

# WEEKLY REPORTS

Checklist  
5/13/16

Darren Springer

- Agency of Commerce and Community Development – Patricia Moulton
- Department of Financial Regulation – Susan Donegan (**no report this week**)
- Public Service Department – Chris Recchia
- Agency of Human Services – Hal Cohen

Sue Allen

- Agency of Education – Rebecca Holcombe
- Agency of Transportation – Chris Cole
- Agency of Natural Resources – Deb Markowitz

Sarah London

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

Jessica Gingras

- Boards and Commissions – Jessica Gingras
- Department of Liquor Control – Patrick Delaney

Laura Gray

- Agency of Agriculture – Chuck Ross
- VT Commission on Lottery – Greg Smith

James Pepper

- Department of Labor – Annie Noonan

**To: Governor Peter Shumlin**  
**From: Patricia Moulton, Secretary - Agency of Commerce and Community Development**  
**Date: May 13, 2016**  
**Re: Weekly Report**

---

**PATRICIA MOULTON, SECRETARY**

**GOVERNOR'S PRIORITIES:**

- **Britton Lumber, Fairlee:** Bob Moses of Britton lumber let us know Thursday, he will not be rebuilding after the fire the devastated his mill. The cost to rebuild were much greater than his insurance, and he is in his late 60s. He is buying in mill in Bath New Hampshire that is for sale at a bargain price. Ultimately, regional loggers, truckers etc. will still benefit from the NH mill reopening. He will continue his wholesale operation in Fairlee which employs 35. We are hearing there will only be a loss of three jobs, from 38 employees to 35 in Fairlee. I believe there were some losses of jobs right after the fire, but it was minimal. He transferred a lot of mill people to the wholesale operation. The three that are losing their jobs, have been through a CDL training sponsored by Department of Labor federal funds. I think they have jobs or were planning to leave anyway. Moses has been working very closely with Jared Duval of our economic development department. Moses told Jared the state has been wonderful; he could not have asked for better assistance. He received preliminary approval of significant VEGI incentives and other financing, but the gap was still too big given the availability of a low-cost mill within the same labor shed and log market.
- **Burlington TIF:** We learned this week that Burlington has incorrectly been retaining education fund payments due to a computer error. There was \$306,226 withheld from 2012-2014. We are working with Tax on a solution. The City has offered to repay \$100,000 but that is not sufficient. There is no way to know how perpetrated the computer error, the City or Tax and the system at Tax has been corrected so such an error could not occur again. We will be following the process outlined in 32 VSA 5404a(j) to recover. There may be some blow out from this.
- **EB-5:** Did an interview yesterday with Dan D'Ambrosio to try to pivot the discussion to the future of EB-5 in Vermont. We discussed the benefits the state has realized thus far (over \$560million in investment, over 3,000 jobs) as well as the additional scrutiny of existing projects. We also laid out some of the measures we have built in for new projects. Gene Fullam was clear this is not an unusual maturation process for new products in the investments markets. That Sarbanes-Oxly and Dodd-Frank came about after abuse. For a young program like EB-5 this is not unusual. We hope it gets translated well from D'Ambrosio. He is talking to some projects and at least SouthFace Village in Ludlow will not say anything negative. Stowe Aviation may be a different story.
  - **Stowe Aviation** is very frustrated with USCIS. They have been waiting 18 months for approval of their Exemplar application. The Exemplar means an expedited review of all investors. They feel they need the exemplar to sign up investors, which is not true. Many others have continued to recruit investors while waiting. They are also VERY pushy people. They are now seeking a moratorium on lease payments to Vtrans for their Stowe Airport lease. My gut says they are easy looking for a way out of the project or out of our Regional Center AND that they will blame the State for that. More to come.
  - **SouthFace Village:** I toured the development at SouthFace Village in Ludlow on Wednesday. They are building condo units, the chair lift connecting the development to Okemo Mountain is built. They are struggling raising investment in light of the Jay Peak news. We are working on counter press in state, nationally and internationally. The national and international press is a challenge. Suffice to say, SouthFace and all our EB-5 projects are anxious to "get this behind us" which won't happen any time soon.
  - We have had new investors come in to the Regional Center since the Jay news broke which is encouraging.
  - **Trip to China:** Gene Fullam is scheduled to leave for Shenzen China this coming Tuesday. I am very concerned about his safety. The State Department says the risk is no greater now than say 1 year ago, and they do not believe the news of Jay heightens that risk, but that is there *always* risk traveling to China for business. The risk is he is subject to an "exit ban" which would not allow his to leave China. We have taken mitigation measures and the State Dept. acknowledged that. But I remain concerned given the circumstances. Gene is ready to go and happy to take the risk.

- **Long Trail Brewing:** Trey Martin and I took a trip with ANR and Act 250 folks to try to resolve the buffer violation Long Trail has. Long Trail has an assurance of discontinuance from Act 250 for failure to maintain and undisturbed buffer along the OuttaQuechee river. The buffer has changed since Irene with erosion. ANR/Act 250 is looking to expand the buffer and insist on replanting of the area Long Trail has been moving within the buffer. Long Trail wants to maintain the 60' buffer, not more, and is willing to replant. The issue will be is it 60' or more in certain areas.
  - **Dan Fullam** at Long Trail is also ready to help us with education of brewery operations, particularly smaller breweries, which have some chronic issues with permit compliance, business planning and even beer safety. Trey and I have discussed some education on these issues. We will work with the Brewers Association, VTC, SBDC to put together a program.
- **Richmond Creamery: Josh Hanford reports– Update:** It appears that after considerable pressure, the Senior Group, Buttermilk and the Town have reached an agreement. The current deal requires a closing on the property by September 1 and Buttermilk is seeking clarity on the remaining Environmental Review elements and other Award conditions that could present a challenge in meeting that deadline. The Town Selectboard has asked the Senior Center to work with Buttermilk to move this forward. They apparently have been successful.
- **Fred Kenney reports:** At a special meeting called for May 5, 2016, the Council gave Initial approval of VEGI incentives totaling \$359,327 to American Industrial Acquisition Corp (AIAC) for the acquisition of Vermont Aerospace in Lyndon. The incentives will ensure the acquisition will save the business and preserve about 70 full-time jobs in the Northeast Kingdom.
- **Corporate Cup:** We had 14 teams in the Corporate Cup, approximately 42% participation by Agency personnel! Not sure if we won any awards, but a great time had by all. Health In All Policies!

## LEGISLATIVE ACTIVITY

- **Budget:** The dollars in the ACCD budget ended up very close to the Governor's recommend with a net difference of only \$5,000. Lucy reviewed all the language portions as well to be sure the report reflected our understanding of the Legislature's intent. ACCD, along with Labor and Education, will need to report on workforce efforts, and ACCD will also need to do a full analysis and study of Vermont Life Magazine.
- **Vermont Life:** Morale here is at an all-time low. Between the Legislature and the recent press about it, the staff feels like they are perceived as a failure despite herculean efforts to produce a quality product and fulfill the legislative intent and mission of the magazine. Editor Mary Nowlan had a rather intense and uncomfortable conversation with Senator Westman at Three Penny about the magazine, as he is the one who ordered the study. Lucy and Pat have spoken with Mary about this. Lucy and/or Pat will help to conduct the study and will be seeking support from the Administration on our conclusions. As we transition to a new administration we would like to do whatever we can to insure the investment in the magazine will be protected regardless of the ownership or operating structure.
- **Economic Development Bill:** All ended well with this bill. We can live with the changes to the VEGI Program, and NEED the VEGI extension in the bill. ACCD was successful in getting our other requests for the VTP and grants vs. contracts for RDC/RPC's through the process. A bill review was done by Fred Kenney and was sent to Jahala.

## LUCY LERICHE, DEPUTY SECRETARY

- **Vigilant Guard:** Pat, Lucy, Noelle, Josh, Joan, and Megan attended as requested and are doing a follow up presentation to other staff and coordinating our participation in this summer's exercise.
- **Working Lands Enterprise Board (WLEB) Coordinating Committee:** The committee will soon be bringing the product of the Financing Committee's work to the full board. Of particular interest is a new subsidized loan fund pilot that would be capitalized with philanthropic dollars to help businesses get over the financing hump for scaling up growth. The fund would be administered through the Vermont Community Loan Fund. We are also looking at a similar model to help conventional farms convert to organic as the market circumstances with milk prices is driving a need for this help. This one would be administered through VEDA.

## KIERSTEN BOURGEOIS, SENIOR PROJECTS MANAGER

### Vermont Quebec Enterprise Initiative

- **June ICT Event:** We are finalizing the agenda for our early June ICT event and will be bringing four companies: Dealer.com, Logic Supply, TechVault and RingMaster. Each company is keenly interested in the morning meeting at MPC where we will hear about their innovative recruitment/attraction and retention

programs. The afternoon will be B2B meetings with pre-qualified Quebec companies. Jeff Couture from the Tech Alliance, a representative from Champlain College and Mike Shirling from BTVIgnite will also join us. We worked with the Tech Alliance to try to find companies outside Chittenden County, but the ones that expressed the most interest were the four mentioned above. During the visit, we will also be following up with Maerix, a small company that wants to locate an office in Burlington as well as another small ICT company seeking the same. And finally, I will be meeting with two economic development representatives from the Quebec government that want to learn more about our ICT efforts generally.

- **Sherbrooke Spirits Mission:** Working with a Canadian customs broker and the SAQ, we received word this week that we LIKELY will be able to bring in up to 45 litres of alcohol for our September event. This is very good news and allows our producers to bring alcohol over the border as samples. We now have to start recruiting for this event and anticipate that we will have strong interest.
- **Conseil Economique Haut-Richelieu:** This region reached out to me earlier this week to talk about possible collaboration around several sectors, including food processing. I will be talking to them early next week to get a sense of what exactly they are envisioning. I should point out that, over the last year, we have forged strong relationships with three regions (Sherbrooke, Monteregie and Montreal West) and two major business associations – the FCCQ and Montreal Board of Trade.
- **Appalachian Engineered Flooring:** Working with Senator Leahy’s office to help AEF tackle their tariff issues with their flooring products. There were several options available to the company and the next step falls on AEF to respond. Mr. Jean Leduc’s most recent email to me praised our team for the quick response and he will keep us apprised of any new information.
- **Freedom Foods:** In response to an inquiry from a consultant in Montreal, whose client is seeking a partnership opportunity with a US company for a dry goods product, I provided the names of several Vermont companies. Freedom Foods was of interest to the consultant and they visited the Randolph facility. The client company, headquartered in France with a presence in both Ontario and Quebec, wishes to invest heavily (over \$10million) in a ‘qualified’ US company. I will be talking with Cathy Bacon next week to see how we can support a possible expansion that will need to happen if this deal moves forward.

#### **Brownfields**

- **Robertson Paper Mill:** Trying to corral players to efficiently move this project along in the absence of a BFADC director. Challenging, but not insurmountable. The involvement of BDCC has helped re-focus this effort and I am hopeful that we can start moving this project along again.

#### **Other**

- **IBEX:** Still working to present a good option for this company in the WRJ area, but it is not moving as swiftly as it should. I am still working with Tony Blake on identifying opportunities for IBEX’ growth in other regions.
- **PayPal:** I will visited with Tom Little and check out the VSAC space. I may talk offline with the City of Winooski about parking. The GlobalFoundries and ReArch teams are ready to host when we give them a date, as is the BDCC crew. We are refining some of our labor/workforce analysis and PayPal did get us some helpful information last night.

#### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Commissioner MacKay**

- **Implementing 15% Executive Order:** Noelle met with Josh and Shaun to outline next steps for implementing the EO and laying out division of work to suggest to our partners at AHS. We have two areas of work – how do housing owners plan/document/report on progress and how best to document results. We plan to have all the pieces in place in June.

#### **Deputy Commissioner Hanford**

- **VCDP Applications:** Met with Claire, Carl and Nate to review the progress of the applications for the June 9<sup>th</sup> board meeting. The applications represent a real cornucopia of all things Community Development; including ED, housing, social services, infrastructure, and planning requests seeking over \$6M in funding.

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

##### **Partner Report**

- **Various State Agencies, Drones Presentation and Demo:** John organized an interagency event featuring Jarlath O’Neil-Dunne, Director of UVM’s Spatial Analysis Laboratory, to discuss how Unmanned Aircraft Systems (UAS), commonly referred to as drones, are being used in Vermont for everything from disaster response to land

use planning. Twenty people attended including representatives from a diverse set of departments and agencies with interests ranging from archeology and historic preservation to emergency management and recreation. UVM is nationally recognized as a leader in UAS applications and you can check out some of their work [here](#).

- **DEC, RPCs, Identification of Sewer and Water Needs:** One of this year's RPC contract deliverables was a statewide list of cities and towns with critical needs for existing or new sewer and water systems. The list was shared with the Department of Environmental Conservation and they are working to address some of the problems with their revolving loan fund. Because DEC funds can only support municipalities with environmental issues, next steps are to convene stakeholders to discuss ways to support infrastructure needs linked to economic development. This and other conversations over the summer will help inform an infrastructure financing report required by the economic development bill.

### **State Designation Programs**

- **Williamstown:** Richard shared information on village revitalization, the benefits of village center designation and how tax credits can support local revitalization efforts at the monthly select board meeting. The meeting was well attended and sparked good discussion on how to improve Williamstown's village center. The owner of a local pub, Pub 7, intends to apply for tax credits in July. The next day we received a kind note of thanks from a member of the Planning Commission.

*I enjoy working with Richard very much. He has come to Williamstown to present the Village Center Designation Program three times...He made everyone comfortable and offered to be quick and cover the highlights. Not far into the presentation he had them curious, resulting in the select board members in attendance requesting he present at a board meeting. Richard presented on Monday and I believe the board and residents at the presentation are now intrigued and reenergized.*

*I have had every email, question and request answered promptly, professionally and warmly. He walked the entire Village Center Designation area and met with the business owners at their place of business. We have a new Pub in town and Richard has met with Anthony the owner and continues to encourage Anthony to apply for the tax credit benefits with Caitlin Corkins. I look forward to working with Richard in the future....*

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

#### **CDBG Disaster Recovery Program**

- The Grants Management Disaster Recovery team of Tamera Pariseau, Maria Davies, Jessica Mendizabal conducted two on-site monitoring visits in Brattleboro on May 5, 2016: Red Clover Commons and Westgate Housing.
  - **Red Clover Commons:** The team previously completed the compliance review for Red Clover Commons in December, 2015 and performed a site-visit this week to assess the progress of the project. Managed by the Brattleboro Housing Authority, this is a new construction project of 55 senior and non-elderly disabled independent living rental apartments. At nearly 55,000 square feet, the finished building will be 3 floors with an indoor parking garage below. The building has been designed for energy efficiency and boasts a geothermal Near Frictionless Centrifugal Chiller \* used for heating and cooling, which is expected to keep utility costs to about \$20/month per unit. This 15 million-dollar project came after Irene brought extensive damage to the rental units at Melrose Terrace displacing the tenants. VCDP funds were awarded in the amount of \$5,540,200 to support acquisition of the new property, brownfield cleanup and new construction. Staff were truly impressed with the amount of work to complete this project for all involved and look forward to seeing the finished building in October, 2016.

*\*The frictionless, magnetic bearing compressor installed in the basement of the Red Clover building is design also significantly reduce sound levels, because the magnetic bearings eliminate the metal-to-metal contact noise of conventional bearings eliminating bearing-related wear and service as well as the need for lubrication. The magnetic bearing technology will allow for outstanding energy efficiency, reliability and long-life operation.*



**Red Clover Commons Exterior  
Red Clover Commons Parking Garage**



### Near Frictionless Centrifugal Chiller Interior One-Bedroom Unit

- **Westgate Housing:** The team also performed a compliance review with Westgate Housing, a multi-building apartment complex situated on the Whetstone Brook. During Irene, several buildings' basements were damaged due to obstructed drainage and ground water seepage. The storm also raised the riverbed 18 inches. VCDP funds in the amount of \$141,550 were awarded to complete the rehabilitation in order to

prevent future water intrusion.

Construction included the sealing of foundation walls, extending the roofline on one building and the installation of new and efficient pumps in the affected basements. The work is near complete and the team found that Westgate is in substantial compliance on all areas.

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

- **Plymouth Exhibit Repair:** A major hurrah and big thank you to Alex and David for spending most of the day in Plymouth working on the Calvin Coolidge exhibit. Silent Cal, possibly hit by lightning or silenced by Democrats, stopped speaking to his visiting public last year. Although Jon (thank you Jon) was able to get the rest of the exhibit functioning, the President only talked infrequently... or as Alex and David can attest, jabbered on continuously. With one minor glitch, the exhibit is up and running thanks to our IT team!
- **Fire and Building Code:** Members of VDHP met with Robert Patterson, of the Division of Fire Safety who has been charged with updating the 2012 Vermont Fire and Building Code. A section related to new construction that is addressed in the National Codes is being deleted, which VDHP has no issues with. No other changes or clarifications are being discussed for historic resources.
- **American Battlefield Protection Program Grant:** A team consisting of Laura, Devin, Jess, Elsa, and Tracy met to review the four proposals for preparing the National Register nomination for Hubbardton Battlefield. A consultant was recommended and must now be vetted by the American Battlefield Protection Program staff. We were impressed by the proposals and are so very excited to begin this project.

### **State Architectural Historian**

- **Waterbury Projects:** Devin received an inquiry from Steve Lotspeich, Community Planner in Waterbury, about expanding the boundaries of the Waterbury Village National Register Historic District to include approximately 24 properties on South Main Street. He's also interested in knowing more about the Certified Local Government program, which would be a great fit for the Waterbury community. Devin will follow up with Steve and provide guidance on each project.
- **National Register Nominations:** Devin is in the process of reviewing National Register nominations for the Vermont State Hospital Historic District in Waterbury, the H.C. White Mill Complex in North Bennington, and the Pine Street Historic District in Burlington.

### **Project Review**

- **Roxbury:** Jamie met with FEMA and VT Fish & Wildlife staff at the Roxbury Fish Hatchery to discuss the long-awaited project to upgrade the facility that was damaged in TS Irene. Roxbury is the first and oldest state hatchery, celebrating its 125<sup>th</sup> anniversary this year. The Legislature has appropriated \$2.3 million dollars in the Capital Budget to this upgrade, and the State has worked through its appeal to FEMA's original denial of funds, all parties are focused on moving this project forward into permitting and hope to have a contractor lined up by fall with the majority of work planned for 2017. DHP began plan review a few years ago and conducted a number of meetings with VF&W to address the unavoidable adverse effects of some components of the project, one that is largely driven by compliance with the Clean Water Act and improved safety and flood resiliency. DHP offered a few minor alternatives to the proposed plans, which were well received and will be investigated further before final plans are issued. Consultation will be on-going through next year.
- **Bennington:** Jamie met with Bennington College and their architect, Christoff:Finio from NYC, to discuss the major rehabilitation of the Commons, the original core classroom building when the College was formed in the 1932. Today it serves as the Dining Hall, mailroom and lounge for the 700 students living on campus. The project

will open up circulation on the inside, reposition the server and dining rooms and create more flexible lounge/event space throughout the building. A large part of the project is rehabilitating over 13,000 sq. ft. of former ad-hoc workshops and storage space in the third, top floor of the building.. Historically, this was a open, cathedral-ceiling performance space and saw the likes of Martha Graham and later Bob Dylan grace the stage of this vangaurd institution.

- **Middlebury:** Jamie met with VT District Fire Safety Officials, owners of the Battell Block, and Breadloaf Construction to discuss alternative designs for proposed exterior fire escape upgrades. The building is within the Middlebury Historic District, which is listed in the National Register of Historic Places. The group looked for opportunities where Safety Code variances can be achieved to minimize the adverse physical and aesthetic impacts of the proposed design. The existing exterior fire escapes need to be upgraded for code compliance and structural concerns. Emphasis and focus was put on designing a fully compliant stair off the back, while a highly visible fire escape on the side of the building, which is also suspended over the Otter Creek River, should be designed with an appropriate alternative scheme that is less visible on this prominently exposed façade. The Architect is revising the drawings as a result of the discussion for VDHP review.
- **Waterbury:** Jamie met with officials from the Town of Waterbury to discuss demolition of the former Municipal Offices at 51 South Main Street, whiuch is listed in the National Register of Historic Places as a contributing resource to the Waterbury Village Historic Dsitric. While there have been a number of redevelopment proposals offered for the property, none have been approved by the voters and with the fantastic new municipal Complex on-line, the Town needs to deal with this property. VDHP had previously determined the building was no longer eligible for listing in the NRHP due to damage sustained in TS Irene and the subsequent mitigation measures needed for environmental cleanup and stabilization of the property. The Town will not be using any federal or state funding, and do not need an Act 250 permit for this activity, so while there are no regulatory requirements for project review they are taking it upon themselves to complete the appropriate recordation of the property before demolition for public interpretation. This due dilligence effort to balance out the loss of the historic resource with opportunities for public education and advocacy of historic preservation should be commended and shows Waterbury’s continued commitment to their historic resources.

#### **Historic Sites Section Chief and State-Owned Historic Sites**

- **History Researcher:** Col. (Ret.) Kevin J. Weddle, Ph.D., professor of military theory and strategy at the US Army War College in Pennsylvania made a quick trip to Hubbardton and Mount Independence on Monday, doing research for his forthcoming book on the year 1777 of the Northern Campaign. He met with Carl and Bob at Hubbardton, and then had a two-hour power walk at the Mount before nightfall. He was impressed and looks forward to coming back when we are open. He would be happy to do a program at the Mount another year.

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

- **Fairview Estates Lot Rent Mediation:** We received a petition for mediation from a majority of the leaseholders of Fairview Estates in Barton, challenging the park owner’s proposed 9.8% lot rent increase. As it has been awhile since the last mediation, Arthur wanted to be sure the contact information on the Roster of Mediators (see below) was still accurate.
- **Burdick Mobile Home Park:** Unfortunately, the park owner failed to register this park in Pownal or pay the lot fee for 2015 despite all our attempts including suing in small claims court. To ensure that we eventually receive the lot fee, a Judgment Lien was filed against the park in the Pownal Land Records, accruing interest at a rate of 12% annually.
- The **High Meadows Fund** hosted a meeting about energy efficiency goals in low-income, multifamily housing. Shaun joined this gathering and learned about efforts underway to better utilize technology to track energy usage in multi-family projects. It is clear that, while many more projects are being equipped with wood pellet boilers to transition away from use of fossil fuel for heating, more robust infrastructure for distribution and quality control of this fuel source is needed. Also efforts (and funds) to retrofit old housing stock to attain greater energy efficiency are going to need to be drastically increased in order to reach the goals laid out in the Comprehensive Energy Plan.

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

##### **Regular VCDP**

##### **Existing Grants**

- **Town of Waltham:** The VCDP grant (\$500,000) to redevelop the blighted Gevry Mobile Home Park with 14 duplex style Vermod rental homes broke ground on May 4<sup>th</sup>, demolishing the derelict mobile homes on the property.  
<http://www.myhamplainvalley.com/news/new-affordable-energy-efficient-housing-coming-to-addison-county>

### **CHIEF MARKETING OFFICE ♦ Heather Pelham, Chief Marketing Officer**

- **Domestic Export Marketing / DigIn / Local Food Campaign:** Discussions continue on the potential alignment of several agriculture and food-related outreach campaigns currently in various stages of development under the established DigIn brand. The stakeholder group -- Agency of Agriculture, CMO, VDTM, Vermont Sustainable Jobs Fund and Vermont Fresh Network -- has now identified the specific challenges the group must address, including: source and allocation of resources; roles, responsibilities and a decision-making structure; ownership; timeline; scope of rebranding; and the technical requirements for an improved website/brand hub. Compromises are going to be required, but the effort has momentum and progress is being made.
- **Creative Services:** Design of a new hand-out to promote travel to Vermont via Amtrak was completed this week, just in time to be debuted at the NY by Rail event VDTM will be attending in Penn Station next week. The new collateral now highlights specific downtown attractions at each of the stops along the route, thanks to a great collaboration between Gary Holloway (DHCD), Kathleen Kolva (VDTM) and the CMO's office. Erin also executed another print ad for the Agency of Agriculture for their on-going partnership with *Edibles* magazine, to appear in the Brooklyn and Manhattan editions. This month's ad focusses on Vermont's prominence in the artisanal cheese scene, under the headline "Unearth your Taste Buds." The CMO's office was also able to design a series of rack cards for the PTAC team, to promote the Veteran-Owned Small Business and Woman-Owned Small Business programs, as well as the System for Award Management.

### **VT CENTER FOR GEOGRAPHIC INFORMATION (VCGI) ♦ Steve Sharp, GIS Operations Manager**

- **VCGI Imagery Program**
  - **LIDAR:** Data development efforts in support of the LiDAR Web Services Plan (see Table 4. "VCGI LiDAR Data Delivery Services" of the VT State LiDAR Plan) are finalized and accompanying metadata updates near completion. Plans for migrating updated data to the master repository are underway and implementation is anticipated by the end of May. Working towards the June 1, 2016 goal of finalizing and officially signing the Joint Fiscal Agreement (JFA) with USGS, VCGI/ACCD is now working with the Public Service Department on an MOA. The MOA with VTrans is in final draft mode and undergoing internal review. For the remaining funding partners, the ACCD legal team is researching contracting vehicles to use and draft for their review. In support of the 2016 Vermont Middle Connecticut River LiDAR collection effort drafted Memorandum of Agreements with our state funding partners are in process and contracts for our Regional Planning Commission partners are being researched for the June 1, 2016 deadline.
- **Projects and Technical Support Services**
  - **VT Open GeoData Portal:** VCGI is in the middle of its 1<sup>st</sup> Scrum Sprint for this project, with our focus on building-out front-end components of the website. The next Scrum Planning Meeting is scheduled for next week, when we'll nail down our goals for the next 2-week sprint.

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

- **Shires of Vermont Regional Marketing Organization:** VDTM continues to work with the Shires region as they work out their new structure with the closing of the Manchester Chamber. Steven Cook will include more about this in his section.
- **Comcast Newsmakers Video:** Megan's Comcast Newsmakers Video has been circulating on social media with positive feedback.
- **Vermont City Managers Association Meeting:** Megan presented at the annual Vermont City Managers Association meeting. As towns are adding more events there has been much more interaction with VDTM and they are developing a better understanding of how we can help them.

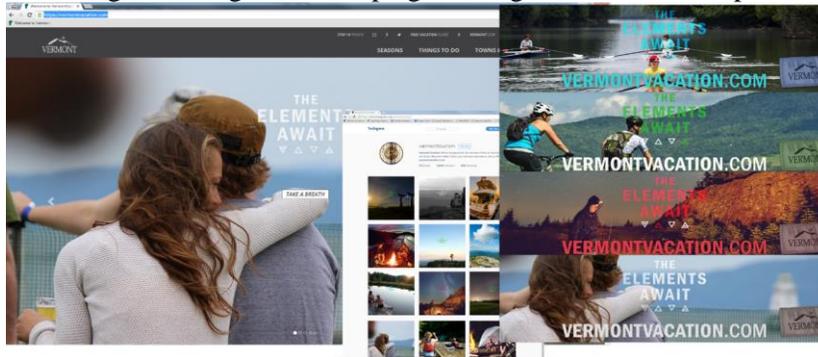
### **COMMUNICATIONS ♦ Philip Tortora, Director of Communications**

- **Coordinating Media Coverage:** We are currently corresponding with a number of journalists who are either planning trips to our state or coverage of Vermont. They include:
  - Malerie Yolen-Cohen, contributing writer for Huffington Post and Editor of GetawayMavens.com: She is visiting dozens of destinations in our state this week, and expects to produce several pieces on her Vermont visit.
  - Annie Gilbert, writer for Ulysses Travel Guides: Her group produces guidebooks and digital content for French-speaking travelers from Canada and Europe. We are assisting her in booking a 6-night trip to Vermont in June.

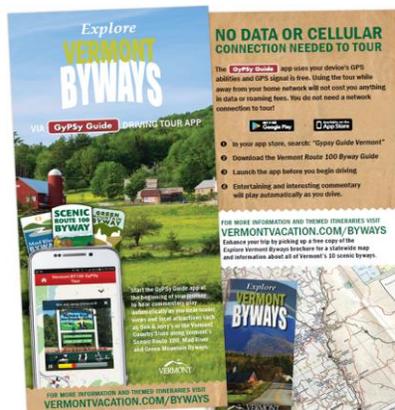
- We are in the midst of initial correspondence with writers from some larger publications, including Olivia Gordon who is writing a family travel feature for the Daily Mail in the UK, and Lorna Sullivan who is planning several “Out & About” short travel pieces for AAA publications. Their trips have not yet been finalized.
- We have also responded to inquiries from Steve Fennell of RVlife.com, who is doing a piece on taking RVs along Vermont’s byways, and Channaly Philipp, who is doing a piece on summer foodie events for the Epoch Times. The folks at Vermont Fresh Network gave us great information for the foodie piece.
- **Social Media:** A summer marketing video produced by David Burnell entitled “Vermont: The Elements Await” has attracted more than 21,000 views. The video was strategically boosted by Steve Cook.

**MARKETING & DESIGN ♦ David Burnell, Marketing Coordinator**

- **Summer Campaign | Additional Media Fulfillment:** By now I trust everyone is familiar with VDTM’s campaign *The Elements Await*. The campaign is now in full effect with media placement visibility, in market – print and web. David has [integrated campaign rotators](#) to support the summer campaign online. This brings campaign-visibility fill circle from a consumer standpoint, “click-through to point of purchase” so to speak. Additionally, out of home placements have been fulfilled, as well as VermontLife.com ad placements delivered. David has also provided images relating to the campaign for organic social media posts on Instagram.



- **Byways // GyPSy Guide Rack Card | Design + Print Procurement:** David assisted Hilary DelRoss with marketing initiatives relating to the Vermont Byways. *The GyPSy Guide* is an APP which automatically plays commentary while driving, sort of like your own personal tour guide. The app currently offers a RT100 Tour and plans to include more Vermont Byway tours. As a vehicle – VDTM has teamed up with GyPSy Guide to market the Vermont Byways by creating a rack card which will be distributed. Print production is in process and should be available at the end of next week.



**SALES ♦ Kathleen Kolva, Sales Manager**

- **Montreal Sales Mission:** The 11 Montreal-based tour operators were extremely receptive to Kathleen’s visits last week. Each appointment was 30-45 minutes in length, and included discussion of each company’s needs, specific market segment, current Vermont product, and potential for more Vermont trips. Kathleen is in the process of following-up with each operator regarding specific questions, resources, and contact persons. Interest in beer tours, biking, and skiing was extremely high.

**DEPARTMENT OF ECONOMIC DEVELOPMENT: Joan Goldstein, Commissioner**

- **SouthFace at Okemo:** Took site tour of condos under construction and a sample single family home where we met. One 14-unit building is already 100% presold and expect to have owners in for the next ski season. Site is being prepped for the second 14-unit building. Discussion ensued about strategy for China and Vietnam investors.
- Presented to **Upper Valley Corporate Council**, CEO's from both sides of the river on economic development challenges and opportunities along with VT Chamber and our NH counterparts. Discussion around local control and how the 'locals' sometimes inhibit investment into their own communities.
- Attended and presented the **2016 LaunchVT award** to Ogee. Ogee is a luxury organic skincare company. Many interesting business ideas were presented including Thermouse, the 2016 Collegiate winner. Thermouse and Ogee both are Champlain College alums. Actually, the Thermouse founder is still in school.

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

- Business support visit with “**Kingdom Biochar**” (Greensboro Bend), alongside Dave Snedeker/NVDA. Individual exploring feasibility of creating a facility to produce biochar (charcoal made from biomass, say, agricultural waste or low grade wood, that can be used as a soil amendment with soil and water quality benefits, in addition to carbon sequestration potential). Making business planning and financing referrals and connecting with Agency of Agriculture.
- Business support visit with **Lamoille Valley Lumber** (Greensboro Bend), alongside Dave Snedeker/NVDA. Sawmill looking for a rough mill supply chain partner. Connecting with Forestry Viability for business planning and scoping.
- Business support visit with **Vermont Cedar Chair** (Hardwick), alongside Dave Snedeker/NVDA. Growth stage business currently employing nine and looking to expand in Hardwick. Great (comfortable!) product that is contributing to sustainable forest management and with a great story. Provided financing and technical assistance referrals.

#### **BUSINESS SUPPORT ♦ Brett Long, Director**

- Had a phone call with Small Batch Organics about financing, referring to SBDC.
- Attended a meeting with GMEDC on the IBEX/Twin Pines opportunity.
- Attended Farmer Mold & Machine Act 250 Hearing.
- Attended meeting with Mat Barewicz on CRM and VTP data.

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

##### **VEGI**

- Staff continued to work with the following regarding potential applications:
  - Autumn Harp (Essex) has filed an Initial Application for the May 26 VEPC meeting.
  - Lyndon Furniture and Caledonia Spirits (Montpelier project) have been provided estimates and plan to file Initial Applications in coming months.
  - Westminster Cracker (Rutland), IBEX (WRJ), Black River Produce (Springfield), CadCut (Montpelier), and SoyCo (Lyndon prospect), NuHarbor Security (Burl), Bariatrix (Georgia), Inntopia (Stowe), MSI (Morrisville), Chroma (Brattleboro), Precision Composites (Lyndon).
- Attended Partners meeting May 6 to explain changes to VEGI program.

#### **VERMONT TRAINING PROGRAM ♦ John Young, Director**

- Met with Stubbins Electrical in Rutland who may be pursuing a VTP grant as the company continues to grow and has more potential contracts that they cannot bid on as they do not have the trained staff.
- Will be meeting with Critical Process Systems, Neutral Zone, Von Bargens, SB Electronics, Jeld Wen, VEIC and Rhino Foods in the upcoming week.
- NuHarbor Security, Bourne's Energy, and Vermont Rail Dispatch Center are close to finished VTP applications and should be in the review process soon.



**Privileged and Confidential**

**MEMORANDUM**

---

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

From: Christopher Recchia, Commissioner

Date: May 13, 2016

Subject: Weekly Report

---

**Governor Level Issues:**

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

**Post-session Tasks** – S.230 and H.577 contain a significant to-do list for the PSD, almost all with deadlines before 2017. Here is a brief summary of the work the Department will be leading or participating in over the summer and fall:

S.230 - Development of Guidelines and Standards for providing determination of energy compliance to regional and town plans. The Department will need to complete these standards by November 1, 2016 and will need to engage many stakeholders including municipalities and RPC's to be successful in this effort.

S.230 - Proposed rule(s) on decommissioning and screening. By November 1, the Department will need to propose to the Board draft rules on decommissioning and screening of solar generation projects.

S.230 - Interim rules on wind sound – The Board will have 45 days after enactment of S.230 to draft interim rules on wind sound. Those rules will be in place until more comprehensive rules are crafted by July 1, 2017. The Department will likely be heavily involved in guiding this work.

H.577 - Develop a new CPG complaint protocol. By September 1, the Department will need to establish a new protocol for addressing complaints related to violations of Certificates of Public Good. As part of the protocol, the Department will need to post summary data on its website and produce an annual report for legislators. This emerged as a result of testimony on wind projects, but the protocol will need to address complaints related to all cpg's.

H.577 - Public Advocacy annual report – On December 1 of this year, the Department will need to file a report summarizing its role as Public Advocate and providing explanation of its positions on key dockets. Also as part of this bill, the AG will annually monitor one rate case and include its analysis in the annual report.

**VY – Next Steps** - Trey and I met today with Darren and Sarah to discuss next steps on VY now that we are back into advisarial mode. Next steps are evaluating a filing before the PSB to begin a docket on Site Restoration Standards, potential filings with FERC, etc. PSD needs to be in apoisiton to bill back approximately \$250,000 to \$300,000 associated with the Settlement discussions and PSB ISFSI docket and I'd like to do that relatively soon (they are more likely to pay if the ISFSI docket has not yet been finalized).

**Provision for RPC Funding Mistakenly Left Out of S.230** - The Senate proposals of amendment to S.230 contained a \$300,000 appropriation to the Department to be awarded to RPC's and towns for training and technical assistance related to implementation of the planning components of the bill. The funds would have been raised by billing back electric utilities proportionate to their load. When the conference report was generated, this provision was inadvertently left out. The Department still has the requirement in S.230 to provide trainings in each of the 11 RPC areas, but now no additional resources. The Department is evaluating the possibility of funding this effort until early 2017 when the matter will be addressed in Budget Adjustment.

**Net Metering Rulemaking – No Docket** – Over the last 18 months, the PSB has been re-writing the rule that governs net metering. Thursday was a final comment deadline the latest draft of the rule. The Department submitted extensive comments including opposition to a grid service fee, the proposal of a possible pacing mechanism, and a proposed equalization charge to bring down the cost of net metered energy for those utilities with residential rates higher than the statewide average. The Board will now review all comments and get to work on drafting a final rule. The Department will look to engage the Board on an ongoing basis to serve as a resource and to guide their work.

**GMP-St. Albans Community Digester-Docket 8673**- 800 kW methane biodigester generation facility to be constructed in St. Albans. Department staff met internally on May 11 to discuss our upcoming testimony, which is currently due May 20. The Department has also been in touch with ANR and AAFM to discuss the positions of these state agencies. At 18.8 cents/kWh for a utility-owned project, the power from this generator will be expensive, especially for a non-dispatchable baseload source. As the Department formulates its position, working with ANR to quantify the purported water quality benefits and ensuring that GMP has done all it can to secure non-ratepayer financing will be important factors. GMP responses to second round of testimony provide more clarity into the compensation for farmers, other funding opportunities, Tier 2 compliance, and energy and capacity price forecasts. Staff spoke with counterparts at AAFM to determine potential TMDL compliance requirements for farms participating in the project. Staff has developed analysis to appropriately value energy, capacity, and externality benefits, and find GMP's analysis to be quite high. We are going to have to meet with GMP to discuss and evaluate ways to reduce the cost of the project to ratepayers, and have the water quality benefits paid from elsewhere. Due to the publicity of this project, this may cause some push-back from

GMP. They want to do more of these – and financing as part of the rate base means it is important we get the price right on this one.

**TransCanada Dams** – We had a very interesting discussion with PSP Investments (Canadian Public Sector Pension Investment Board) about potentially partnering with us on the Dam acquisition. PSP successfully bid on prior purchase Northfield Falls and 2 CT River dams in MA and CT. They have approximately \$5B in new assets each year to invest, and are looking for long-term investment options (40 years), and so partnering with someone like Vermont also interested in long-term investment and contracts is very attractive to them.

**Meetings/Calls this Week:**

May 09–Multi-Family Housing @ VT College; TransCanada w/Justin Johnson

May 10 – VGS Financial Matters meeting, HQ US meeting,

May 11 – NECA Panel discussion,

May 12 – VEDA Telephonic Board Meeting

May 13 – VY Next Steps, NECPUC siting Panel call, TransCanada Asset Sale Discussion with PSP (Canada Pension Fund investors).

**Meetings next Week:**

May 16 – TransCanada discussion with Justin Johnson,

May 17 – Climate Cabinet meeting

May 18 –

May 19 –

May 20 – Mary Powell meeting, VEIC meeting

**Media:** VTDigger on net metering.

**Public Official Contacts:** Deputy Commissioner Copans attended a meeting at Okemo convened by VLCT of town managers from around Vermont to discuss the Section 248 process with a particular focus on S.230.

***PERD***

Legislative Activities

- Reviewed H. 280, which requires the Board of Education to adopt most recent edition of the Illuminating Engineering Society of North America Lighting Handbook. Upon first glance and initial conversations it appears that the handbook has more stringent lighting power requirements but less restrictive daylighting and lighting control requirements than CBES. Staff was able to obtain a copy of the 500+ page handbook and upon consultation with a lighting designer found that best practice is considered to be that it is used in conjunction with energy codes. If the bill is signed staff will contact the Board of Education to suggest that they remind education institutions that they must also follow CBES when updating lighting, in addition to the Lighting Handbook.

Vermont System Planning Committee

- Staff participated in the Quarterly Meeting, highlights include:

- VELCO presentation of results of analysis of battery storage of curtailed wind generation in Northeast Kingdom. Finding was that there is very little actual generation being curtailed currently and that the benefits of absorbing that excess with batteries are far outweighed by investment costs.

### Dockets

- North Hartland Hydro – Received responses to discovery questions regarding NHL’s request for approval of 20 year contract with purchasing agent at PURPA rates set in docket 8010. Because this is a long-term contract PSD is arguing that 248 criteria must be met however NHL disagrees and neglected to answer PSD discovery questions.
- 8550 – finished Tier 1 and 2 comments for the RES. Suggested that utilities be required to report sources of energy as well as energy mix after REC transactions. Gathered more information CT efforts to accurately account for renewable generation that comes over the Quebec interconnection. Other states have been focusing on whether individual generators in non-adjacent control areas can qualify in the NEPOOL GIS. These efforts will not remedy the objections that some stakeholders (REV/Ranger/VLS) have with counting HQUS system-backed power separately from the GIS. If the Department wants to pursue changes to the GIS rules to allow system-backed power to receive specific environmental attributes, we will need to initiate that process.
- A final letter was issued to Enosburg granting its request for a 202(f) to take out a loan to rehabilitate its dam. The letter was heavily caveated to make clear that there are substantial financial risks associated with FERC relicensing, and that the utility should take steps to plan for reduced power production starting in 2023.

### Other Items:

- Staff attended a phone conference of the NICE committee (Northeast International Committee on Energy) associated with NEG/ECP. NEG/ECP staff are preparing a memo with options for regional collaboration to help states and provinces hit their collective GHG reduction goals agreed to last summer. Staff encouraged a document restructuring that makes room for unregulated heating fuels, which are responsible for a significant fraction of GHG emissions in many of the states and provinces.

## ***Regional***

### Distributed Generation and Installed Capacity Requirement

- On May 6, FERC denied a rehearing request by NRG Companies (a merchant generator), relating to ISO-NE’s incorporation of forecasted behind-the-meter distributed generation into the calculation of the Installed Capacity Requirement (which is the target amount of capacity required to be purchased through the Forward Capacity Market to meet resource adequacy standards).
- In 2015, ISO-NE began to incorporate the forecasted amount of solar PV distributed generation into its load forecast for planning purposes. The load forecast in turn is the major input to the Installed Capacity Requirement. Generators prefer to see a higher

Installed Capacity Requirement as it increases the likelihood that capacity prices will be higher.

- NRG argued that ISO-NE needed to make a change to the Market Rules in order to include solar DG into the Installed Capacity Requirement calculation. FERC concluded that the existing rules contain sufficient flexibility for ISO-NE to make changes to the load forecast (and therefore the ICR) to correct “consistent bias over time.”

#### TransCanada Hydro Sale

- The legislature has passed H.577, which included the creation of a Hydroelectric Power Acquisition Working Group and a Vermont Hydroelectric Power Authority.
- The Working Group is tasked with writing a recommendation on ownership options for the dams and the sale and distribution of their output. A final report is due by August 1, 2016. The Working Group will have some different members than the less formal group that has been working on the issue for the past few weeks. The members will include: Secretary of Administration, State Treasurer, Commissioner of DPS, Two people chosen by the Governor, one of which shall be an employee of a regional planning commission (narrowly written such that Windham Regional Commission will be selected), one person chosen by the Speaker of the House, and one person chosen by the Senate Committee on Committees.
- The Power Authority has the ability to “finance, purchase, own, operate, or manage any interest” in the dams. The directors of the Power Authority will be appointed within 14 days following the request of the Working Group.

#### Transmission Return on Equity

- On April 29, a group of municipal electric utilities in Massachusetts filed a complaint at FERC seeking to lower the Return on Equity for New England Transmission Owners from a base rate of 10.57% to 8.61%.
- In recent decisions, FERC has departed from long-standing precedent in determining the appropriate ROE. Rather than using the midpoint of the range of reasonable costs of equity, FERC has selected a point halfway between the mid-point and the highest rate. FERC has justified this change by pointing to “anomalous” capital market conditions. However, depending on the individual case, FERC has found both that there is and is not anomalous market conditions when reviewing ROEs for transmission owners. The April 29 filing argues that there are no anomalous capital market conditions and FERC should resume using the midpoint of the range of reasonableness to set the ROE.

#### New York Power Authority

- NYPA provides some portion of the output from the Niagra and St. Lawrence hydro projects to neighboring states at preferential rates. The Department of Public Service is the purchasing entity for the Vermont utilities and Vermont Public Power Supply Authority is responsible for scheduling the power.

- NYPA recently announced that it is changing its past practice of rescheduling for later delivery certain curtailed power allocations. NYPA will now only reschedule such allocations if the curtailments are a result of issues within New York. The change was unilaterally announced by NYPA with very little notice and no discussion of potential impacts. The neighboring states are sending a letter to NYPA asking for a discussion of the change in scheduling practice. In discussions with VPPSA, it appears that the change will not have a significant impact on Vermont, but the DPS will participate in the discussions.

#### Review of Transmission Asset Condition Projects

- There is a category of transmission projects that are termed Asset Condition Project, which are primarily replacement of existing facilities, along with minor upgrades. Two examples of this are extensive pole replacement programs and relocating substations as a result of flooding concerns. There is no requirement that Asset Condition Projects be reviewed through the ISO-NE process, although the costs may be put into regional transmission rates. There is some concern that, as reliability projects are declining, transmission owners may look to Asset Condition Projects to increase rate base.
- NESCOE is proposing to contact the transmission owners and discuss the development of a standardized method for reviewing the need for Asset Condition Projects.

#### ***Engineering***

##### VY First Quarter 2016 NRC Inspection Report Identifies Low Level Violation

The NRC's 2016 First Quarter Inspection Summary Report issued May 4 includes a Category IV (lowest of 4 levels) violation of 10 CFR 50.82(a)(8)(ii) regulations: VY incorrectly used ~\$282,000 of the Decommissioning Trust Fund (DTF) for Spent Fuel Management (SFM) planning during the time period when up to 3% of the DTF could be used for planning purposes. Because VY subsequently received an Exemption that allows DTF use for SFM activities and because the NRC recognizes that its Regulatory Guidance is vague in this area, the NRC will exercise "enforcement discretion" and not fine VY for this violation. PSD and AGO Staff were briefed on the nature of the violation and the enforcement discretion prior to the report's release, and have requested that VY be required to pay back the DTF's lost interest due to this withdrawal. No other violations were identified in the Inspection Report.

##### Update on VY Groundwater Management Issues

The pumping of Turbine Building Incurion Water and Process Water to the six ~20,000 gallon holding tanks outside the Turbine Building continues. One truckload (~5,000 gallons) of contaminated groundwater and two truckloads (~10,000 gallons) of Process Water shipped to Energy Solutions last week. Two additional groundwater shipments are planned for this week. No additional Process Water shipments are currently scheduled. All planned attempts at leak-sealing have been completed. VY is monitoring for additional water incursions before planning any additional leak-sealing campaigns.

##### Vermont Gas Systems Addison Transmission Pipeline Project Construction

VGS provided the Department a project management organizational chart and continued to assign administrative and managerial personnel to positions required for the ANGP project. Recent assignments include positions for Documentation Control, Construction Management and

Chief Inspector. Comprehensive project designs and specifications, related to 2016 construction, are not yet available for Department review; however, the company has indicated they are close to completion and should be available later this week. Project materials for 2016 construction are expected to be delivered on 5/28/16 to supplement materials already in storage at the pipe-yard and base of operations in Williston. Contractors continue to clear the project ROW between Williston and New Haven. The majority of tree and vegetation removal is complete; however, several parcels in the New Haven area remain inaccessible due to incomplete ANR permitting and eminent domain processes. Approximately 90% of exploratory probing for rock is complete; the subsequent rock blasting and crushing is expected to continue through June. Main-line construction crews are expected to arrive in Vermont later this month and be initiated with project specifications and procedures at that time.

#### Vigilant Guard 2016 Exercise

The Director of Engineering attended the Vigilant Guard 2016 Senior Leadership Seminar, which presented an overview of the upcoming Vigilant Guard exercise July 25 – August 2. This will be a full-scale exercise to assess the capabilities in protection, response and recovery activities following a statewide catastrophic event. The following core capabilities will be tested: cyber security, infrastructure systems, intelligence and information sharing, logistics and supply chain management, operational communication and coordination, public health, healthcare, emergency medical services, and situational assessment. Approximately 4,000 players are expected to participate. PSD (i.e., State Support Function 12) is expected to participate Friday, July 29 through Sunday, July 31 in continuous (round-the-clock) 12-hour shifts. Vermont Electric Cooperative will be a key player in the scenario.

#### ***Finance and Economic***

##### Electric

GMP: Innovation Service, Off Grid – GMP presented a proposal for an innovative service program that would provide off grid system management. GMP presented the service as an opportunity/option for their customers who do not want to be served energy in the traditional way and want to become energy independent in a way that does not put the entire burden on them to manage the technology and process. Cost of the program would be recovered through electric rates. Staff requested supporting economic data.

Wind Generation Tax: Staff received the output report from VELCO - Wind-Powered Electric Generating Output for the six-month period beginning November 1, 2015 and ending April 30, 2016:

- Vermont Wind, LLC's facility in Sheffield, Vermont: 46,479,399 kWh.
- GMP Kingdom Community Wind facility in Lowell, Vermont: 97,057,548 kWh.
- Georgia Mountain Community Wind, LLC's facility in Georgia, Vermont: 18,420,828 kWh

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

Spencer-TGC Westminster, LLC 1.8 MW solar net-metering facility to serve Vermont Army National Guard – Docket 8699 – On May 9, 2016, the Department filed comments on the proposed 1.8 MW facility. The Department did not raise a significant issue under the Section 248 criteria but did request that the threshold issues be resolved before a CPG is granted, or at the

very latest, prior to commencing construction of the Project. Specifically, the Applicant has not yet submitted evidence demonstrating that the project will be installed on the property of the National Guard or that the National Guard will be the primary off-taker of the system. The Department also noted that although the Town of Westminster has expressed support for this project on the understanding that the National Guard will be the sole off-taker of the electricity generated by the Project, that support should not be interpreted to mean that the Town generally approves the development of solar in its limited Commercial/Industrial zone. The Agency of Natural Resources filed comments recommending a number of conditions to ensure that the Project does not pose a significant issue with respect to the Section 248 criteria that ANR reviews. The Division of Historic Preservation filed comments stating that the project will not adversely impact historic or archeologically sensitive sites.

SunCSA 22, LLC 150 kW Group Net Metered Facility in New Haven – CPG #NM-6199 – By Order dated May 6, the Board scheduled oral arguments for May 19, 2016 at 2 PM on the Hearing Officer's Proposal for Decision. The Applicant vigorously objects to the Hearing Officer's findings in the Proposal for Decision with respect to the Applicant's Burden of Persuasion – specifically that the Applicant had failed to carry its burden to demonstrate that it has taken the generally available mitigating steps that a reasonable person would take. The Department was notified on May 11 that the Town will seek a continuance of oral argument to the week of May 23, and an opportunity to file written responses to the Applicant's comments on the Proposal for Decision prior to oral arguments. The Department understands that the Applicant opposes the continuance.

Gilman Renewable Solar, LLC 2.1 MW Net Metered Facility in Lunenburg (Gilman Landfill Solar Project) – Docket 8725 - A prehearing was held on May 9 and attended by the Department, ANR, the Applicant, representatives of the Town of Lunenburg and Mr. Lazar (an affiliate of another developer with a 500 kW project proposed at the same substation as the Gilman project, but which is behind the Gilman project in the GMP interconnection queue). While off the record, the representatives of the Town of Lunenburg expressed support for the Project and stated that there is no opposition to the Project in the Town. Mr. Lazar read a statement onto the record that served to clarify his previous letter to the Board which the Department had received on April 29. Mr. Lazar requests that the Applicant be required to demonstrate, at the outset, that GMP consents to the facility proceeding as a net-metering facility, or that there is a viable PPA proposed between GMP and the Applicant. Mr. Lazar further requests that if the Applicant does not provide such evidence at the outset, the Applicant should not be allowed to pursue a certificate of public good at this time and should be removed from the interconnection queue. Parties are required to respond to Mr. Lazar's letter and statement by May 13. The parties submitted a stipulated schedule at the pre-hearing conference.

GMPSolar Williamstown – Docket 8682 – The PSD is reviewing the petitioner's information request responses. The Williamstown Planning Commission issued discovery requests on the petitioner. Additionally, the PSD met with the Planning Commission to review the landscape mitigation plans. The petitioner filed a motion for approval of a protective agreement, the protective agreement, and averment.

Coolidge Solar 20 MW facility in Ludlow - Docket 8685 and Request for Rule 4.100 contract approval- Docket 8586- The PSB granted all intervention requests and resolved the schedule dispute by setting a schedule that included aspects from the petitioner's and the state agencies' proposals. The schedule sets May 11<sup>th</sup> as the deadline for the first round of discovery. The PSD intends to file a timely discovery request. The petitioner's responses are due by June 1<sup>st</sup>. Additionally, the petitioner forwarded a draft protective agreement and addendum that the PSD will review.

Chelsea Solar 2.0 MW Standard Offer Project in Bennington - Docket 8302- PA filed responses to Petitioner's multiple motions requesting reconsideration on 4/29. Our position was that the Board should deny all motions and let the decision denying the CPG stand. Intervenor Libby Harris (adjoining landowner) and the Town of Bennington filed responses that took the same positions as the Department. Next step will be a Board ruling on the motions. If the Board denies the motions, we anticipate an appeal by Petitioner to the Vermont Supreme Court.

Apple Hill Solar 2.0 MW Standard Offer Project in Bennington - Docket 8454- PA filed responses to Petitioner's motions requesting to reopen the record and amend the project to reduce its size on 4/29. Our position was that the motions should be denied as untimely. A Board ruling on the motions may be made contemporaneously with the issuance of a Proposal for Decision, which is the next step anticipated in the § 248 proceeding.

Commercial Building Energy Labeling and Benchmarking – Docket 8488 – PSD drafted revised language for inclusion in a Board Order to implement building energy labeling. The group will meet on 5/12 to discuss the proposed language. Our recommendation is due to the Board on 5/25.

Elizabeth Mine Solar 5 MW Solar Project in Strafford and Ludlow - Docket 8632 – A technical hearing was held in this matter on 4/29. Just prior to the hearing, the Department and EMS reached an agreement to conduct a post-construction review to assess the need for landscape mitigation along a short section of Mine Road adjacent to the project entrance road. That agreement includes a proposed budget of up to \$20,000 for such mitigation if one or more parties believe it necessary and the Board requires it. We are reviewing a draft Proposal for Decision from the petitioner.

Charlotte Solar Enforcement - Docket 8638 – Parties were unable to propose dates for a technical hearing due to numerous scheduling conflicts, but an informal site visit to assess the status of the facility prior to replanting landscape mitigation will take place on May 16<sup>th</sup>.

BDE Grand Isle Solar 5.0 MW Solar Project in Grand Isle - Docket 8665- Petitioner notified the Board and Parties on 5/3 that it intends to proceed with the project. On 5/16 a consensual schedule was filed that includes deadlines for the filing of supplemental testimony to describe changes to the project, a round of discovery, rebuttal testimony, and a technical hearing in mid-July. One intervenor, an adjoining landowner whose property is directly in front of the proposed facility, has informed the Department that he is closing on the sale of his home today, and thus intends to withdraw from the proceeding.

Enosburg Falls Water & Light Department Section 108 Petition (Hydro Repairs) – no docket –

The Department filed its Section 202(f) consistency determination on May 5<sup>th</sup>, as well as a separate letter on May 10<sup>th</sup> confirming that the Department's original recommendation dated January 26<sup>th</sup> serves as the Department's final comments on the proposed financing.

WEC 248(j) Petition for Upgrades to its Landfill Gas to Electric Facility in Coventry – Docket 8721 – WEC requests approval to construct upgrades to its Coventry facility, including installation of a Siloxane Removal System and related facilities to reduce the concentration of siloxane compounds in the landfill gas, replacement of the existing emissions stacks, and increasing their height by 6.4 feet to address Air Quality Permit standards. The Board issued a memo requesting information by May 10<sup>th</sup> regarding greenhouse gas emissions and impacts to Class III wetlands. The deadline for comments on this project is May 17<sup>th</sup>.

City of South Burlington 248(j) to Install a 1.55 MW Solar Group Net-Metered Facility on the Closed Landfill – Docket 8722 – The City of South Burlington requests approval for a 1.55 MW group net-metered facility. The Board issued a memo requesting supplemental testimony addressing whether additional municipal services will be required for emergency response. The Board also set a deadline of May 18<sup>th</sup> for comments on the petition. The supplemental testimony is also due on the 18<sup>th</sup>.

GMP 248(j) to Replace Regulators at the East Barnard Substation and to Rebuild the Sharon Substation – no docket – GMP filed its petition on April 6<sup>th</sup> requesting approval for replacement work at the East Barnard substation and a rebuild of the Sharon substation including: installation of a new 7.5/10.5 MVA power distribution transformer with oil containment; associating fusing and arrestors; new 35 kV gang operated loadbreak switch; and new distribution breaker and regulators. This project is associated with the Elizabeth Mine Solar Project. The Board has not set a deadline for comments on this project.

Petition of Robert Garthwaite to Revoke CPG #NM-1771 – no docket – This case involves a complaint that the holder of the CPG, David Blittersdorf, did not construct the turbines in accordance with the CPG application. On April 15<sup>th</sup> the Board issued a memo requesting Mr. Blittersdorf's response by April 29<sup>th</sup>, and comments from the Department on May 6<sup>th</sup>. On April 28<sup>th</sup>, counsel to Mr. Blittersdorf filed a Motion to Dismiss the petition on the basis that Mr. Blittersdorf was not properly served a copy of the filing as required by the VRCP and Board Rules. The Department filed a letter on May 6<sup>th</sup> indicating it is unable to provide comments at this time given Mr. Blittersdorf has not provided a substantive response to the allegations, but recommends that the Board open an investigation irrespective of its disposition of Mr. Blittersdorf's Motion to Dismiss.

Generic Rule 4.100 Ratesetting Proceeding – Docket No. 8684 – Testimony was filed by Allco, GMP, VEC and BED. VIPPA filed a motion to enlarge the time for discovery and clarify scope. The Board set April 29 as the day to respond to VIPPA's motion. GMP, BED, and the Department filed opposition; Solar Producers filed in support. Discovery disputes are now arising between the utilities and producers. Discovery on non-petitioners closed on May 9. The Department filed discovery on Allco – the only producer that filed testimony. DPS testimony will be due on May 24. The motion to enlarge and discovery disputes remain outstanding.

VGS Rate and Alt Reg Filings – Docket Nos. 8710 & 8698 – On May 5, the Board issued an order establishing a schedule for these proceedings similar to the one advocated by the Department. The Board also granted Vermont Gas an accounting order for costs associated with the Addison Project from the time it is put into service, or November 2, 2016, whichever is later, until the date of implementation of Board-approved rates. While staff continues to review these orders, they appear to limit the accounting order to an extent that is sufficiently protective of ratepayers that an appeal will likely not be necessary. And importantly, the Department got the schedule needed to fully assess the rate need. Vermont Gas appears to be satisfied with the order as well.

Vermont Gas has responded to 3 rounds of discovery on the rate case and 1 on the alt reg case thus far. Vermont Gas recently met with the Department to discuss liquidity challenges and concerns with meeting debt covenants. Vermont Gas indicated that it is managing the problems. Department staff has solicited the input from both CLF and AARP regarding public hearings and has proposed that two be held, which all parties to the proceeding supported. Department staff will have a call with AARP to discuss any ideas on the public hearing they may have.

GMP Vegetation Management – No Docket – Department staff has prepared a round of discovery to follow up on the new information and positions advanced by GMP at the meeting and submitted it to leadership. This proceeding is currently under a two-week hold. Discovery will be ready to go once this period ends next week.

GMP Base Rates Filing – No Docket – GMP has submitted its list of proposed capital additions for the 2017 Base Rates filing to the Department's rate consultant. An initial review demonstrates that the proposed additions are increased from last year by about \$40 million. Our consultant has highlighted projects for in-depth review and an on-site visit will be scheduled this week for later in May. Of note, GMP appears to have included \$3.5 million for a distribution danger tree program, which sounds very much like the program that the Company's CEO indicated was not worth doing at the meeting on April 28. The company is also aware that the Department opposes the capitalization of this program (per our response to their proposal) given the under-investment the company has made in routine maintenance. It is concerning that they would choose to begin the Base Rates proceeding by placing it as a capital addition.

GMP 2015 ESAM Filing – No Docket – Department staff and our outside consultant are working toward finalizing a report within the next week or so on GMP's 2015 ESAM filing. The report will focus on the change in projected to actual plant additions from the base filing to the ESAM and the impact that has on the alt reg process.

North Hartland Rule 4.100 Contract – Docket No. 8569 – VIPPA has responded to the Department's discovery requests mostly with objections. The Department has sent a rule 26(h) letter to VIPPA to challenge those objections and clarify the questions. This also sets the stage for motions to compel. The Department will file testimony on May 16 regardless of the discovery disputes in order to not be seen as delaying the schedule in the way that VIPPA is seeking to delay the schedule in Docket No. 8684.

VGS Addison Expansion—Docket 7970- VGS has submitted proposals for decision on both the 4<sup>th</sup> and 5<sup>th</sup> non-substantial change determination requests. With respect to the 4<sup>th</sup> request, VGS resolved the concerns of both the Palmers and ANR. With respect to the 5<sup>th</sup> request (involving

the Hurlburt/Old Stage Road re-route), none of the parties, including the Department, raised any concerns. The Commissioner and staff met with representatives of VGS on May 10 to discuss the financial status of VGS, including a Project update, in advance of the upcoming construction season and rate case.

CLF declaratory ruling that amended CPG is needed for the VGS Addison Expansion-Docket 8330- On May 2, VGS, the Department, CLF, AARP and the individual Dumont clients submitted a stipulated set of facts to form the evidentiary record in this proceeding, as well as a proposed schedule which calls for parties to submit briefs on May 31. The parties had previously agreed that, if they could agree on a stipulated set of facts, no discovery or evidentiary hearings would be necessary. The Department is in the process of formulating its position.

VGS Renewable Natural Gas Program and Optional Tariff-Docket 8667-VGS, the Department, CLF and Lincoln Renewable agreed to a proposed schedule, which was submitted to the Board on May 6. The schedule provides for an additional round of discovery for non-petitioners and technical hearings the first week of August.

VGS-Broughton condemnation-Docket 8641 - This parcel is in Monkton and is owned by Mrs. Broughton's Revocable Trust. A day before the landowner's testimony was due, counsel for Mrs. Broughton filed a Motion to Extend all Deadlines by 12 weeks on account of Mrs. Broughton's health. The Hearing Officer immediately sought comments from parties and on April 26, both the Department and VGS suggested that counsel could work together - perhaps with Mrs. Broughton's successor trustee - to advance this proceeding while she is recovering. On May 2, the Hearing Officer held a status conference by telephone. Counsel for Mrs. Broughton maintains that he is ethically prohibited from revealing any facts about the successor trustee. As a follow up to the status conference, the Department and VGS are due to respond to these ethical prohibitions on May 13.

VGS-Town of Hinesburg condemnation-Docket 8643-This parcel is in a park owned by the Town. Responses to the Motion to Reconsider previously filed by the parties denied intervention were submitted by VGS and the Department on April 15; both filed in opposition to the Motion. The Town, for reasons that are unclear, filed a Motion to Dismiss the docket based upon Vermont law which holds that there can be no condemnation for a public use of property already dedicated to a public use. Responses to this Motion were submitted on April 29 by VGS, the Department and the would-be intervenors. VGS continues to work with the selectboard and believes it can structure a new, acceptable deal that will include more public process. The condemnation action will need to proceed at the same time and VGS, the Department and the Town have agreed to a third revised schedule which has been presented to the Hearing Officer, but we are still proceeding without a schedule. The Department's appraiser visited the property on May 3, accompanied by both Town and VGS personnel. Department testimony on both necessity and compensation is due on May 18 under the current proposed schedule.

VGS-Cuneo condemnation-Docket 8642- This parcel is in Williston. A settlement has been reached with the Cuneos and the Motion to Stay the Proceedings was granted by the Hearing Officer. A closing is scheduled for May 12 and, thereafter, a motion to dismiss will be submitted.

## ***Telecommunications***

VTel Broadband Data – VTel provided its broadband availability data to the Department for its wireless network. The data depicts the percentage of the land area of each of the 30K census blocks that VTel projects will have “coverage” from the network when complete. This is problematic for several reasons. First, VTel does not indicate what service will be available at “covered” locations (is it 4/1 or some slower service?), Second it does not indicate what subscriber equipment is required. Most problematic the data show 1353 partially-served census blocks with 27,695 locations (15,227 of which are not served at 4/1). While the VTel data shows the percentage of the area each census block served, it is not possible to determine which specific locations are served or unserved.

Canaan Cable Operator – It appears that a cable operator is offering service in Canaan VT without a CPG. Another cable operator, PC One had a CPG from the Board and offered service there, but stopped filing annual reports several years ago. Now a company called Fibercast appears to be operating the network without a CPG. The DPS will investigate this issue and seek to require a CPG if it is warranted.

GMP Transmission Line (Fiber Issue) - The VTA engineered a fiber construction project running from Bethel to Hancock Vermont (“Central Greens”). In Bethel the project was designed to attach to a GMP owned transmission line. GMP’s SGAT requires attaching entities to provide an engineering design and feasibility study before proceeding. This cost, plus the cost of GMP required make ready may become very expensive. The Department will not know the true cost until Ulteig and GMP finish their work in mid-June, but the make ready work could involve the replacement of multiple transmission poles. There are 94 transmission poles in two discrete segments.

In addition to make ready, there is an ongoing expense associated with transmission pole licensing. Unlike distribution poles, attachments on transmission lines are very expensive. GMP charges \$50 per pole, per year, per 0-48 strands. The fiber is 144 strand count, making likely that GMP will charge the licensee \$150 x 94 poles in attachment fees. In addition, there is a \$3000 per year, per mile maintenance fee. ECFiber appeared to be unaware that the transmission had a different price structure. The annual cost would be an estimated \$27,600. ECFiber would, as owner of the line, be responsible for pole attachment fees. ECFiber staff is reviewing the SGAT, but they are unsure whether they can sustain the ongoing cost of pole licensing.

The reason the VTA appears to have routed the fiber on this transmission line was to avoid the distribution plant along the same route. The distribution poles do not extend to the entirety of the section of Peavine Road where the fiber runs. Much of this area was flooded, and poles were removed in favor of conduit. Electric and telephone service runs separately along portions of this route and there are not many houses along this route. However, VELCO has fiber along the entirety of the transmission line. VELCO will entertain a request for dark fiber and there is an opportunity to swap fiber. The issue here will be determining interconnection points. Slack along Velco’s line is few and far between but VELCO can give us the details.

Staff met with ECFiber on Friday. ECFiber said that it plans to build out to the entirety of several communities which will include Bethel and Stockbridge. The additional infrastructure will give them some flexibility as to how they can route traffic, which may help them avoid the need to send traffic along Peavine Road and Route 100. ECFiber may also be able to move its hub in Stockbridge. ECFiber has not placed its hub location yet, but anticipates putting the hub at

the Ford dealership in Stockbridge Commons. Either way there appears to be several ways the Department can avoid attaching to the transmission line or at the very least limit the number of attachments. These include adding attachments on the distribution lines, moving the hub, or leasing/swapping VELCO owned dark fiber. Attaching to 94 transmission poles appears to be the least feasible of the options.

Connectivity Initiative Funding – An analysis by Division staff indicates that there will be \$856,373 available for Connectivity grants, of which \$556,373 is available now, and \$300,000 of which will become available on July 1 as a capital appropriation.

Comcast CPG Renewal (Docket 8301) – DPS rebuttal testimony is due on Wednesday May 11, 2016. The Department has requested that Comcast provide a one week extensions to allow for the Department and Comcast to attempt to resolve several outstanding issues prior to the submission of rebuttal testimony.

Burlington Telecom CPG Renewal (Docket 8719) – The Board has scheduled a public hearing for May 25 in Burlington City Hall. The Board also issue a prehearing memorandum and scheduling order. The Department’s first round of discovery is due in mid-June and the first round of testimony is due in mid-July. CAPI Division staff are preparing a series of questions that will be used in a scientific telephone survey that will be used as part of the Department’s community needs assessment. Telecom Division staff have provided a draft of the of the survey questions to Burlington Telecom and the AMO organizations for feedback before they are finalized.

Board Procedures Order for High Cost Fund – The Board issued a draft procedures order for implementation of the high-cost program for telecommunications carriers. The high cost fund was established to provide funding to incumbent, landline telecommunications companies that have high cost service territories through the VT universal service fund. Funding is only eligible for service territories that lack competition. The procedures order establishes relevant criteria for designation as an eligible telecommunications carrier (“ETC”) and eligibility for distributions from the fund. Those criteria include compliance with the Board 5903 service quality requirements. The draft order also establishes criteria for determining whether competition exists in an area. For a service area to be disqualified from funding due to competition, every location within an exchange must be served by two providers. Wireless telecommunications will qualify as competition under the procedures order. The Department has already heard from Comcast that it has concerns about the draft order and will file comments in opposition.

FairPoint Service Quality Metrics Investigation (Docket 8701) – The Board has scheduled public hearings for the docket to be held on May 9 in Brattleboro and May 18 in Underhill. Telecom and CAPI division staff members will attend both hearings.

Investigation into Consumer Complaints against Charter (8715) – The Board has scheduled a prehearing conference for the docket for June 2. DPS staff intend to work with the ratepayers who brought the complaint and Charter to prepare a proposed docket schedule prior to the prehearing conference.

VTel Cabot § 248a Petition (Docket 8549) – The Board requested that the Department and VTel respond to comments filed by the Town of Cabot in response to the hearing officer’s (“HO”) proposal for decision (“PFD”). The Town requested that the Board overturn the HO’s PFD and refuse to issue VTel a CPG due to a lack of evidence and on aesthetic grounds. The Department opposed the Town’s comments, in part, but did not object to several additional CPG conditions requested by the Town. VTel also filed a one page letter that briefly addressed the Town’s comments.

Verizon Waterbury § 248a Petition – Verizon filed a response to comments from the Town of Waterbury, ANR, and neighbors opposed to their application to install a new telecommunications facility in Waterbury Center. ANR and the Town remain opposed to the project and have requested that Verizon consider alternate locations for the facility. Verizon, however, appears to be committed to its proposal and prepared to litigate the docket. There have already been multiple rounds of prefiled testimony, comments, and expert reports filed in the docket, but the Board has yet to schedule a prehearing conference.

GMP/VTel § 248(n) Petition for CPG – GMP and VTel filed a petition for a CPG to operate telecommunications equipment at a GMP substation in Brandon. The equipment is already installed and operational, but GMP and VTel did not previously obtain a CPG because the equipment had only been used for GMP’s internal network. VTel would now like to use the equipment to provide broadband service to consumers. The Department filed a letter with the Board noting that the project likely qualifies as a “small facility” under the Board’s § 248(n) Procedures Order. However, the Department recommended that the Board withhold issuing a final order and CPG because GMP and VTel did not provide detailed construction drawings or spec sheets for the antennas to verify their surface area dimensions.

VUSF – The FY17 Big Bill H.875 conference committee report was agreed to by both House and Senate. H.875 Sec. C.100 includes language that retroactively amends the FY16 Big Bill Act 58, and it takes effect upon passage (i.e. FY16). The FY17 Big Bill states: 2015 Acts and Resolves No. 58 Sec. B.1117 is amended to read:

Sec. B.1117 PSAP; TRANSITION FUNDING – 2016 - Sec. B.1117 PSAP; TRANSITION FUNDING (a) In addition to the PSAP funding in Sec. B.235 of this act, in fiscal year \$425,000 of Vermont Universal Service Funds held by the fiscal agent under 30 V.S.A. chapter 88 is transferred to the E-911 Special Fund and is appropriated to the Department of Public Safety for the purposes of Sec. E.208.1 of this act.

The inclusion of this additional VUSF expenditure in FY16 is very likely to result in a (negative) VUSF balance at June 30, 2016, based on current revenue and expenditure patterns.

CoverageCo- Connectivity staff is awaiting approval of the proposed redesign of the small cell project inherited from the Vermont Telecommunications Authority. The Economic Development Administration is expected to vote this week on the proposed redesign of the project and will be notifying DPS of its decision. If approved, construction of the project will continue in newly selected locations throughout the state.

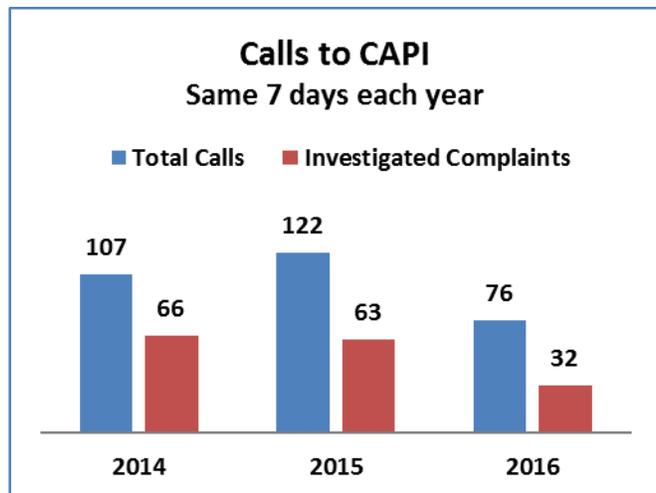
EDP- Staff met with the Director of Consumer Affairs and Public Information (CAPI) to discuss the Equipment Distribution Program, ahead of CAPI's meeting with members of the Department of Aging and Independent Living, which is the current administrator of the program, per MOU. There is some concern over the language included in the current MOU, and DPS is looking to amend the document to strengthen the language and to establish an end date.

### **CAPI**

*Report period for May 1 through May 7, 2016*

GMP -- reports that the Time of Use rate migration for CVPS legacy customers was mostly successful. For Rate Class 10s going to Rate Class 65, interval billing, the migration was unsuccessful for 659 customers. CAPI reviewed and edited the letter of apology and worked with PA for oversight. GMP fixed the software and will send correct bills for May. They will re-do the April bill and send the bills out shortly with the letter of apology advising of the service quality credit (\$25 per customer). The revised April bill will reflect the service quality credit and the correctly billed amount.

Equipment Distribution Program -- CAPI met with DAIL to discuss EDP. We toured the Adaptive Technology center and learned about the approach that their staff are taking with consumers who are seeking assistance from the program. Consumers now have the ability to borrow and try equipment out before the program purchases it. This reduces the rate of equipment returns and limits frustration too. The AT staff at DAIL are working with VCIL (vendor) and providing technical assistance. One e.g. is careful assessment of both the needs and wishes of the consumer. Particular attention is paid to instances of co-occurring conditions that may affect which equipment will best fit his or her needs. CAPI will work with DAIL to provide monitoring of VCIL. We will also evaluate the program in accordance with program guidelines this summer.



Lifeline – Economic Services has cleared the backlog of Lifeline applications. Based upon early reviews of the Lifeline Modernization Order, we are considering the need to organize a meeting with DCF and the phone companies about upcoming changes. We met with ESD/DCF and TracFone by telephone to work on their application process with Vermont.

### CASE OF THE WEEK

**Green Mountain Power** -- A consumer who is part of one of the oldest community solar arrays in Vermont called CAPI for assistance regarding net-metering credits. Her system was designed to match generation with her usage so as to avoid having to pay an electric bill each month. The consumer said that each person who is part of the community array buys panels such that the serial number from each panel is tied to a specific consumer account. The consumer owns 16 panels and whatever those panels produce is the basis for how GMP bills/credits her account each month. The consumer called GMP to request a check for credits she accrued since October

2013, but was told that because she hadn't previously requested a check she couldn't now receive one. Rather she was told that her existing credits would expire in November 2016 unless she used them up. The consumer was not aware of the one-time payout option for solar net-metered GMP customers whose credits have been accruing and would otherwise expire as of May 31, 2016. CAPI contacted GMP to investigate the situation and ask whether this is an option for the consumer.

A representative from GMP called CAPI for assistance. The representative had a customer on hold who had questions about the process for joining an existing net-metered group system. The questions were about the need to file an amended CPG for the system with the Board or simply notify the Board and/or the DPS about the additional member. CAPI shared the current Board rule 5.106 about Group System Requirements, which states that the group should have filed with the Board "and all other parties required by the application form," a process for adding and removing meters and direction to the utility as to how the utility should allocate credits accordingly.

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary, Agency of Human Services  
**Re:** AHS Weekly Report  
**Date:** May 13, 2016

---

**Secretary's Message:**

Secretary Cohen is out of the office this week and will return on Monday, May 16, 2016.

**AHS Highlights:**

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

**Vermont Psychiatric Care Hospital**

VPCH census is at 24. Staffing at the start of this week has improved with a decrease in mandated overtime for now. There are 7 Mental Health Specialist positions vacant with more than 15 interviews scheduled within the next two weeks to fill this staffing need. Training, pertinent to complex patient presentations continues at the hospital for clinical and direct care staff. This week, an attending psychiatrist is presenting a clinical case scenario of a young African American transgendered male who is in process of becoming female, has been diagnosed with Schizophrenia, and requires hospitalization following cessation of psychotropic medication. The overlapping clinical complexities of the diagnoses and treatment approach, while inpatient, will be spotlighted in this educational forum.

**Emergency Departments**

During this week there were 32 people in need of inpatient psychiatric beds and 27 were admitted. There are currently no involuntary adults waiting for placement. There is one voluntary adult and two voluntary minors waiting placement and none have waited more than 24 hours. There is one court ordered person waiting in DOC who has been waiting just over 8 hours.

One involuntary adolescent, who has complicated medical and psychiatric management needs, has been the subject of ongoing efforts to overcome admission barriers and coordinate inpatient treatment services. As of this writing, the adolescent has been accepted for voluntary treatment in an out of state treatment facility that can meet the dual treatment needs. This protracted wait period has spotlighted shortcomings in our current designated inpatient provider system for involuntary adolescents when both medical and psychiatric management are involved.

**Supreme Court Decision**

The Vermont Supreme Court, in a 3-2 decision issued its opinion in the Kuligoski vs. Brattleboro Retreat and Northeast Kingdom Human Services. This is the case involving the young mentally ill man who severely assaulted a plumber in St. Albans five years ago. The family of the victim is seeking damages from the treatment providers. The providers had sought to have the case dismissed which was appealed to the Supreme Court. This decision now throws the case back to the lower court with newly issued guidance.

Inpatient and outpatient mental health providers, as well as, some advocacy organizations have been reacting strongly to the scope of this new guidance given the potential impact for longstanding state-

level and national guidance in the provision of treatment services, “duty to warn”, required communications, and “caretaker” training. In summary, significant decision points are:

1. A duty exists regardless of whether the patient is voluntary or involuntary.
2. A duty exists regardless of whether there is an identifiable victim.
3. A duty now exists to *foreseeable* victims, regardless of whether they are identifiable.
4. However, there is no duty to warn the general public.
5. People who will live with a potentially violent patient are foreseeable victims.
6. Caretakers of a potentially violent patient are foreseeable victims.
7. In Kuligowski, the Court held that a mental health care provider has a duty to warn a potentially violent patient’s caretakers (e.g., parents), such that they could properly supervise the patient in the community.
8. By discharging the patient to a caretaker, the mental health care provider owed a duty to provide sufficient information to the caretakers so they could fully assume their caretaker responsibilities to assist the patient and protect against any harmful conduct in which the patient might engage.
9. The Court did not define the exact extent of the duty to inform or train a caretaker, which *might* include a duty to inform or train a caretaker on:
  - how to supervise a patient,
  - how to monitor and manage medications intake,
  - how to effectively recognize when medications are being avoided, and
  - how to effectively respond so that measures necessary and appropriate to protect potential victims could be implemented
10. The duty to inform foreseeable victims trumps any other law protecting patient confidentiality.
11. The duty to warn of danger is not a new legal duty, though the Court has expanded it beyond what it used to cover.
12. The duty to inform or train is new in this context, and there does not appear to be any precedent for it in cases involving mental health care providers and non-patients.

AHS Departments and their General Counsels are reviewing this decision and communicating with legal counsel of the parties involved to coordinate possible follow-up efforts. AAG’s are also closely examining this decision to determine potential implications.

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

#### **Meeting with St. Johnsbury Select Board**

On 5/9/16 Commissioner Menard met with the St. Johnsbury town manager and members of the select board to finalize the agreement to repurpose the work camp. There were very few areas left to discuss and preliminary agreement was reached on those areas. Commissioner Menard is waiting to hear next steps from the town manager. Local media has published stories that indicate the board "took a payoff" and board members are quoted as saying they are only engaging in negotiations as the State will repurpose the camp even if they say no.

#### **Population**

The Department’s incarcerated population averaged 1752 for the previous week. The Department’s incarcerated male population averaged 1618 for the previous week. The out of state population is currently at 236. The female population averaged 135 for the previous week.

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

### **Major Issues with SSMIS System**

Last Friday shortly before lunch one of our critical legacy systems went down. The system is used to track children in foster care and adoptions, as well as license the placement setting and pay the substitute care providers. A glitch caused the system to go down and service has still not been restored. Our IT staff are working closely with DII but all efforts to date have been unsuccessful. Both the Foster/Adoptive care payroll as well as the Foster Parent expense payrolls may be late. Currently, staff are implementing a temporary workaround that we hope will allow payments to go out on time.

Beyond this, the Family Services Division has not had access to critical information that helps to guide safety decision since Friday morning. Cases cannot be opened, or closed. History cannot be searched. As the days pass, our work is more and more compromised. DCF IT will continue to work with DII until the system is restored.

### **Woodside Meeting with Department of Justice and United States Attorney's Office**

On Monday, May 9, Commissioner Schatz along with General Counsel, a Family Services Division Assistant Attorney General and staff from Family Services Division, met with AUSA Nikolas Kerest and attorneys from the US DOJ Civil Rights Division. This meeting was a follow up to a meeting we had with them in February regarding DOJ concerns. These concerns include DCF's administrative placement process for youth at Woodside and the availability of alternative placement options for youth outside of secure settings. The purpose of this meeting was for DCF to share progress it was making in addressing the DOJ concerns. The steps that we are currently taking include identifying placement options as an alternative to Woodside, development of a validated screening tool used for determining appropriate placement at Woodside and reviewing and considering changes to the current due process procedures used for administrative Woodside placement. If you recall, there was also a pending Vermont Supreme Court case, *D.C. v. Schatz*, which challenged DCF's administrative admission process. This case was dismissed by the Vermont Supreme Court on grounds of mootness. Nevertheless, DCF is committed to working to improve the administrative placement process and addressing due process concerns and is scheduling a meeting with the Defender General's office to discuss next steps. We are meeting again with the AUSA and DOJ attorneys in mid to late July. DOJ has expressed that they are encouraged by our continued conversations and progress in addressing their concerns.

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

### **Mental Health – Brattleboro Retreat**

On Wednesday, DVHA leadership and behavioral health clinicians met with the Brattleboro Retreat to discuss admission denials, documentation, and inpatient rates. The Retreat is raising financial concerns due to a recent \$1.4million tax assessment as well as inpatient denials. The Retreat clearly stated that if it is not able to improve revenue flow, it will be forced to shut down the inpatient children's unit—the only one of its kind in the State.

## **Other Agency Report Items for Consideration:**

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

#### **Drug Free Community Grant**

Bennington's prevention coalition, The Alliance for Community Transformations, was awarded a new Drug Free Community grant this past September. As part of that grant, seven strategies for creating community level change were incorporated into an action plan designed to cover the first 12 months of the grant award in order to meet the goals of increased collaboration amongst community partners and prevention of youth substance use.

#### **Dental Care Program**

Vermont's Office of Oral Health was recognized by the CDC as being one of five of the 21 CDC funded states that exemplifies successful medical-dental program collaboration. The office chosen because of close work with the tobacco control program and our historic medical-dental integration conference.

#### **Smoking Cessation Training**

The tobacco control program is conducting its annual tobacco treatment specialist training in Northfield Vermont. Health providers from all across Vermont are being trained on evidence-based interventions that promote smoking cessation. Certified tobacco treatment specialists are able to build smoking cessation capacity in a variety of healthcare settings.

### **Department of Aging and Independent Living (DAIL):**

#### **Upcoming Adult Protective Services (APS) Public Forum**

The Adult Protective Services Subcommittee of the DAIL Advisory Board will hold a public comment session on Tuesday, May 24<sup>th</sup>, from 1:00 p.m. to 3:00 p.m. at the Waterbury State Office Complex. The forum is designed to solicit feedback related to experiences with Vermont's Adult Protective Service (APS) program. This feedback will help guide the subcommittee and APS as they jointly work together to improve our program. The submission of written feedback will also be an option for any interested parties.

#### **Home Delivered Meals Wait List – May 2016**

DAIL has recently been informed by CVCOA that "Just Basics", a Montpelier home delivered meals provider, has 6 individuals on a waiting list for services. The same provider also provides congregate meals on Tuesday and Friday at the Montpelier Senior Center. This is the first report we have had about a waiting list for the Meals on Wheels Program in Vermont but we anticipate that we will begin to see them happen more frequently as the need increases and resources remain static. The Nutrition Director for CVCOA, Kathy Paquette, met with "Just Basics" to discuss options to address the waiting list. Options include:

- Reduce home delivered meals from 7 days a week to 5 days a week.
- Reassess current home delivered meal recipients program eligibility to determine status for continued participation.
- Reduce congregate meal service from 2 days per week to once a week.
- Raise funds to support the home delivered meals program by offering a congregate meal for which recipients would be required to pay.
- Explore adding a fee for service home delivered meals program.

### DAIL/DCF Collaboration: Jobs for Independence Program

In 2015, Vermont was one of ten states chosen by the United States Department of Agriculture (USDA) to develop and test strategies for reducing dependency on the national Supplemental Nutrition Assistance Program (SNAP). Vermont was awarded a three-year \$8.9 million dollar grant.

The roll-out of the Jobs for Independence project is going extremely well. Almost two hundred participants have been enrolled in the project thus far. Some 90 have been assigned to the treatment group and over 73% of those individuals have shown up for their first appointment with an EAP counselor. We are currently exceeding federal targets. Counselors report that individuals enrolled thus far are facing multiple significant barriers to employment. Almost 70% of participants are homeless *and* have a past history with the Department of Corrections, current substance abuse issues and current mental health issues. Despite these barriers, many of these participants report excitement about the program and counselors are confident that we can help many of these individuals make significant progress in their lives.

Staff are currently reaching out to community service providers, especially in the areas of housing, mental health and substance abuse treatment to strategize ways to best integrate service delivery to these participants. Meetings with JFI project staff and these service providers will be planned in each area of the state.

### Employment Consultants and Substance Use Recovery Centers Pilot

The Vermont Division of Vocational Rehabilitation has announced a new pilot to embed Employment Consultant capacity in three recovery centers in Vermont. The Turning Point Center of Chittenden County, the Turning Point of Windham County and the Turning Point Recovery Center in Springfield will each receive grant funds to house their respective Employment Consultants.

The pilot will offer customers of the recovery centers dedicated employment services to help prepare them to enter, or re-enter the workforce. As part of the broader Creative Workforce Solutions initiative, these Employment Consultants will join their local CWS Employment teams to build relationships with employers in the community. The Employment Consultant will act as a liaison to businesses, and will support workplace activities such as job shadows, work experiences and On-the-Job training.

### Green Mountain Self Advocates: Voices and Choices Conference

The DAIL Commissioner and Developmental Services Division Director spoke at the GMSA Voices and Choices Conference this week. The conference was extremely well-attended with over 600 individuals registered and focused on strategies and supports to become advocates in their own lives or on supporting others to self-advocate effectively. It was a positive and extremely successful event; this year's theme was specific to employment and the need for individuals with disabilities to capitalize on opportunities to have jobs and, more importantly, careers.

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

#### Sentence Comps, Conflicting Court Opinions

On 6/24/15, the Superior Court in Bennington ruled in *Serre v. Pallito* that the plaintiff was entitled to credit toward a later-imposed sentence for time he served in connection with a previously-imposed sentence because the sentencing court ordered that he serve later-imposed sentence concurrently with the previously-imposed sentence. This required the DOC to immediately release Serre from incarceration. On 6/9/16, the Superior Court in Montpelier in *Fleming-Pancione v. Menard* rejected

the reasoning of the Serre decision and concluded that the plaintiff with a sentence structure similar to Serre, was not entitled to credit toward his later-imposed sentence for time he served on the previously-imposed sentence prior to the imposition of the second sentence.

After the court issued the Serre decision, the DOC began to review the sentence calculations for offenders with sentence structures similar to Serre. The DOC has reviewed approximately 2,500 sentence calculations and, as a result, approximately two dozen offenders have been release from incarceration and/or supervision by DOC as a result of the application of the Serre decision. Given the conflicting court rulings, the DOC is analyzing the decisions to determine which it should apply to future sentence calculations.

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

#### **Harbor Place Receives National Recognition/Award**

Harbor Place, supported transitional housing in Shelburne Vermont, was founded by Champlain Housing Trust in collaboration with the Department for Children and Families. On May 3<sup>rd</sup>, 2016 Champlain Housing Trust and DCF received Community Partnership Merit Finalist awards from the Mutual of America Foundation. The Mutual of America Community Partnership Award annually honors the outstanding contributions that non-profit organizations in partnership with public, private and other social sector organizations make to society. Harbor Place was selected as one of ten projects from hundreds nationwide to receive this award.

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

#### **Blueprint**

On Monday, the Blueprint held a combined field team meeting, including all Blueprint and ACO field staff, to provide updates on the latest reform activities and create space for peer learning and professional development. It featured presentations from Vicki Loner of OneCare and from Michael Costa, AOA.

The Journal of Substance Abuse Treatment has accepted an article by the Blueprint, about the results of Vermont's Hub & Spoke system of Medication Assisted Treatment for opioid addiction. The article will be published in the print journal and online, and the Blueprint will purchase open access rights so the findings can be shared with stakeholders around the state.

The Blueprint continues to design and plan a Women's Health Initiative aimed at increasing the use of LARC (long acting contraception) and decreasing unplanned pregnancy.

Progress continues on the Blueprint Clinical Registry migration – the first data extract will happen shortly. Blueprint report production and dissemination continues uninterrupted, with Medical Homes receiving new data profiles (with information about patient health status, resource utilization, and care outcomes) this week and Health Service Areas expecting community-level reports next month.

The meeting was productive with strong takeaways regarding improvement of the Retreat's internal documentation processes and internal and external communication. The Retreat is fully aware that medical necessity/clinical criteria must be present to warrant the inpatient level of care. DVHA and DMH will continue to work with the Retreat on this. Though not discussed with the Retreat, DVHA and DMH will also work to build a contingency plan with out of state hospitals that would be able to and willing to accept any voluntary child patients.

### Drug Addiction Treatment – VTDigger Article

DVHA Chief Medical Officer Tom Simpatico, together with Barbara Cimaglio, Deputy Commission of VDH, authored a commentary published on May 5 in VT Digger entitled “The State’s Model for the Treatment of Drug Addiction.” The commentary disputes an April 26 article alleging that the State has decreased support for psychosocial treatment in favor of medication-assisted treatment. The commentary explains Vermont’s individualized approach to Opioid addiction treatment, including medication, counseling, and social support.

### Vermont Health Connect

*Legacy Medicaid Renewals:* The second group of Legacy Medicaid Renewals (LMR) will close on May 31 and the third group will close on June 30. Of the 26,300 LMR households, approximately 56% have responded. An additional 5% are returned mail without a forwarding address. That leaves 39% for which VHC is awaiting response. Of those who have responded, been entered into the VHC system, and received a determination, 86.4% of the households have a member who is eligible for Medicaid. Most of the rest qualify for subsidies to buy a qualified health plan (QHP).

*VHC Medicaid Renewals:* The second batch of 9,000 VHC Medicaid Renewal (VMR) notices will be mailed this week. Metrics for VHC Medicaid Renewals will be finalized later in May. The SOV/Optum M&O “surge” team is also expanding work to test and generate a passive file to automatically renew households who have SSN, MAGI, Citizenship & Immigration verified. This work will be a combination of verification defect fixes and testing.

*Tier 3 Call Center:* VHC is establishing a Tier 3 Call Center to increase first call resolution for the most complex VHC cases. Staff will be trained as “super users” to be able to grant exceptions and resolve premium processing/enrollment issues from first contact. Tier 3 interviews will take place this week, and hiring will be complete and training will start May 18. The call center is expected to be operational by mid-June.



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

**CONFIDENTIAL AND PRIVILEGED**  
**MEMORANDUM**

TO: Governor Peter Shumlin *PS*  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: May 13, 2016

---

**Emerging Issues**

***Windham Southeast Supervisory Union – Vernon***

Attached is a letter that I wrote in response to an inquiry from the chair of the Vernon School Board regarding Vernon's membership on the Unified Union School District Study committee. I advised that the Vernon School Board has no legal authority to withdraw the Vernon School District, or the District's statutorily appointed members, from the Windham Southeast SU Study Committee.

If the Study Committee ultimately decides to recommend formation of a union school district, then it may choose to name the Vernon School District either as a "necessary district" or as an "advisable district" pursuant to 16 V.S.A. § 706b, even if Vernon's appointees choose not to continue to participate. Pursuant to statute, a study committee discontinues its work and ceases to exist in only one of two ways: 1) If a study committee decides to prepare proposed articles of agreement, then it ceases to exist when the clerk of each voting district has certified the vote of the electorate to the Secretary of Education or 2) if a study committee decides that it is inadvisable to form a union school district, then the committee's work is at an end.

My hope is that the duly appointed Vernon members will choose to continue to participate in future meetings of the Study Committee until the work of the Committee is completed.

***Driver Education/More cleaning up of unfortunate past practices***

Under statute, driver education is a free public school entitlement (16 V.S.A. § 1045). The entitlement must be arranged by the superintendent of schools for each school district, within his or her jurisdiction and there is no statutory authority for a state approved driver education program to be directly coordinated and provided by an independent school. The superintendent must ensure that driver education is available in each public school and any independent school that requests to offer such a program. In addition, no program—whether at a public or private school—is allowed to charge resident students for driver education to resident students, whether during the regular school year, or during the summer months when school is out. And, despite a Vermont Supreme Court case relating to public dollars to sectarian schools, we apparently have been giving MSJ dollars to run a driver education program. In sum, we have to send about 11 programs, both public and private, letters telling them we are suspending our approval because the AOE was in error and in violation of

statute when it approved their programs. Superintendents won't be happy, and neither will independent schools. We will of course allow for a transition period, so as to not adversely impact students and also to work on a legislative fix next session that would extend this entitlement to allow independent schools to provide driver education free of charge to publicly funded students, parallel with the private schools.

### *PreK*

We are getting a lot of media questions about Act 166 and a lot of attention from the State Board around whether Act 166 is leading to inequity. I have asked Ken Schatz and Reeva Murphy for a meeting to coordinate our efforts and response.

### *State Board Rules for approval of Independent Schools*

We had a productive first meeting with representatives of the Council of Independent Schools and the Vermont Independent Schools Association about the review and revision of rules for approval of independent schools that the State Board has requested. The Board asked the AOE to revise the rules to ensure 1) greater fiscal accountability (e.g. evidence of solvency), 2) review by an accreditation entity (e.g. NEASC) to ensure some minimum level of quality in schools that are essentially funded by public dollars, 3) open enrollment, to ensure that schools that depend on publicly funded students are not discriminating in admissions, and 4) reporting of discipline data, to ensure that private schools are not discriminating in discipline.

We think requiring NEASC approval would address the first two concerns. The third may be a sticking point, as some of the programs in Vermont, including some that are 90% publicly funded regular education schools, are selective. With respect to the discipline data, we understand the board intent, but think this would be a real challenge for us to administer, and would not actually be that useful for the purposes the Board wants to pursue.

Mark Tashjian, as the representative of the CIS, understands that our state level commitment is to ensuring that we have a stable education system which provides every child with access to a high quality, inclusive school. I think there are weak public schools and weak private schools, and strong public schools and strong private schools. Our approach is not to care about sector, but to care about ensuring quality regardless of sector. We communicated that we appreciate the reality that every school does not fit every child; in particular, some children with unusual or intense needs may need specialized placements that cannot be found in most public and private schools. And, we acknowledged that some independent schools (like the ski academies) are unique and may have a specialized role in our Vermont landscape that is unique and thus deserve some special consideration.

In the current context of declining enrollments, fiscal stress is a genuine concern across both sectors; public and private. Fiscal stress hurts children, regardless of sector. We are hoping the Board will arrive at a process that serves its compelling interest in the fiscal health of the schools that serve our publicly funded students, while also accommodating the CIS concerns around proprietary information.

I think we can manage this conversation productively with Mark Tashjian/CIS. We will not be able to have a productive conversation with Mill Moore/The Vermont Independent Schools Association, not least of all because Mill disagrees with himself on a regular basis, so is impossible to please. Mill is also working hard to link Act 46 to rules review, and to paint his schools as victims of state oppression, despite the fact they are overwhelmingly funded by the state. We are going to focus on

Mark Tashjian and the CIS, as those are reasonable and productive conversations, and working with Mark will ensure that the solution acknowledges the role that our stronger, higher caliber independent schools play in educating our publicly funded students.

***Fun fact:***

At the Mill River Unified Union School District (an Act 46 motivated merger) I learned that unification will save them about \$443,000 off a \$17 million budget in their first year, with no changes in programs. They were surprised. Both Act 46 mergers that actually consolidated operations on the shorter timeline have yielded savings with no budget changes. Both also included tuitioning towns that found that they could basically satisfy all the school choices their students had previously exercised, with a few exceptions, within the bigger unified district and public school choice. In other words, in some regions, giving up tuitioning is not really giving up choice.

**Meetings**

Friday May 13: Jeb Spaulding and Scott Giles about college access and possible collaboration.

Thursday, May 12: Mill River Unified Union School District Organizational Meeting (Act 46 merger).

Wednesday May 11: Keynote at the Transition to Careers Conference.

Tuesday May 10: Opened the Summit of the Education Quality Review conference, which brought together educators, representatives of our congressional delegations, a few state legislators, and community stakeholders who helped plan the process, to review pilot implementation and review and recommend improvements for the roll out in the fall. Present also were several teams from other states and representatives from CCSSO to observe.

Tuesday May 10: Representatives of the Council on Independent Schools and Vermont Independent Schools Association to discuss proposed revisions to the State Board's rules for review and approval of independent schools.

Monday May 11: Met with the Deputy Minister of Education from Tbilisi, Georgia, who happened to be in Vermont.

**Media Contacts:**

**Lauren Maloney, Fox 44:** Lauren asked if anyone at the AOE knew of a teacher who had a unique approach to talking about the presidential election this year for the network's Sunday political show "What Matters this Week." She wanted to find someone who had to address the more outlandish comments by the candidates, and someone who may have found the best way to talk to kids about this. This email was forwarded to Sigrid Olson, who put out a call on social media. We were unable to find a teacher to recommend to Lauren.

**Anna Ste. Marie, VPR:** Anna called to schedule someone to come onto Vermont Edition to talk about Act 166 and universal Pre-K. She wanted to know how this is being rolled out, if schools will feel the impact, etc. Melissa Riegel-Garrett went on VPR on Tuesday at noon.

**Tiffany Pache, VT Digger:** Tiffany emailed Stephanie to get the latest count on school mergers. She asked for the number of approved boards and the number of successful votes. Stephanie sent her our “Narrative for the Public” written by Donna and an article about Orwell setting a date for a reconsideration vote. Tiffany said that information only told her about the study committees, and asked again for the number of unification plans and the number of voters who approved the plans. Stephanie then broke down Donna’s narrative into an even simpler, color-coordinated format for Tiffany.

**Heather Vogell, ProPublica:** Heather emailed Jill Remick, who forwarded the email to Robert, with questions for all state education departments about each state’s alternative schools/programs. She had specific questions about accountability (test scores, graduation rates, policy changes), funding (enrollment counts, funding for transfer students), enrollment counts (accountability and funding data separate from schools), report cards (standards for grading), instructional requirements (rules on the minimum number of instruction hours, student teacher ratios), and diplomas (do graduates of alternative programs receive diplomas?). She was referred to Deputy Secretary Bouchey. She will respond by the end of the day Friday, one week before Heather’s deadline.

**Tiffany Pache, VTDigger:** Tiffany emailed Stephanie to find out who the best person is to talk to about the criteria behind each star level for pre-K. I forwarded the email to Melissa Riegel-Garrett, who recommended Tiffany reach out to AHS/DCF/CDD. While the AOE uses this quality rating and improvement system as our benchmark for quality Pre-K, CDD actually administers the program. I passed along contact information for Reeva Murphy at CDD.

**Gaen Murphree, Addison Independent:** Gaen emailed Donna to ask for her official title and a description of her role. He also asked if she is still a legal counsel on the Legislative Counsel. Donna provided him with a description of what she does for the Agency and referred him to Brad James for any questions that involve detailed financial analysis.

**Alyson Klein, Education Week:** Alyson emailed Amy Fowler to thank her for her help last week with the ESSA questions. She reached out to Amy again to ask about school inspections for a long-term story idea. Alyson wanted to know if Vermont is experimenting with school inspections, and how interesting it might be for a story in the next year. Amy told her that we are involved in a process called Integrated Field Reviews (IFRs). We took some ideas from the Inspectorate Model and then “Vermont-ified it.” Alyson is interested in learning more about the pilot programs the Agency is doing and would like to set up a time to visit Vermont to write about the work.

**Howard Weiss-Tisman, VPR:** Howard released a story on Wednesday titled “School Districts Can’t Leave Act 46 Study Committees, Ed. Secretary Says.” Donna offered to respond to his article because he did not provide any of the legal or practical justification for the Secretary’s decision, nor did he mention that it is based on laws that have been in place for 50 years and not in Act 46. Stephanie passed along Howard’s contact information and Donna called him.

**Rep. Cindy Weed, Vermont Legislator:** Rep. Weed emailed Monica Ogelby at the Department of Health to ask about services for children who are homeschooled. One of her constituents has a child with autism who is homeschooled, as there are some concerns on the part of the family that the school is not providing the services that may be deemed necessary to optimize the child’s learning. Monica forwarded the question on to Alicia Hanrahan to see if she could respond to Rep. Weed’s questions. Stephanie and Robert gave the OK as Alicia is the subject matter expert on home schooling.

**Zach Despart, Burlington Free Press:** Zach emailed to inquire whether the AOE sent a letter to the Burlington School District about the district's announcement to merge the high school and tech center into one entity. He also asked for a copy of it. We will send it to him.

**Lola Duffort, Rutland Herald:** Lola emailed Haley Dover and Melissa Riegel-Garrett (who is on vacation) to see if someone could comment on a report from the National Institute for Early Education Research about the number of children enrolled in early education in Vermont. Because Melissa is out, I forwarded the request to Kate Rogers.

**Jack Thurston, NECN:** Jack wanted an on-camera interview with Rebecca about the Obama Administration's order on bathroom use by transgender students. He interviewed Rebecca on Friday afternoon.

**Tiffany Pache, VTDigger:** Tiffany requested the application for The Edge Gym to be a 4-STAR program.

May 10, 2016

Windham Southeast Supervisory Union  
Unified Union School District Study Committee  
Alice Laughlin, Chair  
53 Green Street  
Brattleboro, VT 05301

**RE: Vernon Membership on Unified Union School District Study Committee**

Dear Ms. Laughlin:

In response to your inquiry, the Vernon School Board has no legal authority to withdraw the Vernon School District, or the District's statutorily appointed members, from the Windham Southeast SU Study Committee. The Vernon School Board's recent vote neither dissolves the Study Committee nor affects the nature of its work. If the Study Committee ultimately decides to recommend formation of a union school district, then it may choose to name the Vernon School District either as a "necessary district" or as an "advisable district" pursuant to 16 V.S.A. § 706b, even if Vernon's appointees choose not to continue to participate.

All voluntary mergers within the Act 46 framework are governed by processes established in statute nearly 50 years ago and that remain unchanged by Act 46. Nothing in existing law authorizes or contemplates withdrawal of an individual district once it has become a formal member of a § 706 study committee and the district's representative members have been appointed. In fact, if a school board had this authority, then even if a district joined a study committee upon petition of 5% of the voters (because the school board initially voted against participation), nothing would prevent the school board from subsequently subverting the voters' petition by later voting to withdraw the district from the study committee.

Pursuant to statute, a study committee discontinues its work and ceases to exist in only one of two ways: If a study committee decides to prepare proposed articles of agreement, then it ceases to exist when the clerk of each voting district has certified the vote of the electorate to the Secretary of Education. 16 VSA § 706b(a). Alternatively, if a study committee decides that it is inadvisable to form a union school district, then the committee's work is at an end. 16 VSA § 706b(b).

A study committee's composition is unaffected by any action of a school board regarding the district's membership and participation. Appointed members do not report to the school board. Rather, when a study committee's work is complete, the committee presents its findings and report to my office. If the report recommends formation of a union school district, then a vote to approve or disapprove the proposal is taken first by the State Board of Education and then by the districts' voters. In contrast, the only authority statutorily granted to a school board in connection with the study committee's work is to "review and comment" upon the proposal before it is sent to my office.

Because a school board has no authority to withdraw a district from a study committee that the district has formally joined, then nothing prohibits the study committee from naming the district as a "necessary district" or an "advisable district." In addition, a study committee can contact a district that is *not* a formal member of the study committee if the committee believes the district "may be advisable to include within a new union school district" and can name that district as "advisable" in its proposed articles of agreement. 16 VSA § 706b(b) and § 706b(b)(1)-(2).

My hope is that the duly appointed Vernon members will choose to continue to participate in future meetings of the Study Committee until the work of the Committee is completed. Pursuant to statute, the Study Committee must determine whether the formation of a union school district is advisable and, if so, prepare a report and proposed articles of agreement identifying all necessary and any advisable districts.

Best,

A handwritten signature in black ink, appearing to read 'RH', written over a circular stamp or mark.

Rebecca Holcombe  
Secretary of Education

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Chris Cole**  
**DATE: Friday, May 13, 2016**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**NEKI Airport**

Trini Brassard, VTrans Deputy Director for Policy, Planning and Intermodal Development, is negotiating with Receiver Goldberg to allow them to terminate the QResorts FBO agreement and land lease with the State of Vermont early in exchange for VTrans assuming responsibility for paying for the upgrades of the fuel farm (we have received commitment from the FAA that they will cover 90% of the costs), writing the safety plan for submission to the FAA for the Porsche Rally, cease construction on the airfield for the 3-day event and provide safety staff for the event. In exchange for these considerations, which we will monetize for the Receiver, the State will take ownership of the hangar that QResorts constructed at the airport plus an amount of money to make up the difference; approximately \$75,000 is being discussed. The court will have to approve of this transaction but if we can get agreement, it would be good for the investors and would be good for the State of Vermont.

**Middlebury Tunnel**

Trini is also negotiating an agreement between Vermont Rail Systems and New England Central Railroad to allow VRS to have trackage rights on NECR. This would allow us to shut down the rail line for the Middlebury Tunnel construction project and dramatically accelerate the schedule which should eliminate any discomfort from the business community which still lingers in a very small group. NECR is being difficult but is continuing to negotiate.

**Fair Haven Rest Area Solar Project**

The 75kw solar net metering project at the Fair Haven Rest Area has been completed and we would like to have a ribbon cutting ceremony with you, David Blittersdorf and other renewable energy folks. We will work with Shana to find some time on your schedule.

### **Transportation Climate Initiative**

I'm heading to NYC for a meeting on Monday to continue the conversation with the other leadership states, NY, RI, DE and CT, on establishing a regional market-based approach to managing carbon similar to RGGI. MA, MD and NH are also attending these meetings to make the decision whether they want to participate in the policy that develops. There will be a retreat this summer in NY and work will conclude this fall for 2016, setting the stage for policy engagement in 2017 after the 2016 gubernatorial elections in our region.

### **NOTES FOR STAFF**

#### **Legislature**

We are working on final bill reviews and a location for the TBill signing event. We think the large culvert project in Ryegate would make for a spectacular visual setting; this really is a massive project. Or closer to home, the emergency bridge project in Duxbury on Route 100 would also be an option that highlights the continual need to upgrade our structures.

#### **Milton Hourglass Intersection, VT 7**

VTrans staff met with Milton Town staff to review the ROW, schedule, permitting (Section 1111) and Municipal agreement required to advance this project, which is currently scheduled to go to construction in 2019. The Town may be receiving the bulk of the municipal and state ROW required for the project as a gift; this could cut down on the ROW processing time. Ernie Pomerleau would potentially like to have the municipal intersection, which will be created by this project, link into his development project. An internal meeting to discuss this has been scheduled; the Town staff are reaching out to Pomerleau to discuss a meeting with the 3 parties.

#### **Champlain Parkway**

VTrans staff continue to attend the monthly coordination meetings with the City and their project consultant. All ROW is advancing – the three properties which are currently the most challenging, Allen Lumber, VRS and Havey, are receiving special attention by the team. Other items which are continuing to receive focus include the soils management plan, the design and permitting updates for the Home and Flynn Avenue crossings, and a keen focus on the project schedule.

#### **Railyard Enterprise Project**

VTrans and City staff will be meeting in June or July to talk about next steps in potentially advancing the project as a non-federal effort between the state and the city. VTrans is recommending this option to the City because continued use of federal funds creates a great deal of uncertainty whether the project can be permitted under the federal process and what alternative FHWA will select which could include the demolition of existing Burlington businesses to protect resources. Scheduling for the meeting is under development; the City will have a list of questions.

### **State Infrastructure Bank (SIB)**

VTrans staff reviewed materials sent by VEDA by a representative for the developer of a proposed Shelburne project; several components of the project might be eligible. She reported the same back to the SIB administrator at VEDA with caveats that much more detailed information would be required before any final eligibility determination. Also noted that the SIB guidelines require any necessary permits be in place prior to a loan approval, and funding could only cover eligible construction costs incurred after any loan approval and commitment is completed. In the event a loan is approved, VTrans would need to determine an oversight process for review of work and approval of related invoices before VEDA processed drawdowns for SIB funded components.

### **Shelburne Street Rotary**

VTrans staff continue to meet monthly with City staff to organize communications and project advancement; the next meeting is June 1<sup>st</sup>.

- Stantec is still working on both the Traffic Management Plan development and the Utility Relocation Plan.
- We're aiming to have a coordination meeting with all of the utility companies (including the private ones) the week of June 6<sup>th</sup>.
- We're about three weeks behind compared to the original schedule.
- We are working with the City to nail down a date and time for a public presentation. We had it tentatively scheduled to present in front of the Public Works Commission on May 18<sup>th</sup>, but the chair of that commission apparently got cold feet and felt that any presentation on the roundabout would monopolize their agenda. They subsequently asked us to reschedule to a later commission meeting or to hold a separate presentation on its own on a different night. DPW would prefer the standalone presentation. Work in progress – hoping to have a date and time to announce at our June 1<sup>st</sup> meeting.

### **Williston Park & Ride**

Working with Act 250 staff to finalize the permit, specifically the VTrans permit condition related to installation of the sidewalk connecting the Park & Ride to the eastern side of the Exit 12 interchange.

### **Rail**

USDOT Secretary Foxx, FRA Administrator Fienberg, Congressman Welch, Senator Leahy, and David Weinstein from Senator Sanders office, Mayor Weinberger, and VTrans Secretary Cole held a press event on May 6 at Union station in Burlington to accept the TIGER VII grant for rail improvements along the Western Corridor.

1 National Life Drive  
Davis 2  
Montpelier, VT 05620-3901

Tel: (802) 828-1294  
Fax: (802) 828-1250

[www.anr.vermont.gov](http://www.anr.vermont.gov)



Deborah L. Markowitz  
Agency Secretary

Trey Martin  
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:** May 13, 2016  
**Subject:** ANR Weekly Report

---

**Governor Level Issues:**

**PFOA Updates- N. Bennington, Bennington, Pownal:** Over fifty private drinking water samples were collected this week in both North Bennington and in Bennington, south of the landfill. Bottled water deliveries and point-of-entry treatments systems have been arranged for private wells with detections of PFOA over twenty parts per trillion. DEC continued to push the consultant for APU (potential responsible party) in Pownal to move quickly on the design and permit application for the activated carbon treatment system proposed for the Fire District well #2 supply as a short-term water solution. The VDH blood draw clinic last week was successful with over 200 samples collected. The VDH has extended these clinics to allow for residents south of the landfill to participate.

**PFOA Municipal Water Sampling:** Newport City and South Burlington Fire District 1 sampled their drinking water supplies voluntarily. Both came back clean for PFOA.

**Untreated Sewage Alert System Goes Live:** A new one-hour public alert system for untreated sewage releases was created and went live. This system will better inform and protect the public when recreating in or on Vermont's surface waters.

---

**EVERYTHING ELSE:**

**Press Issues/Releases:**

**Valley News- Enforcement at Construction Site:** DEC staff discussed an enforcement matter related to the construction of the state police barracks in Westminster with a reporter from the Valley News. The Notice of Alleged Violation and the comments filed by the Town of Westminster on a draft stormwater permit were provided to the reporter.

**F&W Releases: Keep an Eye out for Turtles:** Turtle nesting activity peaks from late May through June. At this time of year, drivers are urged to keep an eye out for turtles in the road, especially when driving near ponds and wetlands. **Respect and Enjoy Young Wildlife from a Distance:** Picking up young wildlife can do more harm than good. It's also against the law.

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

**Shelburne v. Vermont Rail:** ANR staff testified in the Town of Shelburne v. Vermont Rail case in federal court on May 5. Testimony from DEC was generally limited to the extent to which issuance of a construction stormwater permit addresses impacts to wildlife and habitat. FWD staff provided testimony on the importance of the LaPlatte River Marshes in Shelburne and the concerns about the potential irrevocable negative impacts of the Vermont Railway project on natural communities, wildlife habitat, and the LaPlatte River.

**Onsite Wastewater Program Fully Launches Online Application:** The new application process using ANR Online is fully launched, after a piloting the site over the last few weeks. The former eDEC electronic application process and former PDF form for filing a paper application was taken down from our website May 11. The transition has been smooth. Of the 350+ designers DEC works with, only ten have requested a waiver from using the online system.

---

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of Planning and Policy (OPP)**

#### **Vermont Gas ANGP – New Haven mitigation parcels**

Vermont Gas Systems is required by their CPG to obtain a number of mitigation parcels to offset project impacts to significant natural communities. They have one mitigation requirement yet to fulfill and they have proposed a range of options to ANR/DFW in recent weeks. Unfortunately, none of the packages VGS has proposed are acceptable to the Agency. DFW legal staff sent a letter to VGS this week articulating specifically which mitigation packages would be acceptable to the Agency to satisfy the terms of the MOU. Given VGS's inability to fully deliver on past mitigation parcel commitments, it was important for the Agency to communicate clearly and in writing our expectations in this case. VGS has yet to respond.

#### **Aegis Solar – Fontaine project**

Aegis Solar has been working to develop a 500kw net metered solar facility in a gravel pit on the Fontaine property in Williston. The gravel extraction operation required an Act 250 permit and that permit requires that the extraction area be reclaimed and restored to deer wintering habitat

before other uses of the property can go forward. Aegis is not proposing to restore the property as part of the project. DFW and OPP staff have been negotiating with Aegis for months and ANR sent them a final offer this week, which would require Aegis to secure the permanent conservation all existing and former DWA on the Fontaine property in exchange for ANR's support to amend the existing Act 250 permit to allow for the solar project to proceed prior to full restoration of the site. The proposal would result in the long term conservation of some of the most valuable deer wintering area in Williston and allow the solar project, but no other commercial or residential use in the future.

### **New Applications**

Week of May 2<sup>nd</sup>, OPP received 3 new Act 250 applications and 3 new Section 248 petitions.

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

**PFOA Air Modeling (North Bennington):** An air quality modeling consultant contacted DEC regarding the availability of any meteorological datasets we may have already developed for North Bennington, for use in some modeling of PFOA that they may be doing on behalf of Saint-Gobain. We cautioned them that any such modeling attempting to estimate PFOA concentrations or deposition would be for "informational purposes" only as the exact emission rate from each of the more than a dozen stacks is not known, and would likely have varied hour to hour and year to year along with stack temperatures and flow rates. Deposition rates are also unknown and likely would have varied greatly with weather conditions. Such modeling could give an indication of potential deposition patterns but would be limited in overall accuracy.

**Burlington Airport Jet Fuel Release:** On May 4, DEC was informed by Burlington International Airport of a release of 150 gallons of jet fuel during fueling earlier that week. The leaked jet fuel migrated to collection trenches and a pump station designed to pump stormwater containing de-icing fluids (propylene glycol) to subsurface infiltration trenches. Response actions were implemented immediately by airport staff to secure the area and included blocking off the collection trenches and catch basins, and shutting down the pump station. Airport staff are confident no fuel reached the infiltration field. The remedial company, Environmental Products and Services (EPS), worked closely with the airport maintenance staff to vacuum out the trench drains and catch basins and established several booms to soak up the product. DEC is following up with the airport to review fueling practices to eliminate risk of a future release and is requiring groundwater sampling and analysis for petroleum hydrocarbons from groundwater monitoring wells in the vicinity of the infiltration field.

**Auto-Dialing Small Water Systems:** DEC performed reminder calls on requirements to seasonal water systems via auto-dialer. Approximately 220 calls were made. We received positive feedback from water operators, who thanked us for the reminders.

**E-Waste Contract:** Vermont's electronic waste recycling contract was finalized this week, ahead of schedule. The contract was issued to National Center for Electronics Recycling, who was the previous contractor. This contract provides for a transparent payment system for collectors, that will be managed as funds passed through the contractor to the collectors.

Positive feedback has been received from collectors (many are districts and municipalities) for responding the payment issue and finalizing a contract in the expedited fashion.

**E-Waste Manufacturer Opt Out Plan:** An application was received from Good Point Recycling (GPR) on behalf of several manufacturers for an independent program to collect and recycle electronic waste. The application was exactly the same document that submitted two years, which had several deficiencies that had to be addressed before it could be approved. A deficiency letter was sent this week to GPR and the manufacturers that outlined the deficiencies that must be addressed for the application to move forward.

**Clean Water Initiative Program Outreach:** Clean water outreach, focused on the Vermont Clean Water Act and Lake Champlain TMDL implementation, continues across the state. In partnership with the Vermont League of Cities and Towns and the Regional Planning Commissions, this fiscal year we have held 224 outreach events, reaching approximately 4,400 individuals, providing 445 hours of education/instruction, including 145 targeted municipalities and regional planning commissions.

**BGS Public Safety Facility (Westminster):** The Stormwater Program received public comments from the Town of Westminster on an amended stormwater permit application for the State of Vermont, BGS Public Safety Facility project. The program has prioritized resolving any issues and is currently working on addressing the Town's comments. A separate but related Notice of Alleged Violation was issued to multiple parties for earth work and uncontrolled sediment discharges to waters that occurred on the adjacent Town-owned property. DEC has been in communication with BGS about these issues and we are on the same page regarding the resolution.

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

**Fishing Activity:** Fishing pressure has continued to be steady statewide. Water temps on most bodies of water remain low and are holding back the bite in some areas. However, in some of the warmer water bodies anglers are reporting large catches. FWD wardens reported checking many compliant anglers statewide, but there were still a number of violations included interfering with the lawful taking of fish, license issues, report of dip-netting for trout, access area issues, closed season and closed waters as well as failure to tend lines. The wardens are still busy with the spring fish stocking activity around the state.

**Turkey Season:** Turkey hunting in full swing statewide since its opening on May 1. There have been many nice birds showing up around the state. Wardens are encountering only minor violations, including landowner/hunter issues and after-hours hunting. However, there is always a bad apple in the bunch and one hunter was apprehended this week with two untagged birds.

**Forest Management for Northern Long-Eared Bat:** Staff met with the Green Mountain and Finger Lakes National Forest to discuss northern long-eared bat forest management on their lands. FWD recommendations to conduct acoustic monitoring before planned summer harvests were well-received overall and we will help train the staff in conducting these surveys. The

Forest Service will be allowing 80 acres of tree clearing for the Deerfield Wind Project starting July 1 where *Myotis* calls have been detected in pre-construction surveys. We advised that this is likely to adversely affect the species during their maternity season and recommended tree clearing after September 30.

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

**Land Transactions:** The winning bidders for the purchase of the Lafreniere sale parcel have signed the purchase and sales agreement for this property and it has been forwarded to the Commissioner of Buildings and General Services for signature. We are hopeful that we can close on this transaction within a couple of months. The request for Governor's approval to acquire the Muckross property has been forwarded to the Governor's office. We hope to close on this donation sometime in June. Work continues on the Davidson donation, Bean Pond acquisition, multiple Forest Legacy easement projects, transfer of Woodchuck Mountain property to the Town of Newbury, transfer of Hospital Block lands of Camel's Hump State Park in Duxbury to the Town of Duxbury, sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation, and other projects.



**State of Vermont**  
**Agency of Administration**  
**Office of the Secretary**  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.adm.state.vt.us](http://www.adm.state.vt.us)

[phone] 802-828-3322  
[fax] 802-828-3320

*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Justin Johnson**

**DATE: May 13, 2016**

**SUBJECT: Confidential Report to the Governor**

---

**BUILDINGS AND GENERAL RESOURCES**

Decommissioning of VIT Sites: Inventory lists sent to surplus property. The Big Bill language recognized JUD as a potential user so we are working with them on possible needs. Trying to get Surplus Property in the lead and we will be a support function to them. Inventory is located in 2 storage areas that we need to clean out.

**Significant Meetings/Events:**

Security meeting with VSEA: Discussed what the \$500,000.00 appropriated and the \$1,000,000.00 in the Capital Bill should purchase.

Air Quality Results Meeting with Commissioner Ide: Discussed Bennington DMV Office CO2 levels in waiting room and actions which can be taken to lower them. Also, talked about a new location for DMV Office.

Internal Service Funds meeting with Commissioner Pallito: Discussed BGS plan for stopping the bleeding and stabilizing the funds.

**FINANCE AND MANAGEMENT**

Nothing new to report.

**HEALTH CARE REFORM**

Nothing new to report.

## **HUMAN RESOURCES**

### **Legislative/Policy Update:**

We are reviewing the Big Bill. No major issues. Will need clarification on the report DHR is required to do regarding the policies in place to address a nonpublic safety employee's death in the line of duty.

The Department is reviewing and beginning to implement (if necessary) a number of bills from Paid Sick Leave to a bill that bans e-cigarettes in the workplace.

### **Press Inquiries:**

The Burlington Free Press inquired about the State's contract with its lead collective bargaining negotiator for his work regarding negotiations with the VTA. It is similar to a request made by the VSEA the same day.

## **INFORMATION AND INNOVATION**

### **Evolving Issues:**

#### **Web Updates:**

- A meeting of the Web Portal Board to discuss the contract extension and amendment was held on 3/11. A final version of the new language was approved by both the AGO and the VIC legal team. The board was provided with the new language on 5/6. A minor edit was requested by board chair Michael Clasen and approved by both legal teams. The edit was distributed to board members on 5/10. There have no further concerns or request for revision so the amendment will now proceed to signature.
- A meeting to begin the Auditors Office management audit of the Web Portal Program was held 5/12.

## **LIBRARIES**

Nothing to report

## **TAXES**

### **Legislative Update:**

Miscellaneous Tax Bill: Working on bill reviews, and implementation steps. Biggest resource suck for the Department may well be around the "New Economy" provisions - economic nexus (based on relatively low amounts of business rather than physical presence) and reporting requirements on remote vendors (to their customers – dodged a privacy bullet when stripped reports to the Dept) and internet lodging platforms (which are required to report on transactions to the Dept). The Department will be drafting regulations, trying to develop communications to far flung businesses, developing explanations for the general public – and preparing for litigation.

Estate Tax: Joy (disbelief even) from the practitioners and advocates that this is finally over the finish line (even if was very last bill).

Burlington PILOT, TIF and Airport: We advised Burlington that we stood by our interpretation of the PILOT statute, and if they wanted to test their theory that they should be getting more PILOT money (to the detriment of other towns) they were welcome to go to court. Have not heard if they will follow through. In meantime, the ink was not dry on the Misc Tax Bill conference committee report extending the timeframe for the Burlington TIF when Burlington officials met with Tax and VEPCI staff to argue that they should be able to keep the money (over \$300,000) that they received when the TIF was inadvertently classified as active too *early* (two years prior to incurring debt). We maintain money belongs to Ed Fund, working with ACCD on the proper appeal route. Finally, South Burlington has moved to join us in the airport valuation/exemption litigation with Burlington. Burlington appears agnostic. We won't be surprised if Judge Toor drags us in; our arguments that the legislature has covered all the bases (with statute requiring towns to defend grand list and only limited reimbursement) have failed in her courtroom before. If we are joined, we will have to decide how to argue in this very sticky situation (which arguably was crying for a legislative fix, but both towns seemed to prefer paying lawyers instead).

### **Operations Update:**

2015 Tax Changes, Return Errors: Had one press call, and two tax trade calls on this during the week. We are working with Intuit, and pulling together communications for other vendors, practitioners and the general public which intend to start rolling out Friday and Monday. At the moment, estimate of scope of problem: about 20,000 incorrect returns, \$2M. Average additional tax due is \$160 – many under \$100, but a small number over \$10,000. Internal team investigated whether we possibly could bill people, saving them (and us) the hassle of paper amendments. Found virtually impossible until January – we don't have complete info, or resources (in middle of IT conversion). Setting up dedicated mailboxes, email, phone number, website resource page.

The two initial discussions with Intuit were encouraging – they have been responsive in developing a streamlined process for their customers to retrieve a populated amended return that they can sign and send (that's because this is not their first rodeo in correcting a widespread mistake...) Intuit has agreed to make a one-time payment to the Department of \$125,000. That should about cover our costs to hire temps to process the amendments and man the phones. We also plan to waive penalty and interest until July 1, and penalty until Oct. 15 to incent payment (and in recognition that taxpayer really not at fault).

Timing couldn't be worse. We are stretched to the max with the IT project, and now we need to get these amendments into the legacy system before conversion in November (internal team exploring feasibility of holding amendments until VTax live – not ideal).

Finally, we have spoken with our practitioner working group. There is a split between those who think the Dept should do more to minimize work for practitioners in preparing amendments, and those, to put it delicately, who question their colleague's initial diligence and later reluctance to amend as a matter of professionalism.

VTax Project: If we weren't dealing with a partner as committed as FAST to never miss a deadline, this latest snafu of having to process 20,000 2015 paper amended returns (upping our total paper volume by 20% for season) may well have been the final straw to break the camel's back in meeting our Dec. 7<sup>th</sup> go live date for personal income tax. The burn out risk for internal Tax staff remains at high alert.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Patrick Delaney, Commissioner**  
**Date: May 13, 2016**  
**Re: Weekly Report**

**Vermont Department of Liquor Control**

**Legislative Issues/Contacts/Updates:**

S.250 has passed both houses, and we await the final version of the bill. The Department will initiate the Rulemaking process as soon as we have final details, and Board approval.

**Press Issues/Releases/Contacts:**

**Significant Events/Meetings:**

The Department's Communication Committee met May 9<sup>th</sup> for Liquor Agents. Topics included on-going discussions on store evaluation criteria, retail contracts, new special order criteria, and shipping manifest policies and procedures, surety bonding, POS concerns, and new listing codes, programming.

I meet with Peter Jillson of American Crafted Spirits/Silo on 5/12 to review his business and acknowledge that the Department had worked with him successfully to deal with some tax delinquency issues. He was very appreciative of our effort to work with him in resolving his issue.

**Summary of Key Department Activity:**

*Agency Issues:* The Department has identified a new agency contractor in Pownal. The current Pownal store was closed by the Department on Friday April 29, 2016 to minimize any potential revenue losses from the previous owners. The ownership of the building which houses the store will not transfer into the hands of the new contractor due to inability to come to terms. The new contractor has 3 weeks to identify and close on a new location. This appears likely. If he is unsuccessful the contract will be re-bid. The local senator has been contacted to assist in communicating the temp. closure to his constituents.

The board has approved the new annual license for the owners of the Brandon store.

This month's Board Meeting took place at the Rutland courthouse on May 11. Several cases from the April meeting carried over, including Agony LLC.

*Staffing:*

The Department has a new Administrative Assistant in the Education Division. Nicole Lynch will start Monday, May 16; Ms. Lynch worked for DLC three years ago in the same division.

*IT POS system:* Barry Dunn and Associates met with DLC's IT division May 11, to finalize their recommendations to DLC before posting and solicitation of project bids.

*Licensing:* The fee bill appears to have been finalized with a 9% annual increase. We anticipate passage this week

A new license for off premise retailer delivery of wine and beer to adult Vermonters appears to have been finalized with the elimination of questionable changes in hours of service.

The Master Resort License appears to have been finalized intact and without significant change.

**Commissioner's Commentary:**

I visited additional agency stores in the Rutland area on May 10<sup>th</sup> with board member Julian Sbardella.

I will be out of the office the beginning of next week, then leave May 19 for the NABCA Annual Conference in Florida, returning to the office May 24, 2016.

116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
FAX: (802) 828-2361

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:** May 13, 2016

**Secretary's Top Issues**

**Partnership with McDonalds regarding drug residue avoidance**

Kristin Haas, State Veterinarian, hosted a conference call with regional and national McDonalds public relations and food safety employees to explore partnership options related to drug residue avoidance in Vermont. It is important for retail establishments to be supportive of the initiative to reduce VT's violative residue issues as farmers generally make necessary changes when their end markets are mandating that.

**Fee Bill review with Agency of Agriculture Staff**

Deputy Secretary Bothfeld lead the agency staff through the recently passed fee bill. The Agency was successful in passing the majority of its fee bill changes for FY17 through FY20. Funds are used throughout the agency to fund staff and operating costs for programs and administration. some changes will require computer database updates and further communication with affected parties. Staff will organize and complete on a timeline to meet renewal dates for licensing, registration and certification programs.

**Suspended operating license for southern VT slaughter facility**

Meat Inspection suspended the operating license of a southern VT Federal slaughter and processing plant due to non-compliance with an AOD. Establishment took efforts to come into compliance and the license was reinstated with the suspension held in abeyance.

**Preparations to host regional Animal Health Association meeting in Stowe**

State Veterinarians Haas and Mehlenbacher continue to make preparations to host the annual Northeast United States Animal Health Association meeting at the Stoweflake the week of May 15<sup>th</sup>. State, federal and private industry animal health officials from 20 states will be represented, and attendance is the highest it has been in the recent past for this annual meeting.

116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
FAX: (802) 828-2361

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: May 13, 2016

**Status of Governor's Priorities:**

**Legislative Activities and Issues:**

- Starting to work on development of education and outreach materials dictated by the passage of the new on-farm slaughter law that has had the sunset date repealed and expanded the Meat Inspection Services responsibilities.
- Assistant State Veterinarian followed the progress of H.512 Animal sheltering bill which had been sent to conference committee and now appears to be dead.

**Significant Events/Meetings:**

- Assistant State Veterinarian provided minor edits to the Animal Disease Traceability cooperative agreement workplan returned from the USDA. With those few edits completed, plan should be fully approved. Section is charging time/resources to the cooperative agreement currently using the pre-award letter.
- Animal Health Section attended the Euthanasia Board of Animals annual meeting. The Board will be soliciting nominations for a veterinarian as one of the current veterinarians will complete her time at the end of this year. The Board is also considering dropping the number of euthanasias a trainee is required to perform prior to completing the training course. The number of euthanasias has decreased in Vermont shelters since the current requirements and it has become difficult for trainees to achieve those numbers in a reasonable training time period.
- Assistant State Veterinarian met with communications staff and produce team to discuss the formulation of a 5-year communication strategy for the Produce Program. Group discussed how much time the communication staff felt would be adequate for this effort and to ensure funds will be adequately covered by the budget plan in the draft cooperative agreement that will be submitted to FDA. Group also discussed the different types of communication that will be needed based on audiences and messages and felt it was important to provide the 'why' of the program in each message.

**Evolving Issues:**

- Animal Health Section Animal Health Section met with legal counsel to review the non-compliance period of a cervid producer and to discuss the contents and monetary penalties for an NOV.
- Kristin Haas, State Veterinarian, submitted a grant application to FDA this week to acquire \$125,000 per year for up to two years to implement an antibiotic residue avoidance education and technical assistance program in VT. If funded, this project would allow Vermont to fully implement the [Food Armor Program](#) and would help ensure that animal-sourced food products from Vermont do not have violative drug residues in them.
- Kristin Haas, State Veterinarian, hosted a conference call with regional and national McDonalds public relations and food safety employees to explore partnership options related to drug residue avoidance in Vermont. It is important for retail establishments to be supportive of the initiative to reduce VT's violative residue issues as farmers generally make necessary changes when their end markets are mandating that.

## Summary of Key Agency Department Activity

### Administration:

- Deputy Secretary Bothfeld participated in the Vigilant Guard 2016 Senior Leadership Seminar and presented the Agency of Agriculture activities in Emergency Management as part of a panel. The Agency of Agriculture will take part in the Vigilant Guard Exercise at the end of July to continue to hone emergency management skills.
- Deputy Secretary Bothfeld took part in the Renewable Development Fund meeting. Discussion on how to incent dairy farmers to consider building more anaerobic digestion units on farms. Have energy, greenhouse gas and potential water quality benefits. Large upfront capital investment a concern - assembling funding sources from private investors as well as USDA grant funding is being explored.
- Deputy Secretary Bothfeld lead the agency staff through the recently passed fee bill. The Agency was successful in passing the majority of its fee bill changes for FY17 through FY20. Funds are used throughout the agency to fund staff and operating costs for programs and administration. some changes will require computer database updates and further communication with affected parties. Staff will organize and complete on a timeline to meet renewal dates for licensing, registration and certification programs.

### Agricultural Development:

#### Food Systems Section Chief, Willard, and Senior Agriculture Development Specialist Zipparo Meet with Capital City Farmers' Market Leadership to Plan For The 2016 Statehouse Buy Local Market

- The market will take place August 10<sup>th</sup> on the Statehouse lawn, coordinated by VAAFM, BGS, Capital City Farmers' Market and the Vermont Farmers' Market Association.
- This will be second Statehouse Buy Local Market, with the inaugural event happening in August 2015.
- The market is scheduled during National Farmers' Market Week, which is a USDA initiative to celebrate and promote farmers' markets nationwide.
- Other goals of the market include: increasing access to fresh, local food for state employees, and promoting Vermont grown and raised products to tourists visiting the area.

#### VAAFM Farm to School Coordinator Leads Discussion on Economic Value of Farm to School in Vermont With Multiple Stakeholders

- The meeting was among the last, related to a Vermont Community Foundation funded research project looking at the economic impact of farm to school in the state. The focus of the meeting was a 2-page info-graphic driven communications piece that was developed by VSJF, to explain key findings.
- VAAFM was awarded the funds in 2015, and has taken the role of project leader, with UVM Center for Rural Studies conducting the research.
- The project was also made possible with the strong support of farm to school partners at UVM Center for Sustainable Agriculture and NOFA-VT. Vermont Sustainable Jobs Fund also contributed a significant amount of input on the research and communication pieces that will be used to release key findings.
- Food system stakeholders nationwide have been very interested in learning the results of this research, including partners at USDA and several land grant institutions.

#### Food Systems Section Chief, Willard, and Senior Agriculture Development Specialist Zipparo Meet with Reinhart and Vermont Food Venture Center (VFVC) to Facilitate Relationship Building and Possible Partnership

- Reinhart is the leading distributor of school food in the state, and is interested in increasing the amount of local food they distribute to institutions.
- VFVC is interested in learning how to work with Reinhart to get their aggregated and lightly processed local produce into more schools in the state.

- VAAFM was included in this discussion as a trusted partner to both parties, to help facilitate this new relationship.

VAAFM Farm to School Coordinator, Zipparo, Presents At Tri-State Child Nutrition Conference in New Hampshire with Department of Health Disease and Obesity Prevention Staff, Jennifer Woolard

- The conference was focused on farm to school, and was coordinated by Vermont, New Hampshire, and Maine Child Nutrition Programs and University of New Hampshire Extension.
- The VAAFM/VDH presentation focused on including farm to school in school wellness policies, which are required by law in all schools, and is monitored by school food service managers and overseen by Agency of Education Child Nutrition Programs during regular audits.
- VAAFM and VDH will continue to work together to develop a template for schools to use, to demonstrate best practices and approved language, in order to incorporate more farm to school into school wellness policies.
- Farm to school is widely recognized as an intervention to increase health impacts in children, reducing obesity childhood disease rates.

Senior Agriculture Development Specialist, Zipparo, Meets With Other VAAFM Staff and ANR DEC Solid Waste Staff to Discuss Oversight Around Food Scraps Used in Poultry Operations

- There have been several inquiries on whether food scraps can be given to poultry, primarily chickens, as a strategy to manage food waste.
- Follow-up meetings will continue, as the two agencies reflect on the various regulations that are related to this issue, until clarity and agreement is found.
- VAAFM and ANR hope to develop a best practices guide to outline information related to this issue.

Farm to School Coordinator, Zipparo, and Food Systems Communications Inter, McCrary, Interview Chittenden South Supervisory Union Food Service Director, David Horner, About Milk

- Horner was awarded two milk cooler grants from VAAFM this year, to replace bulk milk with carton use.
- The interview is part of a joint project between VAAFM, ANR and Food Connects to create a best practices and guidance document for schools to use when considering switching to bulk milk dispensers in the school meal program.
- Many schools have been moving toward bulk milk, in an effort to reduce waste, increase participation, save money and include more Vermont milk in the cafeteria.
- Noting this trend, the three organizations committed to working together to develop this guidance, to help schools make more informed decisions around milk distribution in the school meal program.

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

**Meat Inspection:**

- Meat Inspection suspended the operating license of a southern VT Federal slaughter and processing plant due to non-compliance with an AOD. Establishment took efforts to come into compliance and the license was reinstated with the suspension held in abeyance.
- Consulted with a producer in Wolcott concerning an approved source facility for rabbit slaughter and possibly a custom slaughter operation for sheep and goats.
- Consulted with ARMS division engineer to discuss on-farm slaughter operation wastewater control for a Westford establishment as well as a follow-up for a Bridport producer wishing to start a smoking and curing operation. Also gave heads up for inquiry from the rabbit producer in Wolcott.
- Program is still providing increased relief coverage for USDA, FSIS.
- Poultry slaughter operations are starting up for the season increasing demand for inspection coverage.

### **Animal Health:**

- Kristin Haas, State Veterinarian, represented the New England states and the National Assembly of State Animal Health Officials on the USDA Veterinary Services bi-monthly Training and Exercise Program conference call.
- State Veterinarians Haas and Mehlenbacher continue to make preparations to host the annual Northeast United States Animal Health Association meeting at the Stoweflake the week of May 15<sup>th</sup>. State, federal and private industry animal health officials from 20 states will be represented, and attendance is the highest it has been in the recent past for this annual meeting.
- Kristin Haas, State Veterinarian, participated on the USDA APHIS Veterinary Services selection panel for the new Assistant Director for New England, a position for which USDA was actively recruiting. A selection was made, but the name of the successful candidate has not yet been released as other candidates must still be notified. This individual will work closely with the New England states on issues that impact the animal agriculture in the region.
- Animal Health Field Staff
  - Collected obex and brainstem for Chronic Wasting Disease testing from a reindeer that died suddenly on a captive cervid facility.
  - Fielded questions from producers regarding free ear tags from the Agency for cattle for animal disease traceability.
  - Complete Pullorum testing and a flock/facility inspection for a new layer in flock in Morrisville wishing to become certified in the USDA National Poultry Improvement Plan.
  - Followed up on a swine welfare concern from a neighbor who wasn't sure who to contact. Put individual in touch with the Hooved Animal Sanctuary, the organization handles welfare concerns in that particular area of the state
  - Completed livestock dealer inspections in Enosburg Empire Livestock and Longe Farm trucking.

### **Agricultural Resource Management:**

#### **North Lake Farm Survey Initiative:**

- Staff are conducting water quality surveys of farms in Franklin and Orleans Counties as part of the North Lake Farm Survey Initiative. Approximately 360 farms have been identified in the survey area and surveys are being conducted by several ARM Division staff members. To date, over 328 farms have been fully surveyed and approximately 25 farms are left to survey as part of this effort. The following number of farms were surveyed within the last week as part of the survey initiative:
  - 9 SFOs
  - 3 MFO

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

- Staff conducted a complaint investigation on a LFO in Addison County that was referred to the Agency by ANR. The complaint was related to land clearing and sediment and manure runoff. No violations were observed and staff is preparing the investigative report.
- Staff conducted a complaint investigation on a LFO in Franklin County to evaluate whether or not nutrients are in storm water coming onto the complainant's property from adjacent fields., The Agency has no jurisdiction over storm water conveying across property lines unless it is conveying wastes, such as sediment. The investigative report is being drafted so that appropriate follow-up/action can be taken.
- Staff visited a private residence neighboring a SFO in Orleans County to take a water sample for nitrate testing. The neighbor to the farm stated that they believed that poor manure management contaminated their water

sources, which is a spring located in a farm field adjacent to their property. Staff also visited the SFO to discuss manure management and during that visit observed water quality concerns. The investigative report is being drafted so that appropriate follow-up/action can be taken.

- Visits to farms were conducted as part of the North Lake Contractors initiative where contractors will provide case management services to farms that need assistance to improve water quality as a result of North Lake Farm Surveys. The following visits occurred:
  - Staff conducted two (2) visits on SFOs in Orleans County with the Orleans County Natural Resources Conservation District (OCNRCD).
- Staff attended a nutrient management and land treatment planning (NMP and LTP respectively) training meeting at NRCS to discuss NMP reviews conducted by the Agency and broader water quality initiatives. The training was held by NRCS and was for private sector technical service providers that offer NMP and LTP services to VT farms.
- Staff attended monthly Ag BMP tracking coordination meeting with AAFM, DEC, EPA, and NRCS.
- Staff are process annual report submissions from MFOs which are due to the Agency by April 30.
- Staff are preparing documentation for the ARM Division Enforcement Section as a result of review of LFO annual reports. The review included nutrient management plans (NMPs) submitted by LFOs as part of their annual reporting as well as other permit compliance concerns.
- Staff are working with the ARM Division financial management team to review Farm Agronomic Practices (FAP) Program applications for education/outreach grants and develop grants agreements with the applicants.
- Staff are continuing to work on and test the FoodSafety Water Quality database. The Agency recently hired a new project manager and we are currently developing a new strategy to complete the water quality database.

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

- Staff visited a SFO in Orange County to evaluate a BMP laneway project and a forested buffer planting as part of a CREP contract.
- Staff visited a SFO in Orange County to plan BMP livestock exclusion fencing and to discuss a BMP wastewater management project.
- Staff met with the Nature Conservancy to discuss GIS as a planning tool for CREP projects.
- Staff visited a SFO in Addison County to evaluate the site for CREP, livestock exclusion fencing and for a BMP laneway and stream crossing.
- Staff visited a site where CREP has been implemented to evaluate knotweed invasive plant control. The site will need invasive plant control for knotweed and next steps are being coordinated with the VT River Conservancy. The site/land is also part of a river corridor easement with ANR.

+CONFIDENTIAL and PRIVILEGED

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: May 13, 2016**  
**Re: Weekly Report**

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

none

**Legislative Issues/Contacts:**

none

**Press Issues/Releases/Contacts:**

none

**Significant Events/Meetings:**

none

**Evolving Issues:**

We need to cancel the lottery licenses for approx. 25 agents and remove their products and equipment. We are preparing plans to placing them in other locations if we can generate interest.

---

**Summary of Key Agency Department Activity:**

Our Director of Security is back in the US from a year long military assignment. He will be back at work in 2-3 weeks. We had someone filling this role on an interim basis who has just resigned to take a job with another company.

Our Problem Gambling Grant for FY17 was favorably reviewed by VT alcohol and drug abuse advisory council and will be posted next week.

We are reviewing proposals for our marketing and advertising services RFP. Only one response from a VT based company (as a partner with another out-of-state firm).

**Executive Director's Commentary:**

None at this time.