

# WEEKLY REPORTS

Checklist  
12/13/2013

Elizabeth Miller/Aly Richards

- Agency of Commerce and Community Development – Lawrence Miller
- Department of Labor – Annie Noonan
- Department of Financial Regulation – Susan Donegan
- Agency of Education – Armando Vilaseca
- VT Commission on Lottery – Greg Smith

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- Boards and Commissions
- Department of Liquor Control

**To:** Governor Peter Shumlin  
**From:** Lawrence Miller, Secretary - Agency of Commerce and Community Development  
**Date:** December 13, 2013  
**Re:** Weekly Report

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**IBM:** A team from DED (Kiersten Bourgeois, Fred Kenney, Ken Jones, Lisa Gosselin) met with Janette Bombardier, Janet Doyle and representatives from both their technology development area and real estate and site location. IBM R&D presented the details of how their engineers must continually develop new microchips for outside clients to meet the demand of the growing wireless device market.

**RDC Meeting:** Attended monthly RDC meeting where Betsy Bishop and Chris Carrigan presented their legislative agenda and Darcy Carter presented on SBA loans. Darcy noted (and other RDCs confirmed) that companies that don't have fixed assets (such as software developers) are still having a hard time with financing here whereas they are able to do so far more easily in other states. SBA loans in Vermont have not kept pace with loans in our neighboring states. RDCs will work on gathering data around what companies are having difficulty getting loans and we are going to meet to explore what options we might have.

**ACEDC Annual Meeting – Middlebury:** The annual meeting of the Addison County Economic Development Corporation featured a presentation by a professor from the Gund Institute of the University of Vermont on their Genuine Progress Indicator initiative developed at the direction of the legislature **and the governor** as an alternative to the traditional Gross Domestic Product which is largely based on consumer consumption. Vermont is leading the effort with collaboration with states including Maryland to develop a 50 state table of metrics for economic measurement.

**EB5** Becky and Brent are researching upcoming dates and events in winter/spring 2014 for EB-5/FDI business travel to China, Hong Kong and Vietnam. Becky and Brent had an initial conference call regarding EB-5 with Fortress Investments, a private equity firm that owns Stratton Mountain. Lawrence met with a Russian author working on an EB-5 piece for their WSJ equivalent. Russia will be a new market push for us. Will want to do a video of GPS for translation. Svetlana had a really cool hat, or wig, or something.

**Office of Creative Economy Internships:** Two positions open beginning February 3, 2014: a Communication and Outreach coordinator, and a Data and Research Coordinator. Both to June, 2014 with modest transportation stipend. View and please pass along here:

<http://vermont.internships.com/search/posts?Keywords=creative+economy&Location=Vermont>

**Mobile Home Report:** Jen released the Department's [\*Report on the Viability and Disaster Resilience of Mobile Home Ownership and Parks\*](#) and submitted it to the Legislature. The report recommends a series of actions at the individual, local and state level to make mobile homes and parks less vulnerable to disaster. It also addresses longstanding challenges facing home and park owners. Many thanks to Arthur Hamlin for his months of work on report, Shaun Gilpin for helping get it across the finish line, Heather Pelham for making it presentable and Jen Butson for her assistance with the press release. The recommendations will guide the Mobile Home Program's future work.

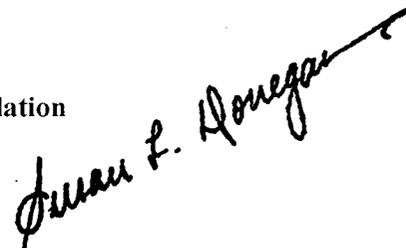
**Statewide Parcel Mapping:** Agency directors put a hold on the project pending a more thorough cost-benefit review and details on how the data would be updated and maintained. The interagency working group continues to meet and is working to give AOT management confidence in this project as a good investment in Vermont's future. Assuming the project is funded next year, the project should be completed in 2017.

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

**CONFIDENTIAL and PRIVILEGED**

To: The Honorable Peter Shumlin, Governor  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: December 13, 2013  
Re: Weekly Report



**Captive Insurance Division:**

Pacific Baleine Reinsurance Co. was licensed this week as Vermont's 1,005<sup>th</sup> captive insurance company. It is a new subsidiary of Pacific Life Insurance Co., which is domiciled in Nebraska.

**Securities Division:**

CCO Investment Services, which is owned by Citizens Bank, has agreed to pay the state a penalty of \$120,000 for failing to impose adequate supervision on a Vermont agent. The individual knowingly made unsuitable recommendations to clients regarding the purchase of mutual funds. In addition to the penalty, CCO will reimburse the state \$50,000 for costs of the investigation and all of the investors who were affected have been repaid. The department has not released news of this settlement because a related investigation is still under way.

**Banking Division:**

There were 105 new foreclosures filed in November and 121 filed in October. In November 2012, there were 182 newly-filed foreclosures. Last year through the first 11 months, 1,664 new foreclosures were filed compared with only 1,498 through November of this year. This downward trend is indicative of the improving economy.

**Other news:**

Commissioner Susan Donegan and Deputy Commissioner of Banking and Securities Tom Candon attended the Conference of State Bank Supervisors in Washington, DC, this week where issues affecting the community banking sector were discussed, especially those involving federal agencies and Congress.

Today, she and David Provost, deputy commissioner of the Captives Division, are meeting with Michael McRaith, director of the Federal Insurance Office at the U.S. Treasury Department. McRaith requested the meeting to learn how Vermont regulates captive insurance companies, especially the Special Purpose Vehicles used by life insurance companies. They will also explain the value of Special Purpose Vehicles when regulated adequately and using Vermont's "gold standard" as a benchmark for best practices.

The Commissioner is available by e-mail or phone at all times.





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**CONFIDENTIAL AND PRIVILEGED: NO SHARING**  
**MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: December 13, 2013

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**Secretary Transition:** Rebecca participated in several General Counsel interviews on Tuesday and traveled to Northfield on Wednesday to meet with Luke Foley, 2014 VT-TOY, and discuss the upcoming national conference. Today she will attend the PreK-16 Council meeting and spend the rest of the afternoon meeting with various staff at our 302 location.

**General Counsel:** Rebecca and Deputies Fischer and Talbott will complete the interviews for the General Counsel position on December 16<sup>th</sup>. They hope to make a decision shortly thereafter.

**Achieve:** Achieve is an independent, bi-partisan, non-profit education reform organization. Achieve created a framework titled "Advancing Competency-Based Pathways to College and Career Readiness: A State Policy Framework for Graduation Requirements, Assessment and Accountability". The purpose is to assist states in building a policy structure that contributes to statewide adoption and implementation of competency-based pathways (CBP) that strengthen the success of ALL students in reaching college and career readiness. Vermont is one of twelve states that were selected to join the Achieve Competency Pathways project. All of the NESSC states are members also. Deputy Fischer and Project Manager Debi Price spent several days this week at the Achieve Annual Meeting in Virginia, presenting Vermont's progress towards competency based pathways. More information can be found here: [http://www.achieve.org/files/13-195%20Achieve\\_CBP\\_07018.pdf](http://www.achieve.org/files/13-195%20Achieve_CBP_07018.pdf).

**U.S. Presidential Scholars Program:** I have nominated four Vermont students to the U.S. Presidential Scholars program. This is the first year that we have submitted applications; typically the students are entered into the pool based on SAT and ACT scores. We would like to announce the nominees via a press conference and have reached out to your office to see if you would like to be a part of this announcement. We are hoping to make the announcement on December 20. More information can be found here: <http://www2.ed.gov/programs/psp/index.html>.

**Statewide School Safety:** I am very pleased that your office has decided to support the concept of working directly with the Margolis-Healy Center to provide a contracted, Statewide School Safety Coordinator position, funded in equal parts through AOE and DPS. This is a very important proactive step to help keep Vermont kids safe in school. Commissioner Flynn has agreed to be the direct contact, thus DPS will be the lead on this initial work. I am confident that this will be a strong partnership between AOE and DPS and I look forward to the next steps.

**Independent Schools Report:** As you know, I released my report on Act 56 of 2013: Section 16 - Public Schools and Independent Schools Study Committee. As you would expect, there are some folks in agreement with this report and others that do not agree with this report.

**State Board of Education:** The SBE will meet on Tuesday, December 17 in the Burlington High School Auditorium starting at 9:30 a.m. Agenda items include a discussion/vote on the Windsor Northwest SU Report and the anticipated adoption of the proposed revisions to SBE Rule 2000 (Education Quality Standards). The full agenda can be accessed here: <http://education.vermont.gov/new/html/board/schedule.html#packet>

**School Visits:** I started the week at Colchester High School and joined students and staff in their Hour of Code awards ceremony. Tuesday I traveled to Brattleboro and visited Brattleboro Academy School and Brattleboro Union High School.

**Personal Leave:** As mentioned last week, I will be out of the country starting this afternoon and return to the office on December 19. I will be accessible via email and cell phone during most of that time and am assigning responsibility to Deputy Commissioner John Fischer and Deputy Commissioner Bill Talbott. If the need arises for another step in the order of succession, Stephan Morse would be that designee.



**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Dec 13, 2013**  
**Re: Weekly Report**

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

Working with staff on strategies

**Legislative Issues/Contacts:**

n/a

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

Fed govt held hearings this week on internet gaming that were informative but low on the priority scale. I was contacted by national lottery govt affairs comm. to see why VT Atty Gen was signing letter opposing the DOJ position on wire act, and states' rights approach to this topic. I will check with Aly before contacting AG office to understand their position.

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**Summary of Key Agency Department Activity:**

Large jackpots on national draw games are attracting attention. We have a raffle game that is running this month. New TV ads to appear soon for Family Guy instant ticket, and Tattoo (Vermont Ink) instant ticket. A little edgy but should not be controversial.

Getting close on two contracts that will require Admin signatures. Instant ticket printer will be approx \$6M over three years, and amendment to 2<sup>nd</sup> Chance vendor coupled with one year extension could be as high as \$130K if full use of licensed prop games is exercised. I will explain more once draft is completed.

**Executive Director's Commentary:**

Expect to be filling four open office positions (out of sixteen office staff) within the next 4-5 weeks.

We terminated an agreement last week with a tech vendor for fixing website functionality issues due to delays in work accomplishment. We are not paying for any work performed on this project and have a letter from vendor acknowledging such. Total cost would have been under \$10K, and DII was informed.

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Brian R. Searles**  
**DATE: Friday, December 13, 2013**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**CLF Wants EIS on Vermont Gas Pipeline**

FHWA is reviewing plans to site the gas pipeline extension to the south along the Circ Right of Way from Colchester to I-89. We believe that FHWA will sign off on this use of the ROW and we intend to approve it. However, CLF appears ready to go to court to argue for an Environmental Impact Statement (EIS) as part of this use and they may have the EPA Region 1 folks as partners. CLF apparently sees this as an opportunity to slow or stop the larger project.

**Richmond Park and Ride Update**

This project will shut down for the winter on December 20. There will be about 140 spaces available for parking over the winter, which is very near capacity, but the project completion date is June 20, 2014. Tasks remaining to be done in the spring include an internal traffic circle, some curbing, final pavement course with markings and signage, permanent traffic signals on Rt. 2 and landscaping.

**VT 111 Damage Update**

In an update to a story from the spring of this year, notorious farmer and game preserve owner Doug Nelson damaged some new pavement on Rt. 111 in Derby by unknowingly operating a tractor with the tilling mechanism in the “down” position. Our District folks followed the trail and determined it was him but he wouldn’t respond to our calls without encouragement from family members. After agreeing to a conversation with Scott Rogers on the phone he said he would notify his insurance company (the Coop of Middlebury) but he apparently didn’t follow-up on that either. Our call to the Coop to see what the holdup was revealed this “oversight” and they said they would pay the claim, which is about \$35,000.

### **Strange Turn For Disciplinary Matter**

A fairly straightforward disciplinary matter involving an Operations employee has become the subject of inquiry by several members of the legislature and the subject of a letter to your office from the employee's son, Joseph Slaimen. It seems that the younger Slaimen, a college student and intern to Senator Westman, has decided to plead his father's case in a political forum.

This matter is being handled appropriately by VTrans and DHR and we have told Senators Westman, Pollina, Doyle and others who have inquired that we cannot discuss the case. A hearing on the case is scheduled with DHR and the employee next week. I have talked with your staff about this but wanted to include it in this report in case the upcoming hearing kicks up more dust. Generally speaking, the case involves a pattern of unruly and threatening behavior coming from an apparent problem with anger management.

### **NOTES FOR STAFF**

#### **Auditor Continues Look Into Liquidated Damages**

An audit earlier in the year by Doug Hoffer's staff of two projects concluded that we were leaving too much money on the table from liquidated damages from contractors who failed to meet terms of their contracts on construction projects. We objected to the conclusion by pointing out that unforeseen circumstances, such as weather, often lead to delays in projects and make these kinds of assessments unnecessary. Further, strict interpretation of contracts in the face of conditions that neither side could have predicted would just lead to higher construction pricing generally as contractors build contingencies into their bids.

We followed up a couple of months ago with a list of dozens of projects over the last five years for which liquidated damages have been levied. This week the Auditor's newest employee, Andrew Stein, has told our staff that he has further questions. Staff has objected saying that they are spending too much time on this matter and it is interfering with their work. Mr. Stein wants to know more about the methodology used for determining the damages and the frequency and extent of direct and measurable expenditures resulting from delays but not included in liquidated damages.

I have asked for a meeting between our Audit and Construction staffs and Mr. Stein to see if there can be a better understanding of potential mutual interests in pursuing this ever-expanding review. Doug Hoffer has agreed that this is a good idea.

#### **Exit 8 Closure for Oversized Load**

On Monday an S.D. Ireland flatbed tractor-trailer carrying a large concrete culvert failed to clear the overpass of I-89 while exiting from the southbound lanes here at Montpelier. This resulted in the closure of the ramp for several hours and minor damage to the bridge. The vehicle had no permit to transport the load and the driver intentionally circumvented a Commercial Vehicle Enforcement detail at the Williston southbound rest area. Appropriate tickets were issued.

### **Other DMV News**

Notwithstanding the public perception of DMVs generally as a place where long waits are the norm, our DMV achieved this week an average statewide counter wait time of 4 minutes! This is for a total of in-person transactions of more than 10,000.

### **Another Award for the Checkered House Bridge**

The expansion of this historic truss bridge in Richmond, VT has won the Florida Institute of Consulting Engineers “Engineering Excellence Award” for 2014. The Finley Engineering Group is the engineering firm that worked with the Design Build Team in developing a way to move/widen the truss and since the firm is headquartered in Florida they submitted this project through their state association. The project now becomes a candidate for a national award from the American Council of Engineering Companies (ACEC).

### **Weather**

A storm of moderate significance will occur over the weekend with updated forecast calling for 6-12” of snow for most of the state beginning late Saturday afternoon and continuing into Sunday. The end of the storm will feature strong northwest winds which will result in much drifting. Our crews are ready to go statewide. This should serve as an appropriate prelude to our winter driving press conference on Tuesday.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** December 13, 2013

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**AFSCME Negotiations:**

Ken Schatz, Stuart Schurr and I met with Joe McNeil today to get Joe started on the AFSCME negotiations. (We hired Joe with a sole source contract, which has yet to be finalized.) Joe will reach out to AFSCME quickly to arrange an initial session prior to December 31. Joe will be seeking a meeting with you, Liz and Jeb to be clear about your objectives.

**Vermont Department of Health (VDH)**

**Tobacco Cessation Quitline calls increase more than 100% from 2004-2012 call volume:**

The increase is attributed to a new marketing strategy using national and locally-produced cessation ads; branding local cessation counselors as Vermont Quit Partners; and buying media with a focus on low socioeconomic status (SES) populations. The call to action in all ads is for viewers to call 1-800-QUIT NOW, and data indicates significant increases in call volume when such media is being aired.

**Department of Mental Health (DMH)**

**Central Vermont Medical Center (CVMC):**

Commissioner Dupre met with Judy Tartaglia, CEO of CVMC on Monday. They discussed ways that CVMC and the Vermont Psychiatric Care Hospital (VPCH) could work together and what resources CVMC might be able to assist with.

**Agency of Administration:**

Thursday, Commissioner Dupre, Deputy Commissioner Reed and I met with Administration Secretary Jeb Spaulding, and other Administration staff at the request of Fletcher Allen Health Care (FAHC). Jill Olson from the Vermont Hospital and Health System Association (VAHHS) was also present. Commissioner Dupre and Deputy Commissioner Reed gave an update on the present status of the system of care as well as the ongoing plans with the VPCH. They discussed the situation in emergency rooms and Corrections as well as the status of their research on the possibilities of temporary out-of-state hospital placements. They announced the hiring of doctor Jay Batra as the new DMH medical director and explained that one of his first tasks is to work on the areas in the system that have slowed the movement of patients into appropriate placements. FAHC and Ms. Olson discussed the need for expedited treatment options. FAHC requested some ongoing updates which Secretary Spaulding will arrange.

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

### Nurse admits to diverting patient medication for personal use:

The Division of Licensing and Protection received a report today that a nurse at a Vermont healthcare facility has admitted to a third party to taking patient medication for personal use. The Division has initiated an investigation and will notify the facility involved. This will likely cascade and we anticipate additional investigations from the Office of Professional Regulation and the Attorney General's Office.

### Developmental Disability advocates issue press release on rescission:

The Times Argus carried a story on the \$2.23M rescission currently underway (incorrectly stating it was to fund new cases next year. In fact this is part of the FY14 policy reduction budget target passed by the legislature for FY14). Advocates stress that agencies have absorbed several cuts in recent years and further cuts to those already receiving services will require scaling back even more hours and services. Secretary Spaulding pointed out that state budgets provided 6% increases in each of the past two years. Plans for how to implement the change are due today.

### Choices for Care reinvestment plan endorsed by DAIL Advisory Board:

DAIL's Advisory Board passed 2 resolutions today endorsing two key provisions of the Department's Choices for Care (CFC) spending plan: the proposal to reinvest \$3.0M of the available savings to address unmet needs for seniors and persons with disabilities known as the moderate needs group (MNG), and the decision not to invest the remaining \$2M in new initiatives. The Board did so cautiously expressing concern that if not spent in FY14, the \$2M would be taken "for potholes". The Commissioner assured the Board – as she testified before House Appropriations – that these funds would remain in the CFC budget and carry forward into FY15 as required by last year's Big Bill.

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

### The Representative Wizowaty Group:

The Rep. Wizowaty Group met on Thursday. Casework Director Martineau attended as the permanent representative from DOC. The agenda was to continue to fashion the group's mission.

### Southern State Correctional Facility (SSCF):

CO Wesley Kidder was arraigned in Windsor County Court yesterday for his involvement in smuggling drugs into SSCF. He pled guilty and received 3 months.

### Detainee Project

Work continues on the detainee project for the SFY 2015 budget. DOC is analyzing data for the project.

Population

The department’s incarcerated population averaged 2,096 for the previous week. The male population averaged 1,935 with 378 being presentenced inmates. The female population averaged 161 with 49 being presentenced inmates.

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

Increase in Child Abuse Reporting – Updated

Two months ago, we alerted you about the increase in child abuse reporting in 2013. Now, with 11 months of the calendar year behind us, we can confirm that projection. Based on year-to-date figures, we anticipate the following:

Calendar Year	Calls to Centralized Intake	Calls Resulting in Child Abuse Interventions
2012	15756	4700
2013 (projected)	17545	5206

The expectation is that each social worker assigned to conduct child abuse investigations and assessments can conduct 100 of these interventions annually. With the increase of about 500 cases, the equivalent of an additional 5 FTEs is needed for the area of service. Given that we have no new positions, our only choice is to re-assign other social workers to conduct front end child abuse interventions. These social workers would normally be delivering ongoing services to high risk families, children in custody and youth on probation. We are, therefore, at risk of not meeting federally mandated contact standards.

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

Maximus call center:

Wait times at the Maximus call center have been unacceptably high since December 1<sup>st</sup>. DVHA has been in communication with Maximus regarding strategies to reduce wait times; this includes changes in training protocols and hiring of new staff.

Public records request:

DVHA continues to respond to a large quantity of public records requests related to Vermont Health Connect (VHC) and the integrated eligibility procurement process.

Shared Saving Program:

Contract negotiations are underway between Community Health Accountable Care (CHAC), OneCare Vermont (OCV) and DVHA for participation in DVHA’s Shared Savings Program (SSP). The anticipated launch date is January 1, 2014.

KPMG Audit of the Graduate Medical Education (GME) program payment:

DVHA recently underwent an audit by KPMG, performed for the State Auditor’s Office (SAO), regarding the GME payment arrangement between DVHA, Fletcher Allen Health Care (FAHC)

and UVM. The SAO has come back with several questions regarding the payment arrangements between FAHC and UVM. They appear to be concerned that we did not have proper CMS authority for the current payment structure. The SAO has requested a call with Richard McGreal at CMS to clarify their questions. DVHA has requested to meet with SAO staff prior to a call with CMS as we believe that we can provide clarity on the items in question and have not yet been given an opportunity to address them. This should happen the week of December 16<sup>th</sup>.

Tele-monitoring legislation conversation:

Peter Cobb of the Vermont Assembly of Home Health & Hospice Agencies (VAHHA) is meeting with legislators concerning their interest in passing legislation that would establish a Medicaid tele-monitoring program, legislation similar to the tele-health legislation that was passed last year. This information is being shared internally with DVHA staff who have worked on telemedicine related topics.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** December 13, 2013

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**Secretary's Top Issues**

**Maple Grading Rules** - The new rules for grading maple syrup passed the Legislative Committee on Administrative Rules, and go into effect on January 1, 2014.

**Cervid Issue** - Animal Health Field Inspectors are working with a farmed cervid producer in Fairlee to bring the farm into compliance. The producer has 150+ deer that need to be properly identified (two forms of ID) and inventoried. This will be a multi-day process as the producer needed to modify his catch facility to accommodate his different types of deer (sika, red, fallow, and elk). AH Program Coordinator Jim Cameron and Animal Health Specialist Zach Bartlett processed 85 deer on Wednesday and will return after the New Year for the remaining deer. The Agency provided the farm official RFID tags at no charge.

**Fairs and Fielddays** - Dr. Haas and Mehlenbacher met with the President of the Fair Association and the VP of the Eastern Mountain Draft Association to discuss more efficient ways to complete drug testing of horses involved in horse pulls in Vermont. The majority of time, resources, and money expended by the Agency centers around employees delivering supplies and picking up samples. AH Section recommends that the fairs work directly with a lab (VAAF or another lab that offers drug testing) and a veterinarian as this will cut out the Agency as the middleman, saving a significant amount of money and time. The other option is to increase the fee to amount that will be cost prohibitive to the fairs and may discourage drug testing.

**Meat Inspection** - Mad River Food Hub is ready to restart the state inspection at their federally inspected facility to service individuals that are using state inspected slaughtered carcasses for further value added processing bringing the number of state inspected facilities to 15, more than double the facilities from this time last year! **The need for added meat inspectors is critical!**

**Fairs and Field Days Grants** - 2014 VT Agricultural Fairs & Field Days Capital Grants application requests went out in mid-November. Ten of the State's 14 agricultural fairs submitted an application to date. The available funding amount is approximately \$ 275,000, and the requests from Fair and Field Day organizers are for \$ 241,676.82.

**Manure Issues –**

- Staff conducted 3 inspections on MFOs and LFOs related to manure spreading complaints. Complaints were received for farms in Franklin, Orleans and Orange Counties.
- Staff responded to a complaint about odor related to manure applications on a LFO in Washington County. It was determined during the inspection that the LFO was in compliance with their LFO Permit.
- Staff are responding to farms regarding the manure winter spreading ban. A couple of farms are concerned that they might not be able to have the necessary storage capacity to make it through the spreading ban period (December 15 – April 1).

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** December 13, 2013

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**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

**Pets for the Holidays** - Dr. Haas, State Veterinarian, was interviewed by VPR on December 11<sup>th</sup> regarding best management practices when it comes to pet adoption/acquisition. The segment also included information from the American Kennel Club, and representatives from the Chittenden County Humane Society and North Country Animal League. This issue is being undertaken by the New England region's state animal health officials in order to protect consumer interests and protect public health and safety.

**Significant Events/Meetings:**

**Maple Grading Rules** - The new rules for grading maple syrup passed the Legislative Committee on Administrative Rules, and go into effect on January 1, 2014.

**Dairy Database** - Dr. Haas, FSCP Division Director, met with Scott Marshia and Deputy Secretaries Bothfeld and LaClair on December 12<sup>th</sup> in order to discuss the status of the dairy section's database initiative, which has been ongoing for almost three years. The decision was made to hire a project manager to oversee the acquisition and implementation of USA Food Safety in order to ensure that the project moves forward in a reasonable manner. The contract for the database is expected to be submitted for approval by IT no later than the afternoon of December 11<sup>th</sup>, and the project manager hiring process is expected to begin during the first week of January 2014. A number of items are riding on this timeline, including the performance based budgeting pilot project that the FSCP Division is involved in.

**Fairs and Fielddays** - Dr. Haas and Mehlenbacher met with the President of the Fair Association and the VP of the Eastern Mountain Draft Association to discuss more efficient ways to complete drug testing of horses involved in horse pulls in Vermont. The majority of time, resources, and money expended by the Agency centers around employees delivering supplies and picking up samples. AH Section recommends that the fairs work directly with a lab (VAAF or another lab that offers drug testing) and a veterinarian as this will cut out the Section as the middleman, saving a significant amount of money and time. The other option is to increase the fee to amount that will be cost prohibitive to the fairs and may discourage drug testing.

**Evolving Issues:**

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**USDA and Movement of Pets** - Dr. Haas, State Veterinarian, organized a conference call including USDA Animal Care and New England state veterinarians for purposes of reviewing the newly amended federal retail pet rule. Animal Care was interested in hearing about the animal and public health concerns that arise in New England as a result of dogs and puppies being shipped into the region from southern states. This information will inform their development of a Task Force that will evaluate these situations and identify ways to mitigate the negative effects.

**Cervid Issue** - Animal Health Field Inspectors are working with a farmed cervid producer in Fairlee to bring the farm into compliance. The producer has 150+ deer that need to be properly identified (two forms of ID) and inventoried. This will be a multi-day process as the producer needed to modify his catch facility to accommodate his different types of deer (sika, red, fallow, and elk). AH Program Coordinator Jim Cameron and Animal Health Specialist Zach Bartlett processed 85 deer on Wednesday and will return after the New Year for the remaining deer. The Agency provided the farm official RFID tags at no charge.

**Tax Department's Set Off Program** - Animal Health Section is submitting three individual to the Tax Department's Set-Off program; the same individuals as last year. A total of \$6400 was owed when the submission happened in 2012 and the Agency collected \$1573.50 this year. The submission process is very very frustrating as the Tax Department asks for a file that needs to be created by a programmer and provides sub-par instructions and technical assistance to complete the submission. Collecting on people who have not paid their administrative penalties makes it worth it however more time than would should be is spent by Agency employees. Much thanks to Jim Shover and Scott Marshia (IT Staff) for their help.

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

#### **Administration**

**Listening Sessions w/ Chuck Ross.** Secretary Ross continues his tour of the state listening to what farmers and public have to say about agriculture policy. As part of this tour, Sylvia Jensen, Land Use Administrator discussed farmland conservation emphasizing that profitable farms are the best tool to preserve farmland, the importance of Vermont's Use Value Appraisal program, the need for support of farming activities in municipal planning efforts, and the benefits of the Farmland Conservation Program. Two more are schedule; January 7 in Bennington, and January 10 in St. Albans.

#### **Agricultural Development**

**Fairs and Field Days Grants** - 2014 VT Agricultural Fairs & Field Days Capital Grants application requests went out in mid-November. Ten of the State's 14 agricultural fairs submitted an application to date. The available funding amount is approximately \$ 275,000, and the requests from Fair and Field Day organizers are for \$ 241,676.82. Example of projects include: bathrooms, offices, and a proposed mobile trailer unit to sell maple products at the Vermont t Maple Festival in St. Albans. This was the first year the Agency required the grant submission electronically. The new electronic format will make the Grant Review Committee selection process more efficient and the committee will meet on December 30 to deliberate on grant submissions.

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

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#### **Animal Health Updates**

- The Animal Health Section has had a somewhat frustrating interaction with FDA regarding changes to the tissue residue inspection and reporting methods— changes that the Massachusetts office wanted to make and that the Highgate local office did not agree with.
- Animal Health Inspectors have completed approximately 12 tissue residue investigation as commissioned FDA employees. The latest three involved an adult cow treated with Penicillin for pneumonia, Sulfadimethoxine/Albon tablets for the treatment of foot rot, and a calf given medicated milk replacer; none of the producers observed the proper withholding periods before the animals were sent to slaughter.
- Animal Health Field Inspectors completed dairy biosecurity surveys in Berkshire, Fairfield, Randolph, Newport, Cabot, and St. Johnsbury,
- Animal Health Program Coordinator Darryl Kuehne collaborated with USDA:APHIS:Veterinary Services in collecting scrapie samples at Maple Ridge Meats for scrapie surveillance. Additional samples will be collected week of December 9.
- Attended the Addison County Commission Sales for ADT compliance and Market reporting.

- Dr. Mehlenbacher is meeting with Large Animal Medical Associates to discuss bringing the clinic on board with electronic Certificates of Veterinary Inspection.
- AH inspector met with livestock dealer Roland Souliere.

### **Meat Inspection**

- Conducting interviews to fill recent vacancy of food safety specialist trainee.
- Met with individual in Randolph Center to review building and plans for feasibility of a proposed state inspected Poultry operation. This visit was in connection with grant request from the WLEB funds.
- Consulted with Ag Development concerning a grant request for a state inspected poultry operation in No. Hero. The program has met with the individual in the past and discussed the needs to qualify for state inspection.
- Mad River Food Hub is ready to restart the state inspection at their federally inspected facility to service individuals that are using state inspected slaughtered carcasses for further value added processing bringing the number of state inspected facilities to 15, more than double the facilities from this time last year! The need for added meat inspectors is critical!
- A custom processing plant in Londonderry is changing ownership and the plan is to add a smokehouse to the operation to offer custom curing and smoking and possibly moving into inspection after they develop their processes.

### **Agricultural Resource Management**

**Pest Control Operator Training Program** - Matt Wood, Certification and Training Supervisor held the Annual 2013 Vermont PCO (Pest Control Operator) Training Program. A total of 103 certified pesticide applicators attended the day-long session, receiving (5) credits toward their pesticide recertification, a state requirement to maintain their pesticide certification. Secretary Ross spoke to the group in the morning to thank them for their work in controlling bedbugs and other pests throughout the state, and also let them know the gravity of the situation surrounding the pesticide misuse in Rutland that involved a Pest Control Operator like themselves. Other presenters at this meeting covered all aspects of bed bug management, and included company reps Kevin Moran (Residex) and Jeff O'Neill (Zoecon), and also the President of the New England Pest Management Association, Ted St. Amand. The afternoon session had more regulatory slant with Cary Giguere, Pest Program Section Chief speaking about pollinator protection, Matt Wood speaking on the Vermont regulations, David Tremblay, Resource Management Specialist covering the Pesticide Inspection process, and Alan Graham, State Entomologist educating the group on Mosquito ID, life cycles, management, and the services he can offer to these Pest Control Operators. The field agents, enforcement, and pesticide regulatory personnel from the agency also attended the training session. Evaluations came back from attendees showing some very positive feedback, and another training session is planned for next year.

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

- Staff conducted 3 inspections on MFOs and LFOs related to manure spreading complaints. Complaints were received for farms in Franklin, Orleans and Orange Counties.
- Staff responded to a complaint about odor related to manure applications on a LFO in Washington County. It was determined during the inspection that the LFO was in compliance with their LFO Permit.
- Staff three compliance follow-up inspections on MFOs in Orleans County. The three MFOs are currently under enforcement actions with the state for water quality violations.
- Staff conducted one TA visit to a MFO in Orange County to evaluate the farm's Capital Equipment Assistance Program (CEAP) grant implementation.
- Staff conducted one TA visit to a MFO in Franklin County. The farm is a new MFO (they recently purchased the farm) and we are working with them to file the appropriate paperwork and educate them about the MFO and LFO programs.
- Staff are responding to farms regarding the manure winter spreading ban. A couple of farms are concerned that they might not be able to have the necessary storage capacity to make it through the spreading ban period (December 15 – April 1).

- Staff are drafting the first individual permit for a MFO in Franklin County. The farm was a LFO and has requested to change their operation and manage the farm as a MFO. This led the Agency to have the farm apply for an individual permit and will also include a public meeting. Preparation of the individual permit and for the public meeting are ongoing.
- Staff developed an implementation/verification strategy for the CEAP to verify equipment purchases as well as field implementation and equipment usage. Staff has begun conducting farm visits to evaluate equipment and as well as fields where the equipment was used.
- Staff is processing Farm Agronomic Practices (FAP) grant program payments for farms that implemented winter cover cropping and are working with UVM Extension to evaluate the program for spring practices and FY2015.
- Staff are working with colleagues in house and with partners to design and implement water quality BMP projects on MFOs and LFOs. The construction season is ongoing and we are working to implement projects until conditions do not allow for construction. It is getting cold!
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on becoming LFOs.

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

- General CREP related paperwork
- Preparation for annual report to FSA
- Desktop planning for CREP projects
- Visit with FNLC staff at MFO in St. Albans to determine where they could implement their target practices of tree planting, critical area seeding and ditch maintenance BMPs. Also discussed potential for small grassed waterway via CREP for farm.

**Northeastern Mosquito Control Association Meeting** - This week Alan Graham, State Entomologist and Nik Nikbakht, Vector Management Coordinator attended the 59th annual Northeastern Mosquito Control Association meeting in Hull, MA. Both gave presentations concerning arbovirus activity in Vermont. Nik discussed a summary of arbovirus findings and suppression activities during this past season, while Alan presented results a study of host feeding patterns of mosquitoes and the implications for transmission of EEE virus during the 2012 season. Vermont has two mosquito districts and two representatives from each district also attended the meetings. This was an excellent opportunity for everyone to gather and share information with others.

#### **Secretary's Comments**

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

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

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**

**From: Deborah Markowitz, Secretary, Agency of Natural Resources**

**Date: December 13, 2013**

**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Moretown Landfill, Cell 4 Application Received:** Advanced Disposal submitted the Cell 4 application last week and they have been advised that the application is administratively complete, thus initiating a public notice and comment period and technical review of the application. This application is for a significant expansion of the landfill and is expected to generate substantial public interest.

**Waterbury Dam:** A meeting was held with the Village and Town of Waterbury to discuss turning the responsibility for operation and maintenance of Waterbury Flood Control Dam to the US Army Corps of Engineers. You might remember that a year ago or so we discussed the fact that the dam needs some serious work that will cost many millions of dollars and that it is unusual that a flood control dam like this one is not already the responsibility of the Army Corp. This was a preliminary meeting to gauge local perspective on the proposal and the idea was met with support from the Town and Village. The first step in transferring the dam is support from the community so this meeting was very positive. We have already discussed this transfer with our Congressional delegation and they are prepared to go to bat for us when the time comes.

**Business Transformation Initiative:** Our contractor is gearing up for our first week of “Lean” trainings and orientations starting Dec 16. Innovation and Planning division has invited our sister agencies and departments with whom we have a lot of interactions to come to one of the training sessions called “Lean 101.”

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## **EVERYTHING ELSE:**

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

**Pre-session meetings:** The commissioners and I are beginning a series of pre-meetings with the chairs of our legislative committees. We are keeping Louis in the loop. Rebecca Ramos is being a great help keeping Bob Hartwell on a positive track with our issues. She has offered to participate in all of these early meetings with him.

**Gillette Pond:** DEC staff met with the Girl Scouts (dam owner), their engineer, and the Town of Richmond at the Gillette Pond dam. The stone dam is in disrepair and the Girl Scouts are interested in removing the dam, which will require our approval. The logistics of filing an application for the project and necessary information were discussed. After the site visit the Program was contacted regarding a property owner about access to the site, as they own land adjacent to the dam. The Girl Scouts responded that they will coordinate and work with the property owner. There is a possibility that ownership of the dam could be transferred from the Girl Scouts to others willing to take on the responsibility and liability. The new dam owner(s) would most likely pursue rebuilding the dam. Once (if) a complete application is received from the Girls Scouts, its processing will include a public informational meeting. Some in the community do not want to lose the dam and associated pond. We have heard from Representative Ann O'Brien that she is interested in this issue.

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

**Electronic Waste:** DEC received additional coverage of the ongoing saga associated with our effort to renew the contracts and related legal agreements related to the collection and recycling of electronic waste. The Department recently approved an "opt-out" plan that allows Goodpoint Recycling to compete with the state's primary contractor Casella to operate collection points around the state. An article in the Addison Independent portrayed the Department's decisions regarding this matter in a negative light based largely on comments from the owner of Goodpoint. Another article in VT Digger was more positive. Our primary message, largely lost in this dispute over what is primarily a commercial contract facilitated by the state, continues to be that the Department's goals are to ensure that the program continues to provide convenient, free and effective service to Vermonters for the handling of electronic waste.

**2014 Hunting, Fishing and Trapping Licenses Available Dec 16:** Vermont hunting, fishing and trapping licenses for the New Year will be available on the Fish & Wildlife Department's website ([www.vtfishandwildlife.com](http://www.vtfishandwildlife.com)) on December 16. New this year, online license purchasers will automatically be entered to win an Old Town canoe and other prizes. The winner of the canoe and a trolling motor will be drawn on May 15, while the winner of a hunting rifle and hunting jacket will be drawn at the Yankee Sportsmen's Classic in January, 2015.

**Lottery for Roadside Firewood Lots Opens:** The Department of Forests, Parks and Recreation will open the lottery for personal roadside firewood lots on state forest lands on January 2, 2014.

Vermonters will have two weeks to register for one of 48 “cut-your-own” lots. Each roadside lot costs \$30 and yields about three cords of wood for the 2014 home heating season. The roadside lots are available in the towns of Duxbury, Orange, Johnson, Groton, Westmore and Sutton.

**Bolton Nordic Trail Improvements:** Bolton Nordic and backcountry skiers will enjoy significant trail improvements this winter season. A partnership between the Vermont Department of Forests, Parks and Recreation, The Friends of Bolton Valley Nordic and Backcountry and Bolton Valley Ski Resort has resulted in significant trail work since the 1,160-acre parcel was transferred to state ownership in June. Since the property was acquired in June, around \$40,000 has been invested into the trails located on state land. The property was conserved by The Vermont Land Trust and transferred to the state after a \$1.8 million fundraising campaign which utilized grants funding as well as hundreds of individual donations by the Bolton skiing community and others. The Nordic Trails are operated by Bolton Valley Resort, as in past years, through a license agreement with the state.

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

**Lake Champlain Cleanup Plan:** Together with AAFM and the U.S. Environmental Protection Agency, DEC conducted six planned public meetings relating to the draft “Vermont Proposal for a Clean Lake Champlain.” These meetings have generated substantial press coverage and we have a plan to increase our efforts to disseminate public information about this work. Our draft proposal is part of the state’s commitment to address our obligations under the Clean Water Act to address phosphorus pollution into the lake. In general, we have received positive feedback on the proposal at the meetings and an appreciation for the fact that the proposals are action-oriented. The most common concern and comment we have received is a request for the state and EPA to fully delineate the full scope of resource needs and to identify additional funding mechanisms to accomplish the necessary work.

**EPA Science Advisory Board Appointment:** Rich Poirot, Planning Section Chief in the Department’s Air Quality and Climate Division was appointed to the EPA Science Advisory Board, which “provides the EPA Administrator with external, independent advice on the scientific and technical aspects of environmental issues to help inform environmental decision-making.” This is a great honor for Rich and for Vermont.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Innovative/alternative wastewater systems:** Drinking Water & Groundwater Protection has put in place an improved program for inspecting and maintaining innovative and alternative wastewater treatment systems that have been approved by the Division. We recently changed the annual inspection requirements for the homeowners who have these systems to allow annual

inspections to be done by service providers rather than a licensed designer. This saves landowners money and places the inspection with the group most knowledgeable about the particular type of treatment unit. We are getting good feedback from consultants and homeowners about this change.

**Jay Peak Stormwater Violations:** We issued a Notice of Alleged Violation to Jay Peak Resort for failure to implement erosion control practices required by a construction stormwater permit. The Stormwater Program observed the non-compliance during a regular site inspection. The notice directs Jay Peak to come into compliance with their construction stormwater permit.

**Vermont Railway:** Air Quality & Climate Division completed another diesel emissions reduction project last week. This project involved providing technical assistance and funding to VT Railway for the installation of auxiliary power units on three locomotives. These diesel powered locomotives emit high levels of particulate matter, nitrogen oxides and greenhouse gases, and normally idle whenever the locomotive is stationary and the temperature is below 40 degrees. These new units provide charging for batteries, and heat and circulate engine oil and coolant, thereby eliminating the need for engine idling. In addition to providing significant emissions reductions, this technology will provide fuel savings of nearly 5 gallons/hour for each locomotive. We provided funding for this effort through the Diesel Emissions Reduction Act grant from EPA.

**Rutland Air Quality Alert:** An air quality alert was issued for Rutland on Dec 2, as forecaster Dan Riley estimated that 24-hour PM2.5 concentrations would exceed 35 micrograms per cubic meter (the level of the 24-hour PM2.5 standard), which is considered “Unhealthy for Sensitive Groups”. This occurrence is likely the result of wood smoke combined with cloud cover that prevented the wood smoke from dispersing. This is not an unusual occurrence during the winter time, especially in mountain valley locations.

**Sunset Lake, Benson:** Facilities Engineering met with members of the public for the purpose of looking at the dam owned and properties on Sunset Lake. The dam was replaced in the fall of 2009 and was certified by the owner’s consultant to be constructed in accordance with approved plans and specifications. In early September 2013 the Program was contacted by a property owner claiming the dam was built incorrectly, causing the water level to rise and damage property. At the time of the visit the water level was below the weir crest (spillway) and no leakage or other obvious defect in the dam was observed. The lakeshore properties that we visited did not exhibit any extraordinary signs of erosion; similar to property along other water bodies in Vermont. The replacement dam does not leak and the old dam did, so the range of water levels for the lake most likely has changed but not the overall average level. A written response will be sent out after a more thorough review of available information.

**East Berkshire Water System Board Meeting:** Compliance & Enforcement has been monitoring the East Berkshire Water System’s actions to come into compliance with state and federal law. The system’s board is developing a petition to become a fire district which would be an important step in resolving the long-standing problems with this drinking water system.

**School Training on Hazardous Materials Management:** Earlier this summer, Environmental Assistance staff assisted EPA with a clean out and reorganization of chemicals in the science department labs at Champlain Valley Union High School. As part of that effort, administrators at Champlain Valley Union High School requested hazardous waste awareness training for the entire science department staff, including facility maintenance personnel. We recently trained 20 school staff members in a 2-hour training session.

**Calais Selectboard:** The State Geologist is planning to conduct a geologic mapping project with the goal of producing groundwater resource maps and other information for the town of Calais. The State Geologist visited the selectboard to explain the project and how the mapping will progress. The Division will be looking for volunteers to help locate water wells and the chair of the selectboard thought finding volunteers could be facilitated through Frontporch Forum.

**Watershed Grants:** Fifty eight proposals were submitted for consideration under the 2014 watershed grant program funding (overall \$441,230 in requests). There is \$110,000 in available grant funding to be awarded (grant funds from proceeds of conservation license plate). Watershed Management Division has a selection process that includes input from representatives of interest groups and experts in this area.

**Cameron Rune's Subdivision:** We issued a Notice of Alleged Violation to Donald Turner for the Cameron's Run subdivision in Milton for failure to maintain permit coverage and implement required erosion control practices. The Stormwater Program was notified of the non-compliance via a complaint. The notice directs Mr. Turner to obtain the required permit coverage.

**Draft Aquatic Nuisance Control Application Review Procedure Update:** A draft application review procedure was sent to interested persons several weeks ago. The only comments received were those submitted by DFW Fisheries Program, who provided excellent feedback. A revised draft is underway.

## **Fish and Wildlife**

**New Endangered Species Proposals:** Staff reviewed documentation for listing Rusty-patched Bumble Bee (*Bombus affinis*) as endangered and for listing Rusty Blackbird (*Euphagus carolinus*) as endangered. Several species of native Bumble Bees have declined in VT. Rusty Blackbird is a rare species in VT which has declined regionally.

**Scour Protection:** Staff met with representatives of VTrans, DEC River Management and the US Army Corps of Engineers to discuss the potential use of articulating concrete mats for scour protection generally and specifically on two projects in Vermont. Several concerns were raised regarding this potential treatment and further discussions will occur as more information is made available.

**Possible new trout database:** Staff experimented with methods for developing a statewide trout database. A statewide database would allow for the rapid retrieval and display of trout sampling

data from all over the state. These data are needed for evaluating our management of the state's trout fisheries.

**Poacher Caught!** A Vermont man was recently charged with several fish and wildlife violations. Kenneth Bacon Jr, 30, of Barton, allegedly shot from a vehicle on a public road in Craftsbury on Nov 30 and then fled as wardens attempted to apprehend him, putting one warden in danger of serious injury.

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

**Benson Inholding (Confidential – Attorney Client Privileged):** The Department's Purchase and Sales Agreement for the Benson inholding at Okemo State Forest expired at the end of November and the owner is unwilling to provide the Department with an extension. This news came as a bit of a surprise as the Department was working in good faith on the final details of this land purchase and was positioned to close on this property before the end of the year. The acquisition of this property was an important priority of the Department and it is unfortunate that we will not be able to acquire this strategic inholding.

**Land Transactions:** The Department expects to close on five transactions before the end of December as follows: Stone donation at Rupert State Forest, Munson donation at Niquette Bay State Park, Fitzpatrick donation at Coolidge State Forest, Alburgh Dunes State Park land exchange, and transfer of a portion of Grand Isle State Park to the Town of Grand Isle for recreational uses. Work also continues on a number of active and pending Forest Legacy projects, including completion of the Northern Green Mountain project (federal funding approved and in place) and on three new Forest Legacy projects (federal funding pending).

**Ski Areas:** Due to the cold weather, Vermont ski areas are off to a great start. With winter fast approaching, an increasing number of people have asked about the Department's policy regarding skinning up ski areas that lease state land. The Department recognizes that ski areas have legitimate safety, liability, and business-related concerns with this activity and have the authority and responsibility to limit or restrict such use. At the same time, we are actively encouraging our ski area partners to find ways to accommodate and manage this increasingly popular use. Killington has nearly finalized a skinning/skiing policy that provides for a safe uphill travel route during the times the lifts are operating. Other ski areas such as Stowe only allow for this use during non-operating hours. Stowe has prepared a preliminary Act 250 application for a zip tour ride on Mt. Mansfield which is currently under review by the Department and Agency. This would be one of the longest of such zip rides in the nation and the first zip ride facility on State land. Annual ski lease payments to the Department for Killington, Okemo and Stowe are due by the end of December. Ski lease revenue is deposited in the Parks Special Fund and is used to help pay for the operations of Vermont State Parks.

**Encroachment Meeting (Confidential – Attorney Client Privileged):** FPR and Vermont Land Trust staff met via phone with the attorney for the Sunrise Homeowners Association last week to discuss the High Altitude Adventures camp encroachment at Coolidge State Forest and the

parties' respective property rights associated with this parcel. The attorney did not necessarily believe that Sunrise Homeowner's Association rights in this parcel were limited by a Confirmatory Easement Deed that was conveyed by The Conservation Fund (TCF) to Sunrise at the same time the State acquired the IP Parkers Gore parcel from TCF in 1998. The State and VLT believe the Confirmatory Easement Deed restricts Sunrise's recreational rights associated with this parcel. It's not clear at this time whether this disagreement will pose an obstacle to resolving this situation. To their credit, Sunrise has been acting in good faith to dismantle the camp structure and they are working with ANR to remove this material as soon as possible.

**Successful Climate Change Workshop:** The Northern Institute of Applied Climate Scientists and the ANR's Dept. of Forests, Parks, and Recreation hosted training sessions on climate change adaptation. Approximately 70 managers representing the Agency, the Green Mountain National Forest, conservation groups, private consultants, and other organizations attended a workshop event on Dec 3 to hear presentations on Vermont's changing climate, effects on forests, and resources for adaptation. On Dec 4, 25 managers participated in a Forest Adaptation Planning and Practices (FAPP) training. The FAPP training program guides managers through the process of identifying risks from climate change and adaptation actions on real-world management projects. Adaptation activities were outlined for nine different forest management projects across National Forest, state, and private lands.

**Invasive Plants:** Conservation Education staff is helping prepare for invasive plant outreach and education in District 2, where a Forest Service grant was received to fund a substantial volunteer education and invasive plant removal project. The main idea is to create demonstration areas where state parks and state forests can demonstrate native plant communities, while also training and engaging volunteers in creating these demonstration areas.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: December 13, 2013

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** Discussions continue and we're working hard to close this negotiation successfully. If we do, we need time to meet with parties and likely others to bring them up to speed before this is announced.

**Regional Infrastructure and FERC Filing:** We are working to finalize a draft filing objecting to the ISO default cost allocation. ISO proposed 70% of such costs be socialized across the region, 30% be borne by the policy-driving state. We will be joining NH and RI, signed on by VELCO and other municipals, objecting to that formula, still arguing that no formulaic approach to benefits is appropriate, but, since we've lost that argument before, proposing 30/70 if FERC believes a default allocation formula is required.

**Ryegate:** We met with ANR and Ryegate to discuss voluntary fuel procurement improvements. The meeting was constructive, although Ryegate insists their CPG for pollution control equipment (SCR) not be held hostage for an agreement on wood procurement. The

Department agrees that the two matters should not be linked, and that nothing should impede the SCR installation, however ANR remains intent on trying to use the pending CPG amendment to leverage a commitment on forest harvest standards. The Department does not concur with ANR's expressed legal basis for doing so.

**Sound Level Investigation – Docket 8167:** The Board issued an order opening an “investigation into the potential establishment of standards related to sound levels from the operation of generation, transmission and distribution equipment by entities subject to Public Service Board jurisdiction.” A prehearing conference is scheduled for January 8, 2014 at the Pavilion Auditorium. On a related matter the Department, in consultation with the Health Dept., is reviewing responses from acoustic experts to its Request for Qualifications, and hopes to have one or more contracts in place by year-end.

**VGS Addison Expansion Phase 2—No docket:** Petition was filed on November 19 and the Department is reviewing. VGS circulated a proposed schedule to the Department and ANR, but it has not been filed for the Board's consideration. CLF and VTrans have filed motions to intervene; the CLF motion also includes a request that no prehearing conference be held before January 1, which request the Department and VGS did not oppose. The Department and VGS specifically did not join in the additional assertion made by CLF that no prehearing conference should be scheduled until after an Order is issued in Phase 1. A notice of appearance has been filed on behalf of counsel (Jim Dumont) for VPIRG, with a motion to intervene to follow. The Department has engaged in conversations with representatives from the town of Cornwall regarding the Department's role in the docket.

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

**December 9:** Chris participates on VY settlement call; PSD/VEC meeting on net metering

**December 10:** Chris attends Regional Energy Infrastructure meeting in NH; Darren meets with Rebecca Ramos

**December 11:** Chris participates on VY settlement call; Darren meets with Tony Klein

**December 12:** Chris attends VT Connectivity Meeting; Darren attends Leg Session overview at Capitol Plaza sponsored by VTDigger

**December 13:** Chris participates on VY settlement call; Michelle attends legislative bill tracking/reporting meeting with Laura Gray; Chris and Darren meet with Patty Richards and Barry Bernstein of WEC

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

**December 16:** PSD releases total energy study interim report to legislature

**December 17:** Suggest Canceling Tuesday's Bi-weekly VY interagency meeting; Chris attends Regional Energy Infrastructure meeting in Portland, Maine; Chris and Darren discuss bill S.25 with PSB

**December 18:** Chris meets with Mary Powell and Steve Terry at GMP; Chris meets with Beth Fastiggi of FairPoint

**December 19:** Chris attends VY longer term planning meeting at Dept of Public Safety

**December 20:** Chris participates on NESCOE call to discuss New England Gas-Electric Study; Darren attends Sandia/VT meeting at Senator Sanders' office

**Media:** Chris spoke with Terri Hallenback, John Herrick of VTDigger and Susan Keese of VPR on VY negotiations; Chris spoke with David Gram about WEC and net metering. Geoff Commons spoke with Charlotte Albright of VPR about PSB's sound docket. Darren wrote an article on Net Metering for upcoming issue of Green Energy Times.

### **Evolving Issues:**

### **Everything Else:**

#### ***PERD***

#### **Energy Efficiency Utility Activities**

- Staff hosted a presentation by OPower and EVT on the 2014 behavior/conservation pilot program that EVT is contracting with OPower to deliver. There is a remaining open question regarding whether EVT will be able to claim savings from this pilot, and what the Department's evaluation plan for the pilot will be. EVT does not appear to have done a great deal to shape, design, or independently analyze the pilot, instead letting OPower design and implement.

#### **Total Energy Study**

- Team is working diligently to complete the TES legislative report in time for Dec 16 submission to the legislature. Staff are aware of two organizations (VNRC and EAN) which will publicize the report either publicly or among their members.

#### **Net Metering**

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#### **Net Metering Activity 11/23/13 – 12/6/13**

	Registrations	Applications	CPGs Granted
<b>Count</b>	17	1	32
<b>kWAC</b>	99.794	11.970	379.681
<b>Ave Size kW</b>	5.870	11.970	11.86

#### **Cumulative Capacity of Registrations and Applications Submitted**

<b>Year To Date</b>		<b>Total Since 1999</b>	
<b>2012 kW</b>	<b>2013 kW</b>	<b>1999 – 2013 kW</b>	<b>% of CAP</b>

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7122.26

12,822.15

38,747.62

~ 97.28%

### Transportation

- Staff attended DEV Stakeholder meeting @ VEIC. The bulk of the meeting was a presentation from HydroQuebec regarding their “Electric Circuit” EVCE program. There are 230 EVCE in their network. Notably, Vermont has twice as many plug-in vehicles as Quebec, on a per-capita basis, but fewer EVCE per-capita. ANR also presented regarding the recent 8-state ZEV MOU, and utilities hosting EVCE shared data regarding how much use different installations receive.

### Other Items

- Attended kick-off meeting for State Auditor’s performance audit of the executive branch’s performance regarding state goals to reduce energy use in state buildings. It is expected that BGS, VTrans, ANR, and Corrections will be the primary departments analyzed.
- Attended VAPDA meeting. Speaker Shap Smith was the primary presenter; he discussed issues likely to receive attention in this year’s legislative session. No energy issues topped his list.

### ***Engineering***

#### Vermont Yankee Operation

Since the last report, Vermont Yankee has operated at 100% with no notable issues. The plant has operated continuously for 250 days since the last refueling outage. The Director of Engineering will be at the plant on Thursday, 12/12, and will meet with VY and the NRC.

#### Nuclear Engineer Position

The Public Service Nuclear Engineer job opportunity has been posted on the SOV HR web site and has also been posted on various industry web sites.

#### Vermont Gas Systems Inc. transmission pipeline construction

VGS is presently making provisions to tie-in (connect) 2 miles of new transmission pipeline to provide gas capacity required for the Greater Burlington Area this heating season. The company’s construction contractors are continuing to attempt to finish the entire 5 mile segment originally planned for 2013. Two separate directional bores have been particularly troublesome. If completed this week, it may be possible to tie-in the entire project length to the existing VGS transmission pipeline before 2014.

#### Northeast Winter 2013 - 2014 Petroleum Fuel Outlook – Follow-up Conference Call

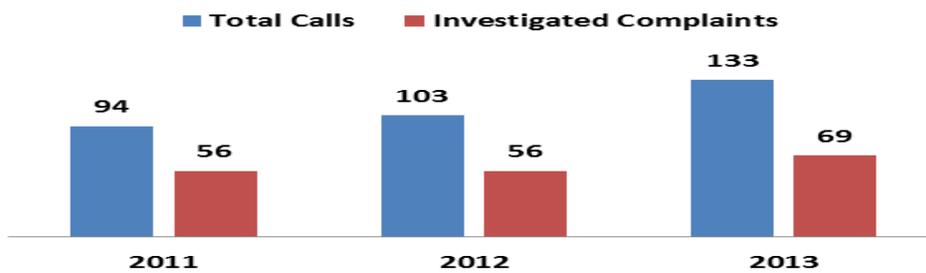
- Propane inventories are at the low end of typical levels for the region, but mid-west inventories are also low as a lot has been used to dry the year’s corn crop because of a wet fall season.

- The distillate supply inventory is at or above expected inventory levels.
- Retail heating oil prices are currently lower than last year and are expected to stay relatively flat for the heating season.
- Propane prices are expected to jump this winter. The inventories of propane are low in part due to the loss of a major storage cavern Todd Hunter, which collapsed. There are permitting efforts underway to expand another facility near Watkins Glen NY, but it will not help this winter.

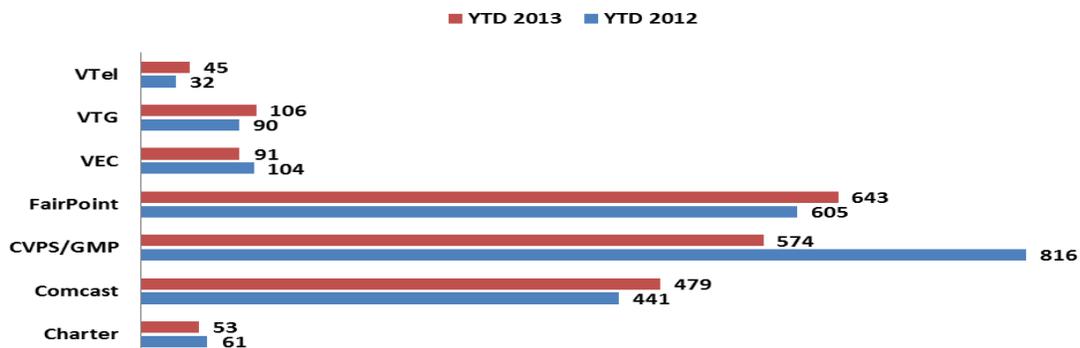
**CAPI**

**CALL DATA**

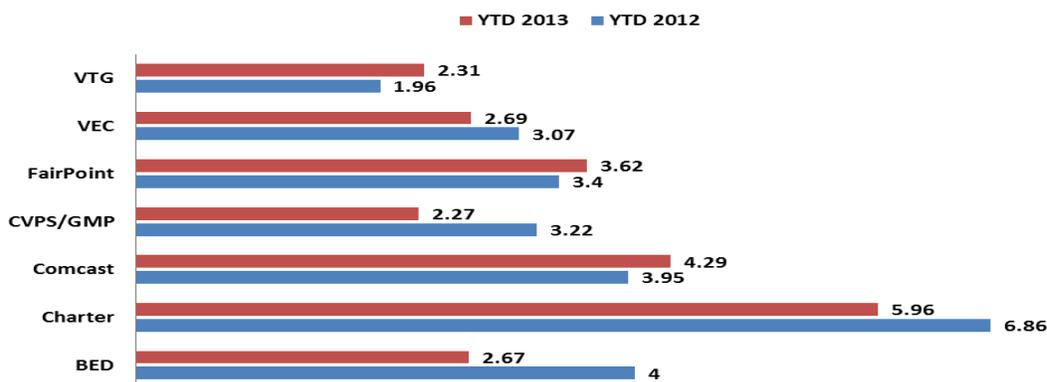
**Calls to CAPI**  
December 1 - December 7, each year



**Complaints Investigated by Company**  
Year to date



**Complaints Investigated by Company, per 1000 Customers**



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

### ***Public Advocacy***

Barton Solar – Docket 8148 – The Department participated in a site visit and public hearing. The public hearing was well attended. Senators Starr and Rodgers both spoke about the high costs associated with renewable energy projects. Senator Starr also commented that Hydro-Quebec is willing to supply Vermont’s electric needs for a less costly 7 cents a kilowatt hour. A number of folks voiced opposition to the project based on the potential that their property values would decrease. One man, who said he was just a farmer, commented that the Board and the Department are part of the scheme that allows each of these renewable energy projects to be a smokestack in disguise - on account of the state’s treatment of renewable energy credits. Motions to intervene are due by December 13<sup>th</sup>. So far, one abutter has requested intervention. The petitioner continues to feel stymied by ANR’s process for resolving issues. There is a new plantings plan based on significant input and approval from Mr. Popp of ANR. The Department understands that the petitioner invested this additional time and effort based on a new statement from Billy Coster that what Mr. Popp said on this front would be final.

Cross Pollination Solar Project – Docket 7645 – Mr. Madden has made yet another nearly-incomprehensible filing. Entitled “Addendum to Rule 60 Motion” the filing includes photocopies including sections of the Vermont Constitution, the Addison County Regional Plan, the New Haven Town Plan, Mr. Madden’s letter to the editor of the Addison Independent, and newspaper articles. Mr. Madden made a similar filing back on April 22<sup>nd</sup> to which the Board responded with a denial of relief and a warning that the Board would consider imposing sanctions on Mr. Madden if he made “further filings of this nature in this docket.” This filing constitutes the second “further filing of this nature in this docket.” Unlike previous filings, this one also includes a photocopy of the Board’s order denying relief, which Mr. Madden has annotated and edited.

TracFone Wireless Designation as Eligible Telecommunications Carrier – Docket 7817 – TracFone filed a petition on September 27<sup>th</sup> requesting redesignation as an ETC in the State of Vermont. The company did not indicate the duration of its proposed redesignation. TracFone did not copy the Department with its filing, and the request was just recently brought to our attention when the Board established a comment deadline of December 18<sup>th</sup>. A conference call with TracFone’s counsel is scheduled for December 12<sup>th</sup>.

Earth Brothers, Ltd. Amended CPG to expand its solar generation facility – Docket 7877 – The Board issued an Order on December 6<sup>th</sup> approving the Petitioner’s request to expand its solar

facility to include 157.8 kW AC of ground-mounted panels at its facility in Springfield, resulting in a new overall system-rated capacity of 497.52 kW AC.

Red Pines Water 821% Rate Increase – Tariff No. 8478 – The requested rate increase is scheduled to go into effect on January 1<sup>st</sup>; the Department’s recommendation is due by December 16<sup>th</sup>. In order to allow more time for settlement, the petitioner has informed the Department that it will file a letter requesting an extension of time whereby rates will be scheduled to go into effect on February 1<sup>st</sup>. If the petitioner files for the extension, the Department’s recommendation will be due by January 16<sup>th</sup>. If the petitioner does not file for the extension by Monday, the Department will recommend that the Board open an investigation into the rate increase.

Sale of Berlin Water Company – Docket 8118 – The Board requested any objections to the Town of Berlin joining the proceeding as a co-petitioner be filed by December 6<sup>th</sup>. No objections were filed. The petitioner responded to the Department’s information requests. Additionally, the Department emailed and called the attorney representing the City of Montpelier in order to be certain that any outstanding issues from Docket 8000 are resolved. The attorney has informed the Department that he will try to put the issue on his front burner. A status report is due to the Board by December 20<sup>th</sup>. PSD expects to support the sale.

VGS/Plouffe Condemnation—Docket 7819—Reply briefs were filed by VGS and the Plouffes on December 5 on the issue of necessity. The Department supports VGS’s position on both the issue of necessity and with respect to the proposition that VGS did not exceed its statutory authority to only do that maintenance and repair which is necessary to provide service during the pendency of the condemnation action. The Department believes that public safety required repairs of this magnitude given that previous efforts at less intrusive repair had failed.

Addison Expansion—Docket 7970—On December 10, residents of Vergennes voted to endorse the approval previously given by the City Council to the Project.

North Springfield Sustainable Energy Project (Springfield Biomass) - Docket 7833- NSSEP has requested a continuance until January for the oral argument currently scheduled for 12/19. NOSAG (the interveners) have objected. The Board issued a memo asking for parties’ availability for oral argument in January; if no generally convenient dates result, the argument will go ahead on 12/19.

Programmatic Changes to Standard Offer Program - Docket 7873, Vermont Supreme Court Case No. 2013-308 – Appellant Ecos Energy did not request oral argument before the Supreme Court and therefore the Court announced it would decide the matter on the briefs.

National Life 500kW Net Metering Project - Docket 8110 – The Department has retained Jean Vissering to review the aesthetic impacts of this project. We expect her review to be completed by December 20<sup>th</sup> in time for the Department to make a recommendation on the project as a whole.

Process and Administration Document Revision - EEU 2013-05- The Department attended a Board workshop to discuss changes to the document on issues relating to Intellectual Property, Indemnification by VEIC for releases of confidential information and the obligation not to disclose competitively sensitive information.

Avoided Cost Proceeding EEU 2013-07 – The Department filed Reply Comments on the issue of Demand Reduction Induced Price Effects (DRIPE). The DPS current position is that some proportion of these effects should be included in the calculation of avoided costs of energy efficiency investments. This is a change in position from our 2011 recommendation on this issue, based on recent research. VEIC disagrees and the Board will need to decide this issue. The financial ramifications are very small, but we believe we need to make this recommendation in order to properly calculate avoided costs.

Stowe Rate Investigation – Docket No. 8074 – A settlement meeting took place on December 6. The meeting was constructive and helped identify areas of agreement and disagreement. Finance staff is following up on numbers this week to attempt to reach a final, agreed upon cost of service. The parties are due to report back to the Board on December 20 as to the results of settlement talks. At present, these talks appear to be moving in a positive direction.

WEC Net Metering – Tariff No. 8472 (Docket No. 8159) – WEC filed a proposed tariff that would allow it to continue to offer net metering above the 4 percent cap, but that would limit net metering to systems of 5 kW or less. The Board suspended the tariff and initiated an investigation, scheduling a prehearing conference for December 12 to discuss a schedule for briefing initial legal issues raised by the Department. On December 9, WEC filed a request to withdraw its tariff and informed the Board that it would stop accepting net metering applications. On December 10, WEC issued a press release stating, among other things, that “WEC has been ordered by the [Board] to suspend its proposed net metering program.”

VEC Request for Rate Increase – Tariff No. 8476 – Department finance staff is reviewing VEC’s request for a 2.93 percent rate increase. A recommendation is due on December 16. While the bulk of the filing looks solid and well-supported, staff still has questions about why VEC needs a relatively high TIER of 2.18 percent. Staff intends to discuss this matter with VEC in determining whether to recommend an investigation.

WEC AMI Plan – Docket 7810 – The Board held a workshop with the Department and WEC to discuss Department concerns regarding WEC AMI system capabilities relative to Board-ordered minimum technical capabilities. The workshop was productive. WEC acknowledged technical shortcomings with its AMI system as a result of problems with its AMI vendor. The parties agreed in principle upon web-based workarounds to achieve desired long-term system capabilities. WEC and the Department will file a joint schedule by December 13 outlining a timeline by which WEC intends to implement system changes. Altering the existing Board order will come at some point thereafter.

VTel/SBA 248a application - Richmond – Docket 8162 – The Board convened a status conference to address concerns from ANR and the Town of Richmond related to the application. The Board allowed supplemental comments from ANR and the Town to be filed by December 20. The Department noted that an aesthetic concern had been raised by the Town in its initial comments, and that it (the Department) will retain an independent consultant to review the application and the site. The Department will file a proposed deadline to submit its aesthetic review on December 13.

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

#### Electric

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

GMP-Depreciation Study-preliminary results. Staff is continuing its review of the depreciation study done for GMP. The preliminary results indicate GMP’s depreciation rates are too high and need to be reduced, thus reducing depreciation expense and the revenue requirement by about \$4 million or more.

GMP –Tariff No. 8477: Green Mountain Power Corporation Alternative Regulation Plan Earnings Sharing Adjustor Filing for twelve month period ending September 30, 2013. The filing requests a surcharge of 1.4845% to recover a portion of the storm costs associated with four major storms during fiscal year 2013. Staff is reviewing the filing. PSD recommendation is due 12/16/13.

Stowe Electric Department – Docket 8074 Investigation into Stowe’s the existing rates. Staff continues its review of Stowe’s Cost of Service-- Based on Stowe’s Cost of Service and related financials the Department finds the utility is maintaining excessive cash balances. The Department met with Stowe Electric on December 6, 2013 in a negotiation/settlement discussion and is currently reviewing issues that would lead to an overall reduction in rates of about 4%.

Vermont Electric Cooperative (VEC) – Tariff 8476—Request for Approval of a Rate Increase of \$2,093,464 or 2.93%, effective January 1, 2014. VEC is seeking this rate increase largely as the result of increases in transmission and storm costs. Staff is reviewing the filing. Discussions have been held regarding the need to initiate a rate design, updating a VEC depreciation study, and reviewing the assigned TIER in light of progress in VEC’s 10 year capital plan. Our recommendation is due by 12/12/13.

## ***Telecommunications***

Exponent Contract – The Department chose Exponent, a well-respected international engineering and science consulting firm, to draft a legislative report under 30 § 2811(d) concerning the health effects of RF emissions from smart meters. Staff drafted a contract, which was approved by the AG’s office and signed by one of the principals at Exponent. The contract is awaiting final approval by the Department. Once completed, Exponent can begin work on this project.

Smart Meter Cost Savings Report – 30 V.S.A. § 2811(c) directs the Department to submit a report to the legislature on the “Savings realized” from smart meter deployment and a discussion of security breaches to any of the utilities’ AMI systems. Four of the five utilities have responded with at least some of the data necessary for this report. The Department is waiting for a submission from GMP. Once the Department receives GMP’s data, Telecom Division staff will draft language necessary to fulfill the data security prong of the 2811(c) mandate.

## ***Regional Policy***

### Order 1000 Default Cost Allocation

- The New Hampshire PUC has drafted an opposition to the joint ISO-NE/transmission owners filing at FERC that would implement a default cost allocation under which 70% of the costs of a transmission project driven by public policy would be socialized by all states, with the remaining 30% borne entirely by states with policies driving the need for the project. The draft filing proposes an alternative cost allocation of 30% socialized and 70% borne by states with policies driving the need.
- The VT PSD, VELCO, Rhode Island PUC, and the Massachusetts Municipal Wholesale Electric Company (MMWEC) are working with NH on edits to the draft to ensure that all parties can sign-on. It is expected that the PSD and VELCO will be signing onto the filing, which is due December 16.

### Forward Capacity Market Performance Incentive Proposal

- ISO-NE’s PI proposal failed at the NEPOOL Participants Committee with 10% support. ISO-NE indicated that it will be filing its proposal with FERC regardless.
- NRG Power Marketing proposed an amendment that replaced the PI proposal with an alternative proposal that: (1) increases the Reserve Constraint Penalty Factor for Ten-Minute Operating Reserves and Thirty-Minute Non-Spinning Reserves, and (2) replaces the current “shortage event” mechanism with a mechanism that measures Equivalent Peak Period Forced Outage Rate (EFORp). The NRG amendment received 80% support at the NEPOOL Participants Committee meeting.
- The fact that a proposal brought forth by a NEPOOL member received greater than 65% support allows the NEPOOL proposal to be considered on an equal footing with the ISO-NE proposal at FERC (the so-called “jump ball rule”).
- PSD staff are reviewing the NRG amendment and will make a determination as to whether to take a position at FERC on this issue.

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** December 13, 2013  
**SUBJECT:** Governor's Report

Fire Safety Division

Issues / Updates:

The division received \$10,800,000.00 in new construction valuation collecting \$60,000 in permit fee revenue.

John Vergin celebrates 50 years of service with public safety. December 18th during the division training we will recognize John for his years of service to the State. John is in his nineties and comes to work every day. It would be a nice surprise for John if the Governor could stop by (if in the area) and congratulate John on his dedicated years of service.

Emergency Management/Homeland Security

Issues/Updates:

Federal Emergency Management Agency (FEMA) Region I in coordination with the Vermont Division of Emergency Management and Homeland Security sponsored an airfield assessment of Burlington International Airport. Its purpose was to plan for the possible use of the airport as a logistics staging area and site for air evacuation/evacuee reception operations. The contractor IEM will perform the assessment.

DPS COOP meeting occurred- EM Planner is putting a package together to provide training to each of the divisions on what they are expected to do as a part of a COOP event. This training will be provided in conjunction with the COOP coordinators in the other divisions.

## Criminal Justice Services

### VCIC

#### Marijuana Program

As of December 11, 2013 the registry has 961 patients and 119 caregivers currently active. This represents a 72.5% Increase in registered patients over 2012.

#### Sex Offender Registry

#### SOR Rules

#### Laboratory Issues

The loss of the DNA chemist and fingerprint examiner position is significant to the laboratory. These are two key position providing support to two key programs. We cannot loose these position and we must aggressively look to fill them if and when we get them reinstated. Filling these position will require an increase in the base salary of both positions.

### Office of Technology Management

#### VJISS

We continue to work to refine and fix bugs in the VJISS and VCAMP software applications. Commissioner Flynn and I had a meeting this week with Sarah London and Susan Allen from the Governor's Office to brief them on the rollout plan for these applications. We also spoke about the need for the creation of a justice information sharing program that would enable the debate over crime response and evaluation to occur at a high executive level and at an interdisciplinary level.

### Public Safety Broadband Network (FirstNet)

The Commission met in December and had a presentation from Michael Myers, PhD, on the development of a public private partnership for funding a public safety broadband network. Dr. Myers is private consultant from Texas who will be doing the presentation via video conference. He is pushing that states including Vermont consider building a network utilizing existing commercial infrastructure and enter into a public private partnership (P3) arrangement that will fund the ongoing costs of the delivery of broadband services to public safety entities. His model suggests that in the partnership the State receives 51% of the revenue from the build out while the commercial entities involved in providing the infrastructure receive 49%. The infrastructure necessary to provide the coverage would be a combination of commercial and state assets to increase broadband coverage to the public and public safety entities.

### VSP

Assist FBI with threat on Senator Leahy. Male subject identified and interviewed by FBI Agent and Det. Sgt. Smith. Subject has mental health issues, but does not appear to be serious about taking any action.

Generally we are spending a lot of time on budget preparation and finding positions within the department to give up.



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

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: December 13, 2013**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Press/Media Notes:**

- Building Better Communities Grant Program ceremony was held on Wednesday in the House Chamber – over 40 grants awarded totaling \$491,521

**Significant Events/Meetings:**

- Met with Farmer's Market representatives for the purpose of information gathering and strategic planning
- Meeting held on Berlin Hospital CON representations vs. project budget and possible shortfalls

**Evolving Issues:**

- Met with Dixie Henry and Diane Nealy regarding AHS space needs. Follow up meeting with Secretary Spaulding and Michael Clasen today.
- Village of Waterbury – Skip Flanders, President, Village of Waterbury and Bill Shepeluck, municipal manager. Received additional correspondence about desire to purchase land associated with Stanley/Wasson Hall.
- Discussion of state wide electric vehicles and the installation of charging outlets

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

Secretary Spaulding, Commissioner Reardon and Budget Office staff briefed the Governor on a proposed FY15 budget package on Wednesday, December 11<sup>th</sup>. The budget office continues to work on developing the budget.

Commissioner Reardon and Deputy Commissioner Clark continue to meet with departments regarding their FY 2015 budget requests. Recent meetings include: ACCD, Judiciary and AHS related to the Exchange.

## **HEALTH CARE REFORM**

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

**SIM Grant:** The Vermont Health Care Innovation Project (formerly known as the SIM project) made significant progress over the past few weeks. The Commercial and Medicaid ACO programs are expected to launch on January 1, 2014 and with this launch, the official testing of the ACO Shared Savings Program begins. VHCIP convened the majority of its work groups over the past week. In these meetings, the work groups worked on Charters and Work Plans with the goal of finalizing both early in 2014. The Core Team also met, approving a conflict of interest policy, a provider grant program to submit to CMMI for approval, and use of carry over funds to support key project activities. The Steering Committee met as well and discussed the Episode of Care payment model and the recent Core Team decisions. Over the next several weeks, VHCIP will work towards complete project timelines and work plans for 2014. VHCIP will launch its new website in the new year, making information about the project more accessible to all Vermonters.

### **Evolving Issues:**

Exchange enrollment  
Single payer operational planning  
Single payer staffing/contracting  
Financing planning

## **HUMAN RESOURCES**

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

Commissioner Duffy is working with staff and the VSEA to draft legislation regarding the Vermont Veterans' Home and the Employer Group Waiver Plan (EGWP). DHR will schedule a meeting with VSEA in early January to discuss EGWP in further detail in an effort to reach consensus on a bill. Treasurer Pearce has agreed to attend the meeting to discuss the impact of an EGWP plan in the teachers' system.

Commissioner Duffy has reached out to Senator Bray to discuss a bill he plans to introduce requiring that the budget—at least for all new hires—reflect the full cost of each position, particularly base salary, current benefits, and the present value of future benefits (pension and OPEB).

Commissioner Duffy has reached out to Representative Stevens to discuss H.204, a bill that would prohibit employers from inquiring about an applicant's criminal history record on an initial employment application.

**Significant Events/Meetings:**

Deputy Secretary Clasen and Commissioner Duffy have attended meetings with agency secretaries and commissioners to discuss the recent sweep of positions and find other vacancies to substitute for the swept positions.

Commissioner Duffy attended the annual retreat of the Governor's Workforce Equity and Diversity Council. The Council elected Cary Brown, from the Commission on Women, and Rubin Jennings, the VSEA representative, as co-chairs for the upcoming year. The Council prepared information to be submitted to the Governor for its annual report. The Council also heard a presentation from the Committee on Successful Aging.

DHR staff has met with representatives from the Department of Mental Health to discuss staffing issues at the new state hospital, particularly the return rights of prior employees and recruitment of other staff in sufficient time to staff the hospital for a month prior to its opening.

**INFORMATION AND INNOVATION**

**Status of Governor's Priorities:**

Healthcare: Cigna to Blue Cross Blue Shield (BCBS) transition: The healthcare eligibility files have been uploaded to BCBS, meeting the targeted date. Healthcare cards are being created and will be mailed to employees in the next few weeks.

**Significant Events/Meetings:**

The DMV experienced a short term disruption affecting their Automated Call Distribution center on Friday 12/6 from 7:45 am until 8:35am. A file did not load properly following a firmware change. A reload of the file cleared the problem.

**Evolving:**

The Vermont Health Care Innovation Project has requested a new Website. The site is set up in the development environment and training is scheduled for 12/13.

Training on the new features for the Rate Review site for Green Mountain Care Board is scheduled for 12/16.

**LIBRARIES**

**Significant Meetings/Events:**

12/11 - Digital Literacy Meeting: The Department of Libraries and the Vermont Telecommunications Authority (VTA) held a meeting with stakeholders from around the state to introduce the idea of a

statewide effort for ensuring that Vermont citizens have support for tech training (Digital Literacy) and information literacy skills. The Department of Libraries has Digital Literacy as a key part of our strategic plan but we have thus far limited our scope to public libraries. The VTA has a federal grant which, in part, is designed to increase use of the Internet in Vermont.

### **Project Updates/Partnerships**

#### **Vermont FiberConnect Broadband project (VTA/Sovernet) Update:**

- 23.....Libraries online with Fiber
- 13.....Libraries not yet online, turned-up by Sovernet
- 7.....Libraries not online, not turned-up by Sovernet;
- 3.....Libraries pursuing internal wiring (Aldrich, Vernon, Manchester)

### **Other:**

**Vermont Health Connect:** The reference staff of the VT State Library report that they have been getting calls from citizens asking for info on the Health Exchange, Medicaid, etc. These callers do not have access to the Internet and need information to answer questions, register for insurance, etc. Library staff supply phone numbers, info about navigators, etc. and are able to direct callers to the info they need.

**Health Information Round Table (Vermont Library Association):** Gerrie Denison (State Library) attended the first meeting of this recently created round table which attracted academic librarians and hospital/medical librarians. Gerrie brought back information about services from the National Library of Medicine and will alert State Library Staff to these resources in answering citizen calls related to health and medical questions. We will also make sure that information about these resources gets to public libraries.

**VTLIB annual staff holiday luncheon** will be here in our conference room at noon on 12/20.

## **TAXES**

### **Legislative Update:**

**Education Tax Rate Letter:** A series of questions from Art Woolf led Mark Perrault to realize that the State & Local Govt Price Index supplied by Tom Kavet was not accurate. That index is used for several computations in the Ed Tax Formula. Using the erroneous index, the Nov. 26 letter stated that the base education amount was going down, and recommended a .05 increase in the base property tax rates. In fact, using the correct index, the base education amount would go up significantly, triggering an additional .02 increase in the base property tax rates, and an increase in the base income rate to 1.84%. However, if the base education rate simply remains at last year's amount, the .05 rate initially recommended would hold (with just a slightly lower reserve). The Commissioner is working on a short correction letter, and the Agency of Education is contemplating a companion letter to school business managers (basically sending the message, that one way or another, rates are going up, even without spending increases – but they will be compounded with increases).

**Amazon Law:** In the 2011 session we passed a “click through affiliate nexus” law that takes effect when 15 other states adopt substantially the same language. The law requires collection of the sales tax by a

remote vendor who does not have physical presence in VT when that vendor compensates VT entities that provide web links to its products (our law is based on the NY law that the Supreme Court refused to rule on). It appears that at least 13 other states now have such laws (additionally, IL has a law that was ruled in conflict with the expiring Internet Freedom Act).

Our threshold likely will be triggered in the coming year – the question is whether we want to lower or raise that trigger. NY actually is the only state that is collecting pursuant to click-through affiliate nexus. In other states, Amazon, Overstock and other prominent retailers have very publicly severed their affiliate contracts, thereby keeping themselves beyond the reach of the law. For example, the Commissioner spoke with the CT Dept of Revenue General Counsel who stated there was no reason to believe that the nexus law had brought in any revenue (although they have not yet conducted audits on the issue). On the other hand, the CT law did pressure Amazon to cut a deal to locate distribution centers there. The Commissioner spoke with Michael Mazerov, of CBPP, who is outspoken in favor of affiliate nexus laws. He acknowledged the problem of affiliates losing their contracts without any gain in tax revenue – he liked the trigger approach, but suggested that in order to be all in together, states might adopt a much higher threshold that will force vendors to submit (30 states).

Online Travel: The Department is finalizing the contract with the litigation group. There should be a hearing in the NH court case in the next few months.

Cloud: A draft regulation is circulating internally within the Department. A robust public discussion is anticipated even before the regulation is officially filed.

FAST Contract for Integrated Tax System: The Independent Review report to DII turned into a four hour affair, although there appears to be no question that the cost of the FAST contract is easily justified when looking at the amount of revenue estimated to be generated over the next 10 years. The biggest risks identified centered on the Department of Taxes having sufficient resources to capitalize on the functionality of the new system. In the meantime, we are down to negotiating the final details with FAST.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
Date: December 13, 2013  
RE: Boards and Commissions Update

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**VEPC:**

Lawrence has been in touch with **Emma Marvin**, Butternut Mountain Farm, and she is considering it.

Last name	first name	City	Board/Commission	Initial appt	ending date	Comments
Bristol RESIGNED	Gordon	Williamsville	Economic Progress Council, Vermont	7/14/2011	3/31/2015	
Gentile	Betsy	Brattleboro	Economic Progress Council, Vermont	4/1/2005	3/31/2017	
Keane	Michael	North Bennington	Economic Progress Council, Vermont	4/18/2012	3/31/2017	
Briglin	Timothy	Thetford Ctr	Economic Progress Council, Vermont	7/18/2013	3/31/2017	
Lintermann	Mary	Stowe	Economic Progress Council, Vermont	4/1/2004	3/31/2017	
Morse	Stephan	Newfane	Economic Progress Council, Vermont	4/1/2008	3/31/2015	
Port	Nancy	Burlington	Economic Progress Council, Vermont	4/1/2005	3/31/2015	
Quatrini	Bryon	St. Johnsbury	Economic Progress Council, Vermont	7/14/2011	3/31/2015	
Smith	Rachel	Saint Albans	Economic Progress Council, Vermont	4/1/2008	3/31/2017	

**Appointment List for December 11, 2013**

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

APPOINTED: Lucinda "Cindy" Bell, Brandon

**Private Investigative & Security Services Board:**

REAPPOINTED: Robert Wernecke, Berlin (Public Member)

REAPPOINTED: Frank Davis, Derby Line (Public Member)

**Dental Examiners:**

REAPPOINTED: Katherine Silloway, St. Johnsbury (Dentist)

**Professional Engineering Board:**

REAPPOINTED: Katherine Hill, Ferrisburgh (Structural Engineer)

APPOINTED: Claus Bartenstein, Rutland (Electrical Engineer)

**Board of Land Surveyors:**

REAPPOINTED: Charles Rockwell, Rupert (Professional)

**Board of Barbers & Cosmetologists:**

APPOINTED: Joan Kavanaugh, Waitsfield (Cosmetologist)

**Medical Practice Board:**

REAPPOINTED: Leo LeCours, Jericho (Public Member)

REAPPOINTED: Robert Hayward, MD, Shelburne (Professional)

REAPPOINTED: Harvey Reich, MD, Mendon (Professional)

REAPPOINTED: Joshua Plavin, MD, Randolph (Professional)

APPOINTED: Gary Burgee, MD/JD, Randolph (Professional)

APPOINTED: Richard Bernstein, MD Jericho (Professional)

**Livestock Care Standards Advisory Council:**

APPOINTED: Todd Jay Pritchard, Colchester (Knowledge of Food Safety)

**Vermont Humanities Council:**

APPOINTED: James Alic, Ludlow

**Joint Committee on Tax Credits:**

APPOINTED: Angus Chaney, Brandon

**Alcohol and Drug Abuse Council:**

REAPPOINTED: Mark Weikert, Bondville

**State Program Standing Committee for Developmental Services:**

APPOINTED: Julie Cunningham, Brattleboro (Professional)

APPOINTED: Nicole LeBlanc, Montpelier (Advocate)

**Self-Determination Alliance:**

APPOINTED: Nathan Besio, Colchester (Person who manages their services under Choices for Care)

**State Rehabilitation Council:**

APPOINTED: Ellen Vaut, South Burlington (Parent Information Center)

APPOINTED: Samantha Brennan, Chester (Vocational Rehabilitation Counselor)

REAPPOINTED: Sarah Launderville, Williamstown (Disability Advocacy-VCIL)

**Milk Commission:**

APPOINTED: Sarah "Helen" Labun Jordan, Montpelier (Public Member)