017 budget and goal setting.

Programmatic Changes to the Standard Offer Program - Docket 7873, Vermont Supreme Court Case No. 2013-308 – The Department is drafting an Appellee brief defending the decision of the Board to reject a standard offer contract for one 2 MW solar project that they determined was so closely associated with a second 2 MW solar project proposed by the same developer on contiguous land, that the two projects were in effect one, and thus exceeded the statutory 2.2 MW limit on standard offer projects. Brief is due 11/8.

Barnet Water System, Inc. Rate Increase – Docket 8052 – The petitioner informed the Department and ANR that it has signed a purchase and sale agreement with the Barnet Fire District, contingent on a successful bond vote. The closing date is proposed for the end of January 2014. The PSB proceeding is currently on hold.

Addison Expansion—Docket 7970 –In furtherance of two requested CPG conditions in this matter, the Department continues to work with VGS with respect to its intended EE efforts and outreach in Addison County and with respect to the implementation of an aggressive

biomethane program and the policies associated therewith.

VGS/Plouffe Condemnation—Docket 7819—Briefs on the issue of necessity are due on November 14 and reply briefs are due on December 5. The Department is currently reviewing a draft of VGS's brief to determine if we can support it.

Technology Drive Solar – Docket 8111 – Petitioner filed comments disagreeing with the opposition of the Department, ANR, and Ag to § 248(j) treatment for the proposed 2.0 MW facility. The Department's aesthetic expert is close to finalizing her report, and it will likely conclude that the facility does not pose an undue adverse aesthetic impact on the area. The Board has yet to issue an order in response to the parties' 248(j) comments.

FairPoint PAP Proceeding – Docket 7506 – The Department has had discussions with FairPoint and selected CLECs regarding their respective positions ahead of the November 8 briefing deadline to address three outstanding issues that have not been resolved in the recent stipulation executed between FairPoint and most CLECs. The Department is particularly interested in the question of whether FairPoint should be allowed to bypass payment of penalty dollars that have been waived under contract by CLECs but otherwise owed to the CLECs. The Department has decided to not file a brief during the initial round, and instead submit its concerns during the reply phase once the positions of the stipulation signatories are apparent.

### ***Telecommunications***

GMP Billing Issue Related to Smart Meters – In the summer of 2012, CVPS contacted PSD staff and explained that the new billing system related to the smart meter deployment, in a limited number of instances, was unable to create a monthly bill as anticipated. CVPS advised PSD staff that the issue was limited to a fairly small subset of customers and that bills for these customers would be generated from a monthly register rather than the interval data as is the ordinary practice with the smart grid system. Using this method the customer was to have received a monthly bill that reflected *actual* usage. Today we were informed by GMP that bills were in fact calculated using *estimated* usage and that the practice continues today. The number of customers affected by this problem is somewhere between 2000 and 60,000. GMP is in the process of identifying the extent of the problem and is "trueing-up" the 18 or so months of estimated bills for these customers. While GMP has stated that customers who were under-billed will be held harmless and that customers who were over-billed will receive credits, this issue may affect a large number of customers. GMP anticipates having the actual data on the extent of this problem by next week and will present this data, along with a remediation plan to PSD staff.

RF Health Study – PSD telecom staff met with Senator Hartwell regarding the RF health study mandated by the legislature, currently one year overdue. It was explained to Senator Hartwell that PSD had been unable to find any states willing to contribute to the \$700,000 required to retain the National Academy of Science to conduct the study. He agreed that we should retain

another firm to conduct the study for presentation to the legislature this upcoming session. He further requested that we continue our efforts to obtain funding to retain the National Academy of Science. After consultation with the AG's office, PSD issued a simplified RFP to the top three respondents to our RFP issued in October 2012. It is anticipated that a consultant will be under contract to conduct the RF health study by the end of November.

Proposed Telecom Legislation – PSD telecom staff met with Board staff on November 4, 2013 to discuss our proposed telecom legislation. Board staff were generally receptive to our proposal and we will seek the Board's input on a draft bill prior to submitting to legislative council.

PSD telecom staff are scheduled to meet with AT&T on November 12, 2013 to discuss our proposed bill. There is also a meeting scheduled with the Telephone Association of Vermont on November 15, 2013 to discuss the broadband commitment PSD is proposing in the legislation. PSD staff are also meeting with Comcast on November 15, 2013 to discuss the proposed legislation.

Lifeline Waiver and Quarterly Lifeline Meetings – Telecom and CAPI staff met to discuss the permanent waiver request currently before the FCC and reinstating the quarterly lifeline meetings between the participants, including the lifeline only prepaid wireless providers.

First Net Commission – PSD staff participated in the monthly First Net Commission meeting. Representatives from the Sheriff's association and Firefighter's association were in attendance to voice the particular needs their organizations would require as the First Net project meeting moves forward.

Broadband Availability Table – Stone environmental has completed the broadband availability information for 12/31/2012. This information was provided to PSD staff, who installed it on a database that CAPI staff may use to respond to consumer inquires. It is also in the process of being delivered to the broadbandvt.org website.

## ***Finance and Economics***

### Electric

Electric Rates—IBM Retention Strategies to reduce/mitigate power cost and to consider alternative means for making energy efficiency expenditures. Staff has met, discussed and distributed a list of options for consideration by the administration.

GMP – PSB Docket Number 7585: GMP Modified Alternative Regulation Plan Power Adjustor Filing: Fourth Fiscal Quarter, 2013. The filing results in a downward rate adjustment of \$1,996,533. Staff is reviewing the filing. The PSD recommendation is due 12/15/13.

GMP -Docket 7535- Reduced Rates for Low Income Consumers of Green Mountain Power Corporation – Modified Joint Compliance Plan

As per PSB Order, dated September 6, 2012, GMP is required to file for approval a proposal for

returning to its customers any excess Electric Assistance Program (EAP) funds it has collected prior to October 1, 2013. The initial year of the GMP EAP was based on numerous assumptions that resulted in an over collection of funds from ratepayers. GMP requests approval of the proposed EAP surplus return plan via lump sum bill credits to be applied following the end of each program year and based on the EAP Fee tariff classifications, including the retention of a \$1 million reserve balance.

VEC – Tariff # 8471 - To Implement Self Generating and Net Metering Schedule 2. This tariff is designed to allow VEC members to install additional net metering systems above the 4% cap set by statute. The filing replaces the \$.20 kWh incentive rate which VEC finds to be inconsistent with least cost planning principles. Subsequently, VEC is proposing a net metering rate of \$ .125 per kWh for a ten year contract and \$ .158 per kWh for a twenty year agreement. With the rates at this level, VEC claims the significant cross-subsidy flowing to its current net metering customers at the \$.20 rate level will be eliminated. We have requested this tariff be suspended and an investigation opened to determine if it is consistent with the existing net metering statute, the energy plan and state policy regarding net metering.

WEC – Staff is reviewing Washington Electric Cooperative revised Net Metering Tariff that will be influenced with the resolution of the VEC Tariff #8471 investigation (see above). The PSD recommendation is due November 24<sup>th</sup>.

#### Energy Efficiency Related Activity

Fiscal Agent duties and responsibilities----the fiscal agent contract for handling the EEC, REGGIE funds and FCM funds is expiring and the division is exploring the feasibility of taking on those duties and responsibilities in collaboration with the administration division.

EEU - VT Historical Bill Impact Study; Staff is supporting PERD in the development of a historical bill impact study of the EEU's.

VEIC - VEIC 2014 Indirect Rate Calculation: Staff met to discuss the proposed change in how indirect costs are allocated across its operation. It is difficult to rationalize that “no” indirect cost is associated with planning, carrying out and processing energy efficiency incentives so it is highly likely the proposed change in cost allocations should be made. Most importantly, VEIC has agreed the change will not impact “any” and will have “no impact” on its resource acquisition targets or objectives for 2014 and for all years beyond 2014. Consequently, Vermont rate payers will be receiving the full value of contributions to energy efficiency. VEIC agreed to submit the proposed change to the PSB for approval and to include the commitment that resource acquisition would not be impacted with the change. Making the allocation change is the right thing to do.

#### Financings/Mergers/Acquisitions/Consolidations

GMP – PSB Docket 8139: Petition of Green Mountain Power for Approval to Issue First Mortgage Bonds in an Amount of up to \$75,000,000 Pursuant to 30 V.S.A. § 108. This week the PSB sent a list of questions to GMP regarding its planned special dividend of \$22.5 million and

requested a response by November 6, 2013. We expect no issues to arise from the special dividend that would impact the financing.

### Taxes

Wind Generation Tax - Wind generation information for the six-month period beginning May 1, 2013 and ending October 31, 2013, has been gathered and will be provided to the Tax Department. Vermont Wind, LLC's facility in Sheffield, Vermont: 29,159,980 kWh. Green Mountain Power Corporation's Kingdom Community Wind facility in Lowell, Vermont 61,430,250 kWh. Georgia Mountain Community Wind, LLC's facility in Georgia, Vermont: 11,339,200 kWh.

### **Regional Policy**

#### Distributed Generation Forecast Working Group

- On November 5, 2013, ISO presented to states its first cut at including DG into the 10-year load forecast. Generally ISO did a good job in terms of a preliminary forecast and included the following steps and assumptions:
  - 1) assumed that all state goals would be met by the deadlines,
  - 2) assigned a contribution towards peak load (35% for projects over 100 kW and 25% for projects 100 kW and smaller) consistent with its practice in the forward capacity market
  - 3) assumed 0 growth once state goals are met
  - 4) applied a discount factor of 25% to account for uncertainty

Using ISO's proposed interim forecast, the total amount of solar DG for planning purposes is 443 MW by 2023. The load forecast for 2023 is not complete, however, the 2013 RSP is forecasting a load of 34,105 MW in 2022. This compares to about 1800 MW of total solar DG by that year. The amount contributed to peak load is what really brings the numbers down (to 590 MW).

- With respect to VT, we need to do some additional analysis. The forecast assumes 68% of standard offer will be solar and no net metering beyond the 4% cap. We can make a case for increasing the 68% associated with standard offer but without a firm proposal for NM it's difficult to argue that the 4% cap isn't reasonable for the preliminary forecast.
- Three significant issues that we've identified so far –
  - 1) the assumption that solar projects will only come from state sponsored projects. ISO seems amenable to including some reasonable amount but states are going to have push on that.
  - 2) the 25% discount factor. Some discount level is reasonable but even if we stay with 25% it should start at a much lower level in the near years and increase to 25% in the outer years.

3) the 35% coincidence with peak. GMP uses 50% coincidence and staff have contacted GMP to understand its rationale. Staff will also be exploring the coincidence factor for solar used in the forward capacity market.

#### NESCOE Hydroelectric Study

- On November 2 NESCOE released a revised draft of a study designed to analyze the impact of 3600 MW of Canadian hydro imports on electricity markets and emissions. NESCOE had circulated a previous draft to states that directly compared the costs of the transmission with the economic benefits to ratepayers. Responding to objections regarding the cost assumptions associated with transmission, NESCOE revised the study and did not make a direct comparison of the reduced electricity prices associated with Canadian hydro to the cost of transmission.
- Overall findings of the study: (1) The average annual economic benefits associated with reduced electricity market prices ranged from \$103 to \$471 Million. (2) The average annual emission reductions associated with incremental hydro imports ranged from 1.3 to 8.0 million tons per year. (3) The cost to construct three transmission lines to import 3600 MW of Canadian power, and receive the maximum benefits in terms of reduced electricity prices and emissions, would be \$5.6 billion.

#### Forward Capacity Market Performance Incentive Proposal

- NEPOOL is holding a vote on ISO-NE's PI proposal on November 13. The PI proposal represents a major shift in the product received from the capacity market. The FCM currently requires that resources be available, but does not require performance. ISO is proposing this shift due to concerns regarding the performance of old oil-fired units and increasing uncertainty regarding the availability of natural gas for generation.
- The PI proposal provides a penalty for any resource that is not performing during a scarcity event (which occurs when certain reserves are triggered) and provides an incentive for those resources that are performing. ISO is proposing that the penalty and incentive be the same amount (currently proposed to be \$2,225 and rising to \$5,000 over the course of several years. PI is designed to be revenue neutral in terms of the incentives paid through the penalties collected. However, it is expected that resources will add risk premiums to the FCA bids to account for possible penalties. ISO estimates that the risk premium will be approximately \$600 million in the first year.
- It is expected that the PI proposal will result in a shift to better producing resources and also to increased dual-fuel capability among generators, which will add to overall system reliability. In addition, it is expected that electricity prices will decrease by approximately \$100 million in the first year of implementation.
- Efficiency and intermittent resources such as wind are expected to benefit from the PI proposal. Vermont utilities appear to be split on whether they support or oppose the PI proposal. Staff are currently leaning towards support of PI.

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** November 8, 2013  
**SUBJECT:** Governor's Report

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Attached is a report from the Congressional Fire Service Institute's National Advisory Committee. The report is lengthy but has relevant information on health care provisions that could impact volunteer fire fighters and safe cigarettes. Additionally there is mention of Senator Leahy from Vermont who introduced a Historic Preservation Act in relation to fire sprinklers in older buildings in downtown areas.

Office of Technology Management

VJISS

Our work with implementing VJISS and our membership in the Open Justice Broker Consortium has just been recognized through a national award. The National Information Exchange Model (NIEM) annual awards entitled "the best of NIEM" recognized Vermont along with Hawaii and Maine for the three states work associated with implementing the open justice broker.

Deputy Commissioner John Wood has announced he is retiring December 28, 2013.

VSP

Burlington Police have requested that State Police perform the investigation into the officer involved shooting in Burlington they have accepted the request.

Reminder the media group is meeting next Wednesday November 13, to discuss the media guide.

**Congressional Fire Services Institute  
National Advisory Committee Meeting Minutes  
SVC 202/203, United States Capitol Visitors Center, Washington, D.C.**

October 24, 2013

**Vice Chairman Jim Dalton** - Call to Order at 8:55 a.m.

- Started the meeting by noting the location of the exit doors in case of emergency. Then called for a moment of silence in honor of the 19 Prescott firefighters who died in the line of duty and all other firefighters who have fallen in the line of duty since our last meeting.

Moment of Silence and Pledge of Allegiance (led by Steve Austin)

**Bill Jenaway – President, CFSI Board of Directors**

- Recalled having a meeting at the Capitol Visitors Center the day of the last dinner with 10 legislators from PA regarding fire services issues.
- Will attend a hearing in PA tomorrow regarding the state of the fire service in PA and what directions we need to take.
- Encouraged to keep networking and find issues that we can cohesively move forward and affect positive change to the fire and EMS system in this country.
- Acknowledged that the CFSI Board of Directors conducted a meeting yesterday and that Bill Webb will share some of the outcomes of the meeting.

**Vice Chair Report – Jim Dalton**

- Working with CFSI staff and Programmatic Subcommittee to develop dinner seminars program.

**Executive Director’s Report – Bill Webb**

- Thanked Senator Carper for being able to reserve the meeting space.
- Noted that two members scheduled to speak at the meeting were unable to attend due to funeral services for Congressman Bill Young in Florida.
- Gave a brief update on the Institute’s work
  - Noted some of the trips in the past few months – Tampa for FAMA/FEMSA, Delaware for DVFA, Pennsylvania for Cumberland Valley, Miami and Washington for presentations, and Nevada for the Nat’l Assoc. of Elected Fire Officials Conference.
  - Upcoming event in SC for BuildStrong regarding Safe Building Codes Incentive Act.
  - Thanked Jim Dalton for all his work on the Fire Sprinkler Incentive Act.
  - Have been doing a lot of work on updating the website in preparation for dinner registration.
  - Fundraising
    - Thanked Harvey Eisner for helping us with the Silent Auction and for letting us participate at the Firehouse Expo in Baltimore. Also thanks IAFC for allowing us a role at Fire Rescue.
    - Spoke about the new fundraising event – Washington Caps Hockey game – and thanked our sponsors – Common Voice, NFFF, and the Phoenix Society for Burn Survivors.
  - Board of Directors Meeting

- Board agreed on establishing a Corporate Advisory Committee. Primary role is to offer assistance in finding new revenue sources and enhancing market strategies. Right now, in the conceptual stages.
  - Funding for the Institute itself
    - Dinner this year didn't raise as much as we projected, but we still did pretty good.
    - Our expenses and revenue were both lower than expected.
- Upcoming Events
  - Holiday Party – December 10th at Phoenix Park Hotel
  - Dinner & Seminars Program – April 30th-May 1st at the Hilton
  - MFRI Day – November 1st
    - Thanked Steve Edwards for allowing us to do this once again.
    - This is truly a great program. We always get great feedback from congressional staff who participate.
  - Awards Program
    - We'll start accepting applications earlier this year.
    - Applications are on the website.
    - If you know of an individual or organization who deserves special recognition, please let us know.
- Thanks to everyone. Opened floor to questions.

### **Legislative Report – Sean Carroll**

- Membership of Fire Caucus
  - Over 300 when I first started and now we are down to 250.
  - Realize that there has been a heavy turnover with what is the largest caucus in Congress, but we need to focus more on recruitment of quality members.
  - Encourage everyone to reach out to new members in your designated states just like Dr. Jenaway has done in PA with the PA delegation.
  - Grassroots push is the best. Ask your member to get involved.
- Going to the Hill with issues has definitely been a team effort. Wanted to thank all the counterparts from all the fire organizations.
- FY14 Appropriations
  - House has approved funding bill for Dept. Of Homeland Security
    - \$680 million for FIRE and SAFER Grant programs
    - Funded USFA at \$44 million
    - Urban Search and Rescue funded at just over \$35 million
  - Senate Appropriations Committee approved bill, but it hasn't gone to the Senate floor. Funding same as FY13
  - Lots of fiscal issues Congress has to tackle. Currently, operating on a CR until January 15th.
- Fire Sprinkler Incentive Act
  - Chairman Camp and Chairman Baucus working on a comprehensive tax package, but no one really knows what will be included
  - Working with Senator Carper, Senator Collins, Congressman Langevin, Congressman Schock to get FSIA included
- Safe Building Codes Incentive Act

- Continue to work with NAMIC and BuildStrong Coalition to educate Congress on the issues
- House Transportation & Infrastructure Committee working on a FEMA reauthorization bill
- Fire Safe Cigarettes
  - Farm Bill has a provision dealing with manufacturing and production standards
  - Questions about impact on state fire safe cigarette laws
  - Met with House Agriculture Committee staff
    - They feel the provision only deals with production/manufacture, not performance standards
    - Should be okay, but they are concerned enough that they have committed to working with us. Left the meeting with a positive feeling.

**Craig Sharman:** Have you heard anything from Program offices regarding grant applications?

**Sean Carroll:** Sounds like they are trying to get them open pretty quickly, but delayed.

**Jim Dalton:** What about the Historic Preservation?

**Sean Carroll:** Senator Leahy from Vermont introduced a Historic Preservation Act in relation to fire sprinklers in older buildings in downtown areas. The bill would provide a tax credit for retrofitting fire sprinklers and elevators in historic buildings. He is supportive of FSIA, but a lot of these historic buildings are owned by non-profits, so a tax incentive doesn't help them.

- Programmatic Update
  - 26th Annual National Fire and Emergency Services Dinner & Seminars
    - Programmatic Subcommittee approved seminars
    - Putting final touches on schedule and will share soon
    - Working with BuildStrong to have a seminar on the Hill the morning of the Dinner.
  - Hill briefings
    - Trying to organize a few soon

**Dr. Carter:** Any more developments regarding health care under Obamacare for volunteer firefighters?

**Sean Carroll:** I will pass this question over to Dave Finger who has been doing a lot of work on this issue.

**Dave Finger:** There is a resolution regarding this. Potential impact on volunteers who work enough hours to be full time. Some organizations will be considered large employers. Submitted request to IRS that volunteers should not be considered as full time. I am confident that volunteers will be considered de facto employees. Still need to wait to see how IRS chooses to implement it.

**Sean Carroll:** Vice President Biden at last dinner mentioned PSOB changes and we are reviewing the program to see if these have been implemented since then.

**Bill Webb:** Do you know the confirmation hearing dates for Secretary of Homeland Security?

**Sean Carroll:** Jeh Johnson nominated for new Secretary of Homeland Security, but don't think hearing has been announced yet.

**Dennis Compton – National Fallen Firefighters Foundation Board**

- Discussed changes in the Memorial Weekend due to government shutdown

- The NFFF office was moved to the Emmitsburg Ambulance Company. Moved candle light services to the Daughters of Charity Basilica. Mount St. Mary's let us use their athletic center for the Memorial Service on Sunday.
- Really appreciate the work of the staff and others who volunteered their time and efforts. The focus of the weekend was on the families. The services couldn't have been better.
- Huge thanks to Ernie Mitchell. He really helped us out in getting the government to open the USFA facility for two hours. Also, thank you to Congressman Steny Hoyer as well.

**Jim Dalton:** Heard that the cost of all of this was pretty high? Do you know the numbers?

**Dennis Compton:** It is more than what we usually have, but overall it was a very nice ceremony done with honor and respect.

Hope to see you next year! The ceremony will be Oct 11-12th next year!

**Bill Webb:** Want to talk about the challenges next year?

**Dennis Compton:** Next year we will have 19 firefighters from Prescott and 14 from West, Texas, as well as others throughout the country that we will be honoring.

#### FIRE SERVICE-BASED EMS

- In 2010, small group that I chaired created an electronic Fire-Based EMS tool kit that includes links, videos, etc.
- We have now regrouped and in process of not only updating original tool kit, but also adding a second section.
- Should be out by Dec. 1st. Even if you don't have a reason to use it, make sure people you know are aware of it. It's great and useful.
- Thanks to IAFF for the production of this, especially Dr. Lori Moore, who has been the motivation behind so many studies, and also behind Fire-Service Based EMS in our industry. Additionally, thank you to several members from the IAFC, the Metro Fire Chiefs, and CFSI.

Jim Dalton: Break

**Jim Dalton:** Reconvened at 10:20 a.m.

#### **Chief Ernie Mitchell, United States Fire Administrator –**

- Commented on plan for the U.S. Fire Administration in dealing with sequestration. Mentioned that budget reductions create limitations.
- Working with stakeholders in fire service and other organizations to make improvements in fire services.
- Described "Fire is Everyone's Fight." Involvement of Red Cross, as well as others, with the message. Also wanted to add in community risk reduction and reemphasize residential fire sprinklers.
  - Want to try enlisting public support for asking elected official and builders to say that we need built in protection.
  - Also need to work on educating the public and have more training outreach.

- Doing more with FEMA now and in the process of becoming a coordinator of ESF 4 (National Response Framework Emergency Support Function #4 – Firefighting Annex). This Describes response capability between neighboring states, etc.

**Congresswoman Susan Brooks (IN-5) –**

- Freshman member of Indiana-5th District
- Chair of House Homeland Security Committee’s Subcommittee on Emergency Preparedness, Response, and Communications
- Described her involvement with first responders since the 90’s
  - Attended Emmitsburg training academy exercise as deputy mayor of Indianapolis
  - Was co-chair of World Police and Fire Games (host committee in 2001 in Indiana)
  - As chair of subcommittee, just held hearing in March on evaluation of homeland security grant programs. Still waiting for FEMA to share details on proposed consolidation of grant programs.
  - Has some concerns with consolidation and has yet to receive information on what that proposal would be. Stressed that the members are working hard to ensure that firefighters have the funding that they need to keep communities safe.
  - Received briefings on medical preparedness and weapons of mass destruction in central Indiana
  - Next week, holding a mark-up of Medical Preparedness Allowable Use Act
    - Purpose is to ensure that homeland security grants can be used for medical preparedness
    - Also, monitoring FirstNet's public safety broad band network
  - Questions?

**Dr. Jenaway:** I wanted to encourage some of your staff to look at documents produced by the Gilmore Commission (weapons of mass destruction preparedness issues). Look at recommendations from 10 years ago and make sure they are implemented today. Can relay through Sean to get you the documents.

**Dennis Compton:** Nice to hear you talk about fire service-based EMS. Please let us know if there is anything else we can do.

**Rep. Brooks –** I just recently learned about an issue from an ER in my district. I didn’t realize that it was hard to gain access to some basic drugs that they need. I was wondering how/and if this affected EMS. I would love to learn more about the challenges that you face.

**Dennis Compton-** Yes, this is an issue. Drug boxes throughout the country are replenished by hospitals. So if hospitals can’t replenish them, then we are short, too.

**Kevin O' Connor -** Delighted to hear comments regarding FirstNet. A lot of folks in this room work hard for emergency communications. Protecting the critical voice capabilities is very important for the safety of the firefighters. Also, 11 major metropolitan centers that need to vacate existing T-band will experience a huge disruption in service. Still a lot of issues that need to be addressed.

**Rep. Brooks to Aiken** - Do you feel that the fire service is represented sufficiently with respect to FirstNet's board?

**Doug Aiken:** I am a member of the FirstNet Public Safety Advisory Committee (PSAC) and we certainly have challenges in communicating. We have had only one meeting and when we asked for copies of the briefing slides they were not able to share them with us. It has been a challenge and I hope things improve.

**Rep. Brooks:** We will see if we can work on that.

**Doug Aiken:** We aren't going to replace tactical communications that we use every day, at least not in the near future. We need a bigger voice with FirstNet.

**Rep. Brooks:** We had a hearing on it. Have the fire services talked much about the role of social media in your response? I'm curious because an event like the Boston bombing had a huge response through social media. This generation is getting information from Twitter. What is your role in ensuring your departments understand this new mode of communication?

**Doug Aiken** – I chair the state's 9-1-1 commission and I agree. If you are 25 or younger, you use social media to communicate. It's a very important issue for us.

**Dan Mathews – Staff Director House Committee on Transportation and Infrastructure's Subcommittee on Economic Development, Public Buildings and Emergency Management**

- Why is the Transportation and Infrastructure Committee involved in emergency management?
  - Federal role of putting things back together again after disasters (roads, bridges, etc.)
  - Three major legislative efforts - followed big disasters
    - Creation of Department of Homeland Security after 9/11
    - Post Katrina Emergency Management Reform Act
    - Sandy Recovery Improvement Act
  - Three principles
    - Disaster management has to be a national undertaking
    - Federal policy needs to support an all-hazards system. Need to respond no matter what caused it
    - Must be united at federal level with mitigation, protection, preparedness, response, and recovery. Need to make sure authorities and capabilities are as closely aligned under the President as possible.
  - Current Priorities
    - FEMA Reauthorization Act of 2013
      - Reauthorizes FEMA for next 3 years at current spending levels
      - Authorizes FEMA to modernize public alerts and warning system
      - Authorizes urban search and rescue system
      - Emergency Management Assistance Compacts
        - This helps when local fire departments can send resources to another state in response to a disaster
- H.R. 3300 mark-up on October 29th
- Mitigation

- As population continues to grow and people move to coasts, there has been a steady increase in the cost of federal disasters.
- Pensacola, FL example - some homes barely damaged, some completely gone
  - Building to better codes saved lives and money

**Bill Webb:** How much focus within committee is on WUI fires (Wildland Urban Interface)?

**Dan Mathews:** Would fall under House Agriculture Committee, but once homes are damaged and involved, FEMA gets involved. There are efforts to find mitigation money despite the tight fiscal situation.

**Dr. Jenaway:** There is also a significant gap in insurance coverage for volunteer teams.

**Chief Mitchell, cont.**

- **Bill Webb:** Budget for FY15 with budget caps?
- Chief Mitchell:
  - Given a budget based on a continuation of previous budget but this number could change
  - Things we can't do because they are authorized, but not appropriated.

**Dennis Compton to Chief Mitchell:** Thank you so much for what you did for Memorial Weekend. It was a big deal that you helped us out.

**Ross Arends- Bureau of Alcohol, Tobacco, and Firearms and Explosives**

- Send regards from ATF Director Todd Jones
- Still have approximately 100 certified fire investigators; 3 national response teams comprised of 25 experienced special agents
- We are facing some difficulty with sequestration. Approximately 40% of our special agents are eligible for retirement.
- E-mail address if need anything: [ross.arends@atf.gov](mailto:ross.arends@atf.gov)

**Subcommittee Reports**

- **Ethics** - Doug Aiken - None
- **Programmatic** – Jim Dalton - None
- Fundraising
  - Bobby Halton not present, but no report
- **Membership** – Janet Wilmoth not present, but no report
- Resolutions Subcommittee- Steven Austin
  - Three resolutions considered. Just want to thank everyone on the Resolutions Subcommittee for this.
    - IAFC/IAFF/NVFC Resolution in Support of Activities to amend the Patient Protection and Affordable Care Act's Application to Volunteer Firefighters and the High-Risk Occupation Exemption

- Barry Kasinitz: Recognized that Ken LaSala was the driving force behind this. Great resolution because really demonstrates how CFSI brings the different aspects under one resolution. Wanted to mention one specific aspect of this that does impact paid firefighters. There is in the law a tax that is imposed on high tax health care plans called the Cadillac Tax. We argued that health plans for firefighters might cost more simply because the work is more dangerous, not because they are getting better benefits. To address this, Congress implemented a “high-risk exemption”, specifically mentioning firefighting. Congress also added a provision defining health plans covering high-risk groups as plans in which the majority of employees covered are in a high-risk occupation. Because many firefighters are in healthcare plans with other municipal employees (like teachers), they would not be covered by the high-risk exemption. Because of this, we are asking for your support.
  - Ken LaSala: Other issue regarding volunteer firefighters being considered employees under fire departments because they are working more than 30 hours a week. Trying to get an answer from IRS regarding what firefighters will be classified as under the Affordable Care Act. We would ask that firefighters be exempt from the Patient Protection Affordable Care Act, and if not, want clear direction on how fire departments are supposed to treat their volunteer firefighters.
  - Ken LaSala: Motion to accept
  - Ken Willette: Second
  - Resolution unanimously approved
- IAFC/IAFF/NVFC Resolution in Support of Federal Agency and Congressional Initiatives to Ensure the Deployment of Effective Indoor Technology That Will Meet the Needs of Public Safety
    - Ken LaSala: Currently, the FCC does have regulations out about accuracy of 911 calls from outdoor locations because more calls are being made using cell phones; however, there aren't any indoor regulations. This is creating problems for fire departments and EMS because they can locate the building, but not persons inside the building. Purpose of this resolution is just saying that whatever requirements the FCC adopts, the new technology should be affordable, ready to deploy, easy to use, and accurate.
    - Steve Austin: This is an escalating problem. More cellular phones than landlines
    - Jim Dalton: Is there a problem with cell phones calling 911?
    - Doug Aiken: It's not a problem to get through, but the problem lies in the vertical location that determines where you are exactly -- for instance in high rise buildings. Location information is extremely important. It takes 3 times longer with wireless phones to figure out location than with landline phones.
    - Ken LaSala: Motion
    - Doug Aiken: Second

- Resolution unanimously approved
- NFPA Resolution Expressing Support for Appropriate Review and Approval of Consensus Standard Requirement Waivers for Assistance to Firefighter Grant Awards
  - Ken Willette: The purpose of this resolution is to provide guidance to AFG office when they work with reviewers.
  - Ken Willette: Motion to accept
  - Tony O' Neill: Second
  - Resolution unanimously approved

**Unfinished Business-** none

**New Business –** none

**Meeting adjourned at 11:50 a.m.**

Attendance List

Aiken, Doug – International Municipal Signal Association  
 Arnold, Justin – International Society of Fire Service Instructors  
 Austin, Steve – International Association of Arson Investigators  
 Bailey, Dan – International Association of Wildland Fire  
 Brooks, Paul – Center for Public Safety Excellence  
 Cade, Greg – National Fire Protection Association  
 Carroll, Sean – Congressional Fire Services Institute  
 Carter, Harry – Institution of Fire Engineers-USA Branch  
 Collins Eggerman, Diane – Center for Campus Fire Safety  
 Compton, Dennis – International Fire Service Training Association/National Fallen Firefighters Foundation  
 Dalton, Jim – National Fire Sprinkler Association  
 Deppa, Karen – National Association of State Fire Marshals  
 Edwards, Steve – North American Fire Training Directors  
 Eisner, Harvey – Firehouse Magazine  
 Finger, Dave – National Volunteer Fire Council  
 Gibson, Hugh “Skip” – Insurance Services Office (ISO)  
 Goldfeder, Brian – Congressional Fire Services Institute  
 Hill, James – International Association of Black Professional Fire Fighters  
 Jelenewicz, Chris – Society of Fire Protection Engineers  
 Jenaway, Bill – CFSI Board of Directors  
 Kasinitz, Barry – International Association of Fire Fighters  
 Kehoe, Bill – Congressional Fire Services Institute  
 Krupp, Roger – International Association of Arson Investigators  
 LaSala, Ken – International Association of Fire Chiefs  
 Muncy, Steve – American Fire Sprinkler Association  
 Nathan, Stuart – International Fire Buff Associates  
 Neitch, Deborah – International Association of Arson Investigators

O'Connor, Kevin – International Association of Fire Fighters  
O'Neill, Tony - National Board on Fire Service Professional Qualifications  
Owen, Sarah – Underwriters Laboratories  
Roxson, Randy – USA Sprinkler Fitters Association  
Sammander, Leila – Congressional Fire Services Institute  
Sharman, Craig – Tyco/SimplexGrinnell  
Sobotka, Debbie – Center for Public Safety Excellence  
Webb, Bill – Congressional Fire Services Institute  
Wilette, Ken – National Fire Protection Association  
Wiley, Justin – International Code Council  
Yang, Jiann – National Institute of Standards and Technology

Speakers:

Congresswoman Susan Brooks (IN-5)  
Chief Ernest Mitchell, United States Fire Administrator  
Ross Arends, Bureau of Alcohol, Tobacco, Firearms, and Explosives  
Dan Mathews, House Committee on Transportation and Infrastructure

Guests:

Levin, Catherine – Vision 20/20



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: November 8, 2013**

**SUBJECT: Confidential Report to the Governor**

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**SECRETARY'S OFFICE – CHIEF PERFORMANCE OFFICER:**

**Issues Update:**

Strategic Plan Update: Agency of Administration departments received the update template to complete. It was pre-filled to the extent possible so that departments needed only to update the baseline, target, current measure and a short explanatory narrative.

CPO Zeller met with AOT Deputy Secretary Sue Minter, and the two key strategic planning managers (Chris Cole and Joe Segale) to discuss their strategic plan work to date. AOT began working on revising their original Strategic Plan submission last year, paring back the number of goals and measures to be more achievable. It sounds like they have made good progress.

Time and Labor: The number of employees that did not enter their time by the deadline was down to 30 this pay past period, the fewest we have had to date. The number of supervisors/approvers that did not approve their employee's time by the deadline is still problematic.

FinOps Director Brad Ferland and CPO Zeller began a series of meetings with departments to inventory their chief complaints with T&L and expenses. First up was ACCD. Over the next several weeks they will be meeting with AOE, AGFM, Tax, DOC, DCF, VDH, DFR and DPS. Both AHS and ANR Payroll is working through the original Civil Union employee benefit/tax issue created as a result of DOMA being overturned; several other benefit/tax issues impacting civil union and gay married employees have been uncovered and must be addressed prior to the last payroll of 2013 for W2 reasons.

## **BUILDINGS AND GENERAL RESOURCES**

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

- Governor's priorities remain primarily intact, including the lease of the Rutland parking deck to the city for operation purposes. The lease was signed Thursday. Sometimes good things take time.

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

- Talked with Sen. Mazza regarding \$150,000 capital funds he needs to repair Public Safety barracks not being replaced. He will send list.
- Rep. Marcotte dropped in to check on status of Newport board walk area events license.

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

- Request from Gordon Dritschilo, Rutland Herald, on the status of the City/SOV parking deck lease.
- Request for public records and interview from David Hodges, FOX 44, on the National Life relocation project.

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

- Two meetings with Commissioner Reardon on software systems including project management and record retention and e-procurement.
- Met with Sen. Benning and Howard Coffin regarding the relocation and location of the Winchester and Battle of Cedar Creek Civil War memorials.
- Settled the SOV claim against DEW for Bennington SOB for \$100,000. Paperwork will follow.
- Learned that Waterbury does not want to purchase Stanley ad Wasson. BGS to have plan to proceed together by Thanksgiving.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

**ERP System:** The VISION support folks have been spending time at the State House with legislators. Leg Council is orienting the members to VTHR and expenses and we are providing on-site support to resolve password re-set/access issues. We are meeting with Leg Council and JFO regarding expenses for legislators on Thursday afternoon as the members don't want to do the extra work.

Commissioner Reardon and Deputy Commissioner Sarah Clark continue to meet with departments regarding their FY 2015 budget requests. Recent meetings include: Department of Agriculture; Secretary of State; Department of Financial Regulation; Defender General; Executive Office; Judiciary; Forests, Parks, and Recreation; Natural Resources Board; Criminal Justice Training Council; and Auditor's Office.

The second of two Public Budget Forums was held on Tuesday, November 5 using Vermont Interactive Technology, with sites across the State. Secretary Spaulding introduced the meeting, and Deputy

Finance Commissioner Sarah Clark presented an overview of the State's fiscal picture. The remainder of the session was reserved for questions and comments from citizens. As at the first meeting, the majority of speakers were affiliated with either the Vermont Workers' Center or the developmental disabilities community; and their questions and comments reflected those interests.

## **HEALTH CARE REFORM**

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

#### **Financing:**

*How much does Green Mountain Care it cost?*

Wakely (our actuaries) answered the first round of JFO questions, and they believe that the concerns expressed by legislative staff, that the trend line is too low and more revenue is needed, may be overstated. JFO intends to send their next round of questions to Wakely by Friday, November 8.

Michael Clasen is reviewing the proposed sole source contract with UMASS and contract amendment language that would allow us to broaden Deb Brighton's work to include more general revenue analysis. This change would bring her AOA contract consistent with her arrangements with JFO and TAX.

*How do we pay for Green Mountain Care?*

Michael continues to work through myriad questions related to the hypothetical revenue concepts. Thumbnail sketches below.

Payroll/Income Split: Our main task right now is to better understand the payroll tax base, carving it into discreet chunks. For example, what portion of the base would be considered ERISA (large, multi-state self-insured) employers? Also, we are working through estimating growth in the AGI tax base between now and 2017, which is quite different than the current way we measure income tax growth.

Consumption Tax: Michael met with TAX to work through two questions.

1. Could you design a consumption tax that would be part of the Green Mountain Care revenue mix?
  - a. TAX is nearly done basic research on applicable domestic and international consumption tax models. Of note, two of the nation's foremost tax scholars are advocating a move to a consumption based system, one of them focusing on consumption taxes to pay for health care.
2. How would you design comprehensive tax reform that is complementary to health care financing?
  - a. Michael designed a methodology for TAX to use as it creates tax reform options. TAX loaded the data needed to run models, and we expect to make significant progress soon.

Fee: We built a tool that can help us income sensitize premiums. That's the easy part. The difficult part is modeling the usage of insurance products in a fee based system and pricing them accordingly.

Combination: Michael is developing a framework to help policymakers consider the best way to evaluate the inclusion and blending of multiple revenue streams. For example, how do you know how much payroll is enough relative to an income based source, sin taxes, and a fee based source?

Odds and Ends: Michael met with Al Gobielle as a general check in. Al offered two interesting notes. JFO met with Al to gauge his thoughts on having the GMCB serve as something akin to the CBO (independent arbiter) of health care forecasting and financing. Al expressed reservations, focusing his concern on mission creep, capability, giving up their intended role as a check and balance, and undermining their credibility if the revenue estimating goes poorly or is fraught with political peril. Also, Al offered that several Business Advisory Council members felt that the group was making good progress.

The draft Executive Order and participant list for the Health Care Reform Consumer Advisory Council is with Liz Miller for review.

### **Evolving Issues:**

Exchange readiness, contingency planning  
Single Payer operational planning  
Financing planning  
Single Payer staffing/contracting

## **HUMAN RESOURCES**

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

Commissioners Duffy has been asked to appear before the Corrections Oversight Committee to discuss the investigation of the suicide at Newport Correctional Facility. At this point, DHR has not begun its investigation of the suicide, because it has been waiting for VSP to finalize the criminal investigation, so as not to interfere in that investigation. DHR received the VSP report today, and will begin any additional investigation that may be required. The Administration may want to consider having someone from VSP appear at the hearing to discuss the report, to the extent it is not confidential.

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

Working with the Secretary of Administration's Office and the Governor's Office, DHR responded to requests for information from Mike Donoghue on the number of investigations into timesheet fraud post Deeghan, the number of referrals to VSP for timesheet fraud, and individuals on relief from duty at Liquor Control. Mr. Donoghue has been tipped off regarding a specific investigation of a Liquor Control employee. To date, Mr. Donoghue appears satisfied with the information provided.

DHR is working with Deputy Secretary Clasen to provide information to Peter Hirschfeld related to total expenses incurred by State employees in the last fiscal year and the top 50 individuals receiving the greatest expense reimbursements.

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

Commissioner Duffy attended a meeting with Administration representatives and representatives from AFSCME to discuss bargaining with newly unionized independent direct care support providers. The meeting created a relationship to begin a productive bargaining session.

### **Evolving Issues:**

The State has reached tentative agreements with the Supervisory and Corrections bargaining units of the VSEA. Negotiations with the Non-Management unit are at impasse, and mediation will begin next week to see if a mediated settlement can be reached. Commissioner Duffy will keep Secretary Spaulding apprised of the progress made. Commissioner Duffy will also work with the Governor's staff on a press release describing the agreements that have been reached.

DHR is working with Deputy Secretary Clasen on pending position requests. DHR will also work with the Joint Fiscal Office to address vacant limited service positions before the return of the Legislature.

Work continues on the transition to Blue Cross Blue Shield. DHR inquired of BCBS on how the transition is going from its perspective, and was advised BCBS is happy with the State's efforts and work to date. In an effort to make the transition less complicated, BCBS and DHR agreed that the roll out of the wellness efforts will occur after the initial transition. The timing will be based upon the level of success with the initial transition. Commissioner Duffy will continue to monitor progress on the transition.

DHR is continuing its efforts to resolve issues related to the calculation of pay to comply with the Fair Labor Standards Act that have arisen since go-live of the new VTHR system. The State continues to hold back retainage from Cherry Road until the matter is addressed and a plan for action agreed upon.

DHR's Classification Department is working with AOT to conduct a classification review for AOT maintenance workers. AOT is thinking of proceeding with a new structure that would eliminate two levels of the existing series of positions. The work to date is preliminary, and will be discussed at greater length with AOT leadership.

### **INFORMATION AND INNOVATION**

Working on Health Care.

### **LIBRARIES**

No report.

## **TAXES**

### **Legislative Update:**

Tax Education Season: Fall is the season for a number of tax courses for professionals. The Commissioner and staff spoke this week at the UVM Tax School, several more speaking engagements in the next few weeks.

Education Property Tax Rates: The Commissioner has prepared the December 1 draft letter that our fiscal analysts are reviewing for accuracy. At the moment, \$0.05 seems to be where the rate landed, however there are several decision points (how far to fill the reserves, whether to raise both homestead and nonresidential equal pennies, whether to otherwise shift the burdens between the taxpayers). The idea of a symposium convened by Larry Picus continues to percolate.

Solar: We had another long meeting with REV, VLCT, a representative from the Lister's Association and DPS. It appears there is some consensus to raise the exemption amount for the generation tax, and add exemptions for churches, schools and municipalities. The Commissioner signaled general support for additional generation tax that would be collected by the state and redistributed to towns – staff was less enthused. There is a valid concern that the administrative costs for a generation tax, particularly as these systems proliferate, are greater than any revenue.

Integrated Tax System: We are slowly making progress on a contract with FAST. The proposed project manager made his third visit, and continues to win over staff, even in our recalcitrant IT division. Many technical and timing details have been worked through. Price and the benefits structure are the sticking points – James Harrison, one of the co-owners spent a day here in Vermont, and met with the Commissioner of Finance and Jaye Johnson from the AG's office.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
Date: November 8, 2013  
RE: Boards and Commissions Update

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**Appointment made November 7<sup>th</sup>**

**House Seat Orange-Addison 1:**

APPOINTED: Marjorie Ryerson, Randolph

**Appointments made November 5<sup>th</sup>**

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

APPOINTED: Carol Loux

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

APPOINTED: Lauren Montgomery-Rinehart

**Justice of the Peace, Town of West Fairlee:**

APPOINTED: Larry Fredrickson

**Justice of the Peace, Town of Wilmington**

APPOINTED: Thomas Consolino

**Justice of the Peace, Middletown Springs**

APPOINTED: Herb Childress, Middletown Springs

**Community High School of Vermont**

APPOINTED: Brian Vachon, Middlesex

**Developmental Disabilities Council:**

APPOINTED: Lisa Rudiakov, Bennington (Individual with a disability)

**Workforce Equity & Diversity Council:**

REAPPOINTED: Lori Valburn, Essex

**Governor's Snowmobile Advisory Council:**

APPOINTED: Richard Jewett, Chester (CHAIR)

APPOINTED: Kenneth Gammell, Newark

**Board of Chiropractic:**

APPOINTED: Heather Rice, Hinesburg (Chiropractor)

**Board of Public Accountancy:**

APPOINTED: Steve Love, Bennington (CPA)

APPOINTED: Daniel Coane, Montpelier (Public Member)

**Osteopathic Physicians & Surgeons:**

REAPPOINTED: John Peterson, Montpelier (Osteopathic Physician)

**Veterinary Board:**

REAPPOINTED: John Wheeler, Bridport (Veterinarian)

**Board of Real Estate Appraisers:**

REAPPOINTED: George Sargeant, Rutland (Residential Appraiser)

**Real Estate Commission:**

REAPPOINTED: Gloria Rice, Calais (Attorney)

REAPPOINTED: Michelle Gosselin, Barre City (Sales)

**Board of Architects:**

REAPPOINTED: Jennifer Arbuckle, No. Ferrisburgh (Architect)

REAPPOINTED: Ingrid Moulton Nichols, So. Woodstock (Architect)

REAPPOINTED: Keith Robinson, Berlin (Architect)

**Board of Nursing:**

APPOINTED: Sheri Brown, Warren (APRN)

REAPPOINTED: Virginia Hudson, Barnet (RN)

**Psychological Examiners:**

REAPPOINTED: Susan Belville, Barre (Public Member)

**Dental Examiners:**

APPOINTED: Judith Newman, Montpelier (Public Member)

**Pharmacy Board:**

APPOINTED: Stephanie Ibey, Williamstown (Professional)

APPOINTED: Robert Carpenter, Rutland (Professional)

**Interagency Coordinating Council for Families, Infants, & Toddlers:**

APPOINTED: Andy Snyder, So. Burlington (Agency of Education)

APPOINTED: Jessica Poirier, St. Albans (Parent)

**Vt. Center for Geographic Information:**

APPOINTED: Scott Roper, Lyndeborough, NH (Higher Education)

**State Rehabilitation Council:**

REAPPOINTED: Kerry White, Brandon (CAP)

**Vermont Council on Homelessness:**

APPOINTED: Morgan Brown, Montpelier (Experienced Homelessness)

**Web Portal Board:**

APPOINTED: Michael Smith, Orange

**Veterans Advisory Council:**

APPOINTED: COLMichael Heston, Richmond (Deputy Adjutant General)

**Standards Board for Professional Educators:**

APPOINTED: Claudine Bedell, Alburgh (Private Higher Ed)

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: November 8, 2013**  
**Re: Weekly Report**

**Status of Governor's Priorities:** Working on performance measures for FY15 budget. Strategic Planning Updates are being finalized for the Nov 18 submission date.

**Legislative Issues/Contacts:**

- Reviewing final draft changes to Department Regulations. ICAR review set for December.

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

**Significant Events/Meetings:** Next Board Meeting 11/13 Enforcement Hearings.

- Marketing Meeting with suppliers 11/20-21 to review product introductions for 2014.
- Auditor's Office will meet with our Board on 11/13 to discuss the direction of the performance audit.

**Evolving Issues:**

- Working with vendor on contract for ERP/POS Project.
- Preliminary review of department processes for potential licensing and enforcement system.
- Working on evaluating additional agencies throughout the state and breaking down costs associated as well as the return on the investment.

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**Summary of Key Department Activity:**

- First week of November looks good. Most of the holiday wrap products are in the stores.
- Vermont made products are growing very well as seen by really big increases in our stores and also through various manufacturer venues. There are 13 distillery type operations in the state with more in the pipeline. This is good economic growth as Vermont companies compete in the marketplace against the Bacardi's of the world!

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