

From: Springer, Darren [Darren.Springer@vermont.gov]

Sent: Saturday, January 02, 2016 11:13 AM

To: Springer, Darren

Subject: Weekly Reports - Executive Privilege 01 01 16.pdf

Attachments: Weekly Reports - Executive Privilege 01 01 16.pdf; ATT00001.txt

WEEKLY REPORTS

Checklist

1/1/16

Darren Springer

- ☒ Agency of Commerce and Community Development – Patricia Moulton
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Public Service Department – Chris Recchia
- ☒ Agency of Human Services – Hal Cohen

Sue Allen

- ☒ Agency of Education – Rebecca Holcombe
- ☒ Agency of Transportation – Chris Cole
- ☒ Agency of Agriculture – Chuck Ross
- ☒ Agency of Natural Resources – Deb Markowitz

Sarah London

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

Jessica Gingras

- ☐ Boards and Commissions – Jessica Gingras
- ☐ Department of Liquor Control – Jim Giffin

TBD

- ☐ Department of Labor – Annie Noonan
- ☐ VT Commission on Lottery – Greg Smith

To: Governor Peter Shumlin
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development
Date: December 30, 2015
Re: Weekly Report

PATRICIA MOULTON, SECRETARY:

GOVERNOR'S PRIORITIES:

- **Megan Smith reports: Winter Advertising:** Due to the lack of winter conditions VDTM is working to delay some advertising until mid-January in hopes of better conditions. Distant domestic advertising will continue; however regional drive advertising will pause for a two-week period.
- **EB5: Q-Burke:** We have approved almost all of the outstanding invoices. The “almost” part is we still have not paid any equipment pending a further negotiation between Q-Burke and DFR/AG’s office. Susan has sent a letter making that clear. We have approved all outstanding requisitions from the general contractor, PeakCM. This includes November which was approved before the deadline! We still have smaller outstanding invoices pending further analysis by White and Burke. But the major things have been approved. The ball is in Q-Burke’s court to follow up on the equipment discussion.
- **Windham County:** I met with two potential new software firms for Brattleboro. One is software for Personal Learning Plans and being developed by a Vermont company and being tested in Vermont schools to rave success thus far. A second is a Canadian whose in-laws live in Brattleboro so he may set up the facility there. It is software for “wearable” electronics and it helps monitor stress and offer stress reducing tips. Each may pursue a loan from Windham County Economic Development Program to get them to where they can attract venture capital. Both are tied in with Green River, a successful software contractor already in Brattleboro.
- **GS Precision:** A successful event Monday in Brattleboro. The height of the day was the warm hug between Governor Shumlin and Norm Schneeberger, which was preceded by a “the Governor was right” from Norm Schneeberger! A moment we will all treasure! In all seriousness, a good event, an exciting project and good press! The Governor was joined by Senator Leahy and Congressman Welch to mark the expansion of this important Windham County business. A number of resources including \$1M in CDBG were secured to help the business retain 300 jobs and add an additional 100 jobs in Brattleboro.



- **RDC changes:** Changes ahead at two RDC's: Rutland Economic Development Corporation (REDC) has contracted with Castleton University to provide professional staffing for REDC. The Board wanted a greater focus on entrepreneurial activity and better collaboration between the multiple organizations in the Rutland Region. Joan and I have talked with Lyle Jepson from Castleton as the primary contact, and Mark Foley, REDC Board chair and they are committed to delivering needed services and "doubling down" on their efforts. Jamie Stewart is out seeking a job. A different model and one we will watch with enthusiasm. Bennington County Industrial Corporation (BCIC) is considering contracting with the Bennington County Regional Commission (BCRC) to have BCRC provide the Executive Director services. This is still in the planning stages. But another model that can and has worked in the past. I believe this is a result of frustration both boards are feeling as the lack of economic growth in the region. Workforce development is another area where I believe both organizations seek deeper, more meaningful results.
- **Enterprise Fund:** We are sending materials to the E-Board today on Global Foundries. Meeting January 8!
- **Legislature:** We are scheduled to do a "program overview" with House Commerce Wednesday and Thursday, January 6 & 7. We are scheduled in Senate Economic Development on the 13th. The approps Chairs have asked the policy chairs to "prioritize agency and department programs."

DEPARTMENT OF ECONOMIC DEVELOPMENT: Joan Goldstein, Commissioner
BUSINESS SUPPORT - Economic Development ♦ Jared Duval, Director

- Working to respond to both immediate needs from multiple forest products businesses and a recent WLEB "financing options blueprint" recommendation to advance a "deferred payment, no interest" revolving loan program for certain Working Lands businesses. Surveying possible host organizations to identify a potential applicant for emergency NBRC funds.
- Mark Scarano, NBRC Federal Co-Chair, is in strong support of the general idea of a "deferred payment, no/low interest loan fund" for certain working lands businesses, and, once (if) we identify a host organization to apply, he will recommend to the NBRC board that the \$100,000 in set-aside emergency funding (which any state can apply to outside of the normal grant cycle) be utilized for this purpose. The key benefits he sees are that a) an RLF makes the impact of the grant funds go farther (recirculating rather than one-time impact); this need has been identified via intensive research undertaken by the WLEB, and aligns with our CEDS; and, while we cannot presume who would receive the loans, there are critical businesses that we are currently aware of that could utilize this type of fund, with potentially significant job retention impacts. Met with Catherine Dimitruk of the Northeastern Vermont Economic Development District to coordinate on 2016 NBRC application outreach.
- Working to coordinate schedules of RDCs, RPCs, the NBRC federal staff, and VT's Congressional Delegation to organize three 2016 NBRC info sessions for late February/early March: one in Franklin Co.; one in Lamoille Co.; and one in the Kingdom. Because of the hard work of our Congressional Delegation, Vermont will have approximately \$1.8 million in NBRC grant funds for 2016 (up from \$1.2 million last year). Also, this year's application process will be moved up about a month, with final applications to be due in May rather than June.

VERMONT TRAINING PROGRAM ♦ John Young, Director

- Last Tuesday I met with Burlington Electric who is working with a training vendor for a green building training. They had held a similar training for architects in the past but are hoping to offer similar training to carpenters and contractors.
- Fred Kenney, Sam Andersen and I met with Rock of Ages last Wednesday to discuss the possibility of a new production line that will either be placed in Canada or the Barre facility to produce curbing and landscaping products. The new line would include new equipment and a possible 6-7 new employees to start.
- Met with NSA Industries Wednesday. They have not signed the new contract and things have been delayed for about 1 month. They are still working on putting together a training matrix and VTP should be able to help with the onsite training piece. They are still looking at 65 new positions.
- Meeting Tuesday with Hen House Media and Birchtree Leadership training.
- PreCraft Inc. has a grant in our review process for CAD and manufacturing training which will be out of the review process by the end of the week.
- Cultural Intrigue from Brattleboro is an online retailer that is purchasing new website and ERP software and is in the review process as well.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Commissioner MacKay

- **Burlington Town Center Follow Up:** Noelle met with Jon Groveman and they agree with Brian Dunkiel's assessment that hotel rooms should not be counted as priority housing project (PHP). However, the District Coordinator noted that the mixed use (hotel, office and retail) for the BTC plans are over the percentage for mixed use to meet the PHP requirements and be under the trigger for Act 250. The developer may decide to scale back the mixed use portion or go through the Downtown off-ramp. If they go this route, the criteria reviewed are limited and the timeline shorter with no fees. **Background:** The BTC has requested a jurisdictional opinion for the BTC to be considered as a priority housing project in a downtown. The project is mixed use – hotel, office and housing and are arguing that the hotel should be mixed use and not counted as housing units. The housing units will meet the income requirements for both Burlington's inclusionary zoning and our PHP requirements and are below the threshold number. However, if hotel rooms are counted as 'units' they won't be.
- **Training Re: Benefits of Designation:** In developing program summaries for the Legislature, the Community Planning and Revitalization Division reviewed Act 250 projects over the last year in various state designation areas to determine how many had received the various benefits – no or lower fees for Act 250 or state permits; no Act 250 review because they are developing PHPs that fall under the new unit counts. The good news is that over 400 units have been developed over the past year in our designation areas. The bad news – many of them paid higher fees than under the new regulations developed in 2014. We will be reaching out to the NRB and ANR to remind them of these requirements and also reach out to developers and their associations to ensure that they are receiving the full benefits.
- **Pause the Permit:** Met with Alyssa and DEC's lawyer to discuss the concept of 'pause the permit'. HVT has a bill on the wall of House General in response to the long timeframe to develop a project in Woodstock. The bill would require Agencies to shorten review times for affordable housing projects. This has problems for Agency staff and would not actually deal with the problem – extensive appeals by neighbors. However, there is another issue – with the appeal time, state permits that have been reviewed and issued, expire due to the long appeal time and the developer then needs to start all over again with the permit - costing time and money. In speaking with Alyssa, she thinks they can fix this and could put it in their permit bill or the omnibus housing bill being considered in the House. Alyssa is going to meet with staff just to make sure there are no issues.
- **Council on Pathways from Poverty Recommendation Discussion:** Facilitated the discussion between DHCD's Housing Council and AHS's Homelessness Council around the recommendation from Pathways from Poverty that 15% of units receiving public subsidy be prioritized for those that are homeless and provide the rental subsidy and services necessary for success. It was a good discussion, but there is no clear agreement on if this should be a goal, or a requirement; 15% of what; what is the baseline; what is the timeline to meet the benchmark and how much (\$\$) support would be required to meet the goal. The group decided to hold two meetings in January (8th and 22nd) to answer these questions and determine a mechanism to move this recommendation forward.
- **Solar Siting Task Force Meeting:** Participated in the Task Force meeting which concentrated on the various recommendations made by the committee and public. Report is due January 15th and it is still not clear what the final report or recommendations will be. Currently, many of the recommendations that are supported by the majority of the Task Force members center around education, planning and creating a more transparent and customer friendly process at the PSB.
- **9 (L) Guidance:** Met with Dale, John and Chris to review the comments received from stakeholders and determine how to incorporate into the final draft. We will provide this draft and comment summary to ANR and NRB in preparation for a final interagency meeting to finalize the draft. Once final, DHCD will develop a power point presentation and train NRB staff in preparation for them setting up trainings for early next year.
- **Bank of America CDFI:** Joined to Governor to announce that Bank of America will be giving \$1.5 million to Rutland West Neighborhood Housing Services, which is the CDFI for Rutland's Neighborworks organization, to continue their weatherization and efficiency work with Green Mountain Power. Noelle has been working to coordinate how best to bring BOA's funding to Vermont and make connections at the local level. This will provide more funding for a consumer-friendly program that helps families save money and warm and helps meet the State's efficiency goals. [Note: *A Community Development Financial Institution (CDFI) is a financial institution that provides credit and financial services to underserved markets and populations. An institution must be certified by the CDFI Fund at the Department of the Treasury. In Vermont there are six CDFI's including Community Capital of Vermont, Northern Community Investment Corp, Opportunities Credit Union, Rutland West Neighborhood Housing Services, Vermont Community Loan Fund and VSFJ Flexible Capital Fund L3C.*]

Deputy Commissioner Hanford

- **CDBG & CDBG-DR Application:** Nearly \$4.5M in application and enhancement requests have been submitted for the February 11th board meeting. VCDP staff have started review and analysis of the applications. It will be a challenge as only \$2.5M is available.

COMMUNITY PLANNING & REVITALIZATION ♦ Chris Cochran, Director

- **Montpelier – Tax Credits:** Caitlin, Jamie and Elizabeth met with representatives from Housing Vermont, Downstreet Housing & Community Development, and Black River Design to tour the French Block (Aubuchon Hardware) and discuss potential plans to rehabilitate the empty upper floors of the building to create much-needed housing. If it moves forward, the project will likely seek federal and state funding, including federal and state tax credits.
- **Tax Credit User Survey Results:** Caitlin compiled survey responses from nearly 40 recently completed state tax credit projects. The results show nearly half of these projects would not have been possible without access to tax credits. In addition, 44% of the projects resulted in the creation of a new business with an additional 39% of the projects allowing for expansion of an existing business. The program supported the creation of 135 new, permanent jobs, an average of 3.5 per project. Customer satisfaction is high with survey respondents ranking application materials at 8.8, the program review process at 9.2 and customer service at 9.7 (on a scale of 1-10).
- **Flood Resilience Checklist:** Faith and Annina completed a Flood Resilience Checklist for Vermont Communities to introduce municipalities to the range of options available for reducing flood damage and costs. ANR, DEMHS and the RPCs assisted in updating the original checklist prepared with assistance from the EPA in 2012. The new version addresses the ERAF (incentives for emergency relief funding), the flood resilience requirements for municipal plans and incorporates strategies identified through the VERI project. The RPCs will apply the checklist in their meetings with municipalities and an automatic submission function will enable us to easily collect and compile the responses for use in informing state policy. We will conduct a webinar on the checklist for RPC staff in early January and will post the checklist online for general use shortly after.

HISTORIC PRESERVATION ♦ Laura Trieschmann, State Historic Preservation Officer

State Architectural Historian

- **Stone Hut, Stowe:** The Stone Hut was damaged by fire on December 24 and VDHP staff were immediately in contact with staff at the Department of Forests, Parks and Recreation, which owns the building. It was built in the 1930s by the Civilian Conservation Corps and is listed in the State Register of Historic Places. Plans are in the works right now to get an engineer onsite who can assess the structural stability of the masonry walls and determine if and how the building can be rebuilt. Consultation with FPR will continue throughout the process. [Burlington Free Press article.](#)
- **Athenwood, Montpelier:** Athenwood, the home of artist T.W. Wood located just down the hill from National Life on Northfield Street, [has been foreclosed on and is for sale.](#) The house is an excellent example of Carpenter Gothic architecture and is listed in the National Register of Historic Places for its architecture and association with Wood. The Board of Directors of the T.W. Wood Gallery is interested in purchasing the house for use as a gallery to exhibit Wood's artwork, but they need to know whether or not it is even feasible to take on a project like this. Devin toured the building with the board and Eric Gilbertson, Preservation Trust of Vermont, to evaluate its condition and assess the feasibility of converting it from residential to gallery use. The site has a lot of challenges, including a lack of parking, difficult ADA access, and the building needs a lot of maintenance to make it a functional space. It is now up to the board to decide if they want to make an offer.

HP Grants

- The Vermont Advisory Council on Historic Preservation awarded State Historic Preservation grants to 12 projects at their December meeting. Competition was extremely competitive, as we received 56 applications; including applications from every county in Vermont with funding requests totaling \$871,939 (with \$199,367 in funding available). Caitlin, Jenni and Debbie are working to complete risk assessments and notify applicants of the results. A formal announcement with details of the grant recipients and projects awarded will be coming soon.

Project Review

- **Springfield** – Jamie met with Bob Flint, SRDC, and a number of consultants, to walk through the former Bryant Grinder Complex in Springfield, VT. The team included HP Consultant Lyssa Papazian, Dan Voisin with Stone Environmental, Engineer Todd Hindinger and Architect Robin Sweetapple, and their focus was to identify the most characteristic areas that retained integrity across the massive factory complex built over a period of years from 1910 to 1967, across the street from the former J&L Factory. Preliminary design work will establish a

strategy for restoration and rehabilitation of certain areas, and demolition of non-contributing features and severely deteriorated conditions in some other places.

State-Owned Historic Sites

- **Mount Independence:** The site has lost one of its most helpful and ardent friends—Louise Ransom, who passed away on December 10 at age 94. She was active in archaeological studies at the Mount in the late 1980s and 1990s, helped start the Mount Independence Coalition friends group in 1991, was long-time president, and was a tireless advocate for the Mount. Her work and fund-raising helped bring about the 1996 Museum and Visitor Center, interior permanent exhibits, and educational programs. Her work greatly impressed Senator Jim Jeffords, resulting in federal funding for the Mount's trails master plan and Baldwin Trail construction. Louise was also active in the early days of the Williston CLG commission, and countless other causes at the state and national levels.

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

- Arthur completed a final draft of the 2015 Housing Budget and Investments Report. This is primarily an update of last January's report, however, the housing budget tables have been substantially re-tooled to give a better representation of how State's funds are allocated. Of nearly \$50 million spent on "bricks and mortar" in the state, more than half is from private equity, and less than \$9 million comes from State funds. Of more than \$77 million spent on housing assistance programs, the vast majority comes from Federal "Section 8" rental assistance, and more than \$22 million comes from State funds through the Agency of Human Services.
- Arthur completed the 2015 mobile home park registration and posted the Registry Report and Detail Report on the [mobile home facts](#) page on the website. Lot fees from two park owners remain outstanding, forcing us to start Small Claims Complaints against them. These are Harvey Burdick (Burdick's MHP, Pownal) and Chris Denio (East Mountain MHP, Bennington). Unfortunately, obtaining a Judgment does not guarantee payment as evidenced by the four previous liens we have against Chris Denio. Hopefully, the addition of administrative penalties will result in better outcomes.

VERMONT COMMUNITY DEVELOPMENT PROGRAM ♦ Josh Hanford, Director

Potential Projects

- **City of Winooski:** Josh and Claire provided guidance to Katherine 'Deac' Decarreau, the City of Winooski City Manager, and developer Adam Dubroff on the Vermont Community Development Program. They are considering a VCDP economic development application for a future Marriott SpringHill Suites in Downtown Winooski. If they decide to pursue an application, staff encouraged them to hire consultants to assist with the application and the environmental review process.

CHIEF MARKETING OFFICE ♦ Heather Pelham, Chief Marketing Officer

- **Economic Development Marketing Plan:** In addition to the public press release, a brief progress report on the work-to-date for the Economic Development Marketing Plan was given to members of the House Commerce Committee during their pre-session visit to ACCD on December 17. The project has been officially kicked off, with discovery work now underway by the consultants and plans in full swing for the 'immersion tour' planned for January 11-13. One-on-one and group interviews are being set up with business leaders throughout the state to facilitate direct dialogues on what it means to do business in Vermont.
- **Drupal 6 End of Life:** Contingency planning for the 30+ websites still estimated to be on the Drupal 6 platform post-end-of-life (late February) has been challenging, but some progress is being made. DII is negotiating with the state's e-government partner, Vermont Information Consortium (VIC), on a solution that would allow state entities additional time to complete the migration. Cost is predictably the issue, and the CMO continues to advocate for an equitable solution for all state entities who would be effected.
- **Summer Fancy Food Show Planning:** The CMO, along with Commissioner Smith, joined the domestic export team at the Agency of Agriculture and members of the Vermont Specialty Foods Association (VSFA) to plan for the 2016 Summer Fancy Food Show in NYC. This well-attended B-to-B trade event is an important opportunity for Vermont producers to gain access to buyers with regional and national accounts. To attract buyers to the 'Vermont Pavilion,' VSFA will be securing two booths for product sampling and chef demonstrations, and creating new overhead and possible lamppost signage for all Vermont participants. If all goes according to plan, invitation-only 'cocktail parties' will be held each evening with Vermont cider and beer exhibitors.

VT CENTER FOR GEOGRAPHIC INFORMATION (VCGI) ♦ Steve Sharp, Interim Director

- **VCGI Imagery Program**

- **Orthophotos:** Steve has been working to make the most recent 2015 orthophotos available as “web map services”. These services allow users to access the imagery without having to download gigabytes of data to their machine. These services will be integrated into the Enterprise GIS Consortium’s (EGC) existing services suite hosted by VCGI.
- **LIDAR:** On Dec. 16, 2015 the secretaries for the Agencies of Administration, Commerce and Natural Resources all testified before the Budget Appropriations Committee in support of the proposed Clean Water Fund (CWF) state funding portion for the current LiDAR grant (FY16 USGS Broad Agency Announcement). The support was both unanimous, well-coordinated and well received. While the successful outcome of this process still requires navigating the current legislative session intact and gaining acceptance of the full proposal by USGS in the New Year, we are still in the running.
- **GIS Governance & Coordination:** Esri delivered a 1st draft of its report requested by ACCD in support of the “Analysis of State GIS” project (a project initiated by AOA in collaboration with ACCD). The draft has been forwarded to state agencies and other key stakeholders for their review and input.

**DEPARTMENT OF TOURISM & MARKETING: Megan Smith, Commissioner
Steve Cook, Deputy Commissioner**

- **Research/Operations Chief:** Steve spent the last week with Greg Gerdel, who retired from state service effective December 24th. The Research/Operations Chief position will not be replaced. Steve and team member Jerri Lamson spent the week reviewing Greg’s procedures and are sharing in managing tasks previously assigned to this position.

COMMUNICATIONS ♦ Laura Peterson, Director of Communications

- **Social Media:** Posts highlighting Vermont’s beauty continue to perform well on Facebook. “18 Jaw Dropping Places in Vermont” reached 5265 people, “10 Historic Houses” reached 4135 people, and a video of a Winter Guide to Vermont reached 5968 people.

**CULTURAL HERITAGE TOURISM ♦ Catherine Brooks, Cultural Heritage Tourism Coordinator
Support for Businesses and Organizations**

- **Byways:** Local byway committee members from Hildene and Rokeby Museum will help promote the Vermont African American Heritage Trail to group tour operators at the New England Travel Showcase in June. Catherine has booked VDTM for this show and will pass off arrangements to Kathleen Kolva in early February.

Cultural Heritage Projects

- **Stone Trail:** VDTM sourced historical images from the Vermont Historical Society, including this one of 20 horse and oxen moving a block of granite through the streets of Hardwick in about 1895. Such traffic caused on-going damage to village streets and led to the building of the Quarry Railroad. Final text and image files will go to the designer this week.



MARKETING ♦ Patrick MacCormack, Digital Marketing Coordinator

- **Thank You Consumer eNewsletter:** VDTM sent out a [Thank You](#) email to all of our consumers last week. The goal of this email communication was to increase affinity for Vermont by expressing our genuine appreciation to all of our loyal email subscribers.



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[Securities] 877-550-3907
[Banking] 888-568-4547

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: December 30, 2015
Re: Weekly Report

DFR and I wish you, your family and staff a happy new year. The last year has been a highly productive and challenging one for DFR and I look forward to continued success in 2016.

Best,
Susan

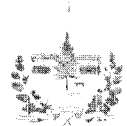
Captive Insurance Division:

DFR tops off 2015 by issuing three more captive insurance licenses bringing the total for this year to 34, which is more than double the 16 companies signed in 2014.

License number 1,061 was issued to Gardien Indemnity, which was formed by the Laberge Group of Albany, N.Y. Laberge is a family-owned and operated firm that provides engineering, planning, surveying and property management services, as well as grants and funding services, for private and municipal projects in the Albany area.

Camspring Insurance signed license number 1,062 this week. It was formed by New Line Structures, which is a construction management company based in New York City that provides pre-construction consultation, project management and general contracting services for residential and commercial projects. It prides itself on repeat business by delivering on-time product using high-tech scheduling software and impeccable quality control.

Forming its sixth captive insurance company in Vermont, Lincoln Reinsurance Company of Vermont VI of Burlington signed license number 1,063. This life insurance captive is a subsidiary of Lincoln National Corp., which operates multiple insurance and investment management businesses. Its purpose is the reinsure a block of term life insurance policies. The company traces its origin back to 1905 and chose the name Lincoln in order to convey a sense of integrity. Founded in Indiana, its headquarters are now in Pennsylvania.



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Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: December 30, 2015

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VEIC and RUS – USDA Secretary Vilsack will be in Vermont on January 8 to announce a \$46 million loan fund for VEIC for energy efficiency and renewable energy loans. At the same time, Treasurer Pearce has ongoing concerns about the use of VEIC's interest in the efficiency charge as collateral to secure the loans made from this fund. Beth is arguing that this requires legislative authorization. Speaker Smith disagrees and is working with Leg. Council to clarify. DPS is working with Leg. Council in an effort to resolve any remaining issues. VEIC is prepared and willing to go to the legislature if necessary.

GMP Net Metering Cap Proceeding – Docket 8652 – The Department filed comments on GMP's net metering cap petition on December 18. The comments questioned GMP's calculation of its cap and filed comments based on informal discussions with GMP staff indicating that the cap could be up to approx. 6 MW greater than indicated by GMP. The Department recommended that GMP either accept an additional 6 MW in its cap or provide data indicating why that number should be altered. GMP is anticipated to make a filing in which it will respond to the Department. GMP is expected to accept the revised cap and to make adjustments to their attrition

estimate. The end result will be an overall cap, 122 MW, that is the same as originally proposed. Because both the cap calculation and the attrition calculation are based upon better, more detailed analysis, the Department will likely not oppose either one. GMP has proposed a lottery to allot 7.5 MW in additional 150kw net metering projects. REV supports first-come, first serve. The Department has opted not to weigh in on this question aside from encouraging the Board to solicit comments from stakeholders who would be impacted (developers). A prehearing conference is scheduled for December 30.

PSB issues draft net metering rule – Conversations are ongoing with stakeholders including GMP, Suncommon, AllEarth, VPIRG, Bob Barton and Marianne Tyrell and others about the draft net metering rule. The PSB has extended the comment deadline to January 13.

GMP Net Metering Credit Transfers – No Docket – GMP will likely ask for an additional 3 to 6 months to implement its tariff relating to expiring net metering credits. The statute requires that excess credits expire after 12 months. GMP is now estimating that approximately 300 customers face the loss of excess credits and the loss they are facing averages \$300 - \$400. GMP will implement a robust communications effort with customers who face the loss of credits. Those customers will have the option of creating a group net metering system and allocating new credits to other members of the group. This will enable them to “burn through” existing credits so as to avoid expiration of those credits. This solution has the added benefit of reducing the likelihood of credit balances accruing in the future because new group members have been added.

Meetings/Calls Last Week:

Dec 21 – NDCAP Advisory Opinion Working Group, Meeting with Speaker Smith
Dec 22 – Entergy VY Monthly meeting,
Dec 23 – Representative Bill Botzow meeting
Dec 24 –
Dec 25 – Christmas Holiday

Meetings This Week:

Dec 28 –
Dec 29 – Discussion on Comprehensive Energy Plan @ Governor’s Office
Dec 30 – VPIRG on NM 2.0, Rachel Goldwasser meeting
Dec 31 –
Jan 1 – New Year’s Day Holiday

Meetings Next Week:

Jan 4 –
Jan 5 – Solar Siting Task Force Meeting
Jan 6 – Governor’s Cabinet Meeting
Jan 7 –RAS America, State of the State Address
Jan 8 – Testimony before HNRE, VEIC/RUS press event

Media: Taylor Dobbs on VGS 11 miles of pipeline, Hilary Niles of VPR on VIT and Steven Whitaker’s efforts to save it.

Public Official Contacts: Check-in with Rep. Klein on net metering rule. Friday meeting with Senator Bray. Check-in with Rep. Botzow on the Public Advocate report.

Everything Else:

PERD

EEU Avoided Costs

- PSD met with EVT to review results of PSD's analysis of historical avoided wholesale costs and its rate and bill analysis, both of which are being prepared in part in response to Joint Energy Committee request for information. EVT has performed their own analysis which does not distinguish between components of the overall avoided costs of electricity as PSD's analysis does. Meeting was generally productive with a fair amount of time spent on framing issues especially regarding rate impact; EVT has no major objections to analysis as presented.
- Spending multipliers for economic impact component of joint energy study questions have been mostly determined, using REMI. After finalizing multipliers, they will be applied to the composition of 2014 EEU spending to determine overall economic impact. Plan is to write a short methodology document to accompany workbook, to allow for reproduction of analysis for different years or span of years.

Clean Energy Development Fund

- Draker Solar closed on their sale to BlueNRGY and made its first payment on their CEDF-ARRA loan under the new restructured repayment plan. They had been in default of the loan since July and are now current.
- Participated in two phone call meetings with the Southwestern Vermont Medical Center regarding their proposed CNG heat plant. One call included the US Forest Service and their contracted engineer and the other included additional staff from the hospital (CFO, Director of Planning, and Director of Engineering) and members of the Bennington Regional Planning Commission. Also participated in several calls before and after these Hospital calls with other interested parties in this issue.

Renewable Energy Standard implementation (Act 56)

- Staff drafted reply comments for a Board ruling recommending a 30% banking limit on Tier 2 RECs and standards for documentation of verification of net-meter and "behind the meter" from ISO's point of view projects in the NEPOOL GIS. Utilities could serve as the verifier, but only if they provided the meter data to the Board in annual compliance filings.

Act 199

- Staff coordinated closely with ACCD to complete the draft of the Act 199 report which was circulated to stakeholders on Thursday afternoon. Comments due back to Joan by Dec. 31. The report can be found here: S:\PSD\PSD - Shared\Projects\Act 199

Docket 7873 Standard Offer Program

- PSD submitted reply comments, mostly in response to filing by Allco alleging overly

conservative assumptions about the cost of solar development in PSD's price cap calculation. Star Wind Turbines and VPPSA had also filed comments. Star Wind objected to revolving set-aside scheme proposed by PSD. VPPSA expressed that Standard Offer is not the appropriate policy vehicle to address solar siting issues.

Finance & Economics

Natural Gas

VGS: Tariff Filing 8592 - Petition by Vermont Gas Systems Inc. for Quarterly Purchased Gas Adjustment Pursuant to the VGS Alternative-Regulation Plan. The compliance tariff reflects a 3.2% reduction in the natural gas charge resulting in an overall decrease of 1.4% in firm rates effective with bills rendered on and after February 2, 2015. The tariff adjusts for an under-collection of gas revenues of \$2.3 million. The rate change is largely due to a decrease in the wholesale cost of gas. Finance & Economics has issued discovery questions and is scheduled to forward a recommendation to Legal on January 13, 2016.

NYPA

The total NYPA bill for Nov 2015 was \$329,991, \$204,404 higher than October 2015's bills, a change of 162%. The energy delivered increased by 165,000, a 1.8% increase. The cost per kWh elevated by 2.1 cents, an increase of 158%. The increase is primarily driven by both ISO-NE and VELCO transmission charges.

Other

Smart Meter Progress Report – Report to the Legislature is due January 2016. Updated and edited SmartMeter survey questionnaire for Telecom to administer. The SmartMeter survey was forwarded to participating utilities on December 22, 2015. Also, prepared to receive survey financials and analyze results.

Engineering

Additional News from Northeast Regional High-Level Rad-Waste Transportation Task Force Conference

As noted last week, the State Nuclear Engineer attended the Northeast Regional Council of State Government's High-Level Radioactive Waste Transportation Task Force Conference, which concluded on 12/17. (By gubernatorial appointment, the State Nuclear Engineer is Vermont's Task Force representative.) Several significant items occurred at the Conference, namely: 1) Both Holtec International and Waste Control Specialists (WCS) discussed their respective plans for constructing consolidated interim storage (CIS) facilities for high-level rad-waste; 2) the Department of Energy outlined its plans for identifying potential locations for permanent high-level rad-waste storage facilities using a consent-based siting process; 3) the DOE also discussed its immediate plans for educating congressional delegations and the public on current rad-waste storage policy; 4) the Task Force state representatives agreed to draft letters to their respective congressional delegations advocating legislation for creating both proposed CIS facilities as a near-term solution while still supporting a permanent repository as the long-term solution. (Additional details to be sent to Chris directly from Tony.)

DOE to Seek Public Input on New Siting Process for Permanent Spent Fuel Storage Facilities

The Department of Energy will seek public comments / input on its efforts to develop a community consent-based approach for siting spent nuclear fuel and high-level radioactive waste

storage facilities within the US. The comment period is intended to help identify important considerations for designing a fair and effective siting process. The period will officially open once the DOE announcement is published in the Federal Register, which will likely occur on 12/30. While the advanced notice does not note the length of the comment period, a 30 to 45 day period is a reasonable expectation. The DOE will likely host a number of public meetings for the citing process during the next several months.

NRC Formally Extends Decommissioning Rulemaking Comment Period

On 12/24, the NRC issued a press release indicating that the open comment period for its Advanced Notice for Proposed Rulemaking (ANPR) for Decommissioning Power Reactors would extend from its original January 4, 2016 deadline to March 18. The extension notice must still publish in the Federal Register to be official, which is expected to occur no later than 12/29.

Vermont Gas Systems Addison Transmission Pipeline Project Construction

Contractors continue to prepare for the installation of approximately 2200 feet of pipeline to make the project's most northerly 11 miles, "Segment One", contiguous. 1800 feet of Horizontal Directional Drill (under Sandplains 2, Colchester) is currently being enlarged from 20" to 26" in diameter to better facilitate pipeline installation through it. The operation to pull this pipe into position might begin around January 4, 2016. Following that, approximately 400 feet of pipe will be required to be installed via conventional open-trench technique(s). VGS is still developing plans/procedures to make connections, pressure tests and other processes to ready Segment One for gas-up. Main-line installation contractors installed a short segment of pipe under the Rocky Ridge golf course (adjacent to Rt. 116) prior to leaving Vermont for the holidays last week. These crews (approximately 30 individuals) are expected to continue this work upon their return, a few days before the New Year. They are subsequently scheduled to perform support functions during the Sandplains HDD installation, to install the 400 foot length associated with it and to perform the tie-in and pressure tests.

Regional Winter Fuels Conference Call

This conference call involves state energy representatives, DOE, ISO-NE, NASEO, US Coast Guard, fuel suppliers, transportation folks, and other interested parties. The recent warm weather has resulted in full fuel storage facilities and no transportation issues. The next agenda item was a discussion on Situational Awareness on types of information and data that states and energy industries monitor for emergencies or need in order to make decisions or responses. The group also discussed how we can better coordinate information between the energy industry and states if there is an emergency. This Situational Awareness topic will also be the focus in the next few conference calls, which are held approximately every two weeks.

Regional

New England Governors/Eastern Canadian Premiers

- NEG/ECP staff circulated proposed steps to implement the 2015 NEG/ECP Climate Resolution calling for at least 35-45% reductions in greenhouse gas emissions by 2030 (compared to 1990 levels) and 75-85% greenhouse gas reductions by 2050 (compared to 2001 levels). The resolution envisions a collaborative process to prepare a report identifying regional strategies, policies and measures to achieve these reductions, with the Committee on Environment (COE) overseeing the work, with help from the

Transportation and Air Quality Committee (TAQC), the Northeast International Committee on Energy (NICE), and the Climate Change Steering Committee (CCSC).

- The NEG/ECP proposal would be to have the co-chairs of the CCSC, TAQC, and NICE coordinate a newly formed staff working group that would do the day-to-day work involved in preparing the report. Any output from the staff working group would be passed through the co-chairs and then to the broader CCSC, TAQC, and NICE, and ultimately to the COE.
 - Gina Campoli from VTrans is a co-chair of TAQC.
- The NEG/ECP proposal includes a timeline that would have the staff working group active by January (with nominations to the staff working group due January 8) and which would work to develop a list of initiatives to be assessed, along with initial screening criteria, and analytic models and tools. The report would be developed from March to June, with presentation to governors and premiers in August for adoption. The proposal also includes a list of “guiding principles” for selecting options to be assessed.
- Not mentioned in the document is coordination with other groups and initiatives, such as the Regional Greenhouse Gas Initiative, NESCOE, and the Governors’ Energy Accord.

NESCOE Proposed Policy Analysis

- On December 21, NESCOE circulated a memo that addresses the fact that “some states have expressed an interest in dialogue regarding energy and environmental policies and their interaction with wholesale electric markets.” The memo explains the context for the discussion and sets out potential analyses that could be helpful for the discussion.
- In terms of background, ISO-NE issued a paper in October which argues that increased renewables will lower energy prices and drive up capacity prices. In addition NEPOOL has developed some preliminary ideas for an economic analysis by ISO-NE that would look at the impact of increased renewables on energy and capacity prices, and retirement of existing resources.
- The NESCOE analysis would look at the impacts on electricity markets of a range of carbon price assumptions and hypothetical renewable portfolio standards/clean energy standards. One possibility would be to analyze how high carbon prices, RECs and Clean Energy Credits would have to be before the following resources had a lower net Cost of New Entry than a combined cycle gas turbine: on-shore wind with associated transmission, grid-scale solar with associated transmission, and imported hydropower with associated transmission. In addition, the analysis would see how high prices would need to be to make nuclear resources economically viable. The analysis could help determine the relative carbon abatement costs associated with each mechanism.
- NESCOE also identified as a possible related analysis, a review of the potential benefit of pursuing regional consistency in a renewable portfolio standard or clean energy standard, along with the impact of increased alternative compliance payments and other changes to program mechanisms. Additionally, NESCOE could analyze alternative carbon pricing approaches (e.g., rebating revenues back to customers versus investing revenues in carbon reduction programs)

- The idea of discussing a clean energy standard is likely related to the desire by some states to keep nuclear resources viable and also the fact that large hydro does not fit with other New England states' definition of renewable.

Zonal Sloped Demand Curves for Capacity Market

- On December 28, FERC issued an order finding that ISO-NE's market rules are "unjust, unreasonable, unduly discriminatory or preferential because it applies vertical demand curves within constrained zones, which does not sufficiently address concerns such as price volatility and a susceptibility to the exercise of market power." FERC opened a proceeding under Section 206 of the Federal Power Act to require ISO-NE to submit revisions to its market rules by March 31, 2016 that provide for inclusion of zonal sloped demand curves in its Forward Capacity Market, to be implemented beginning with Forward Capacity Auction 11 (which would be conducted in February of 2017).
- ISO-NE has proposed zonal sloped demand curves, and the proposal was discussed extensively at the mid-December NEPOOL Markets Committee meeting. The response to the ISO-NE proposal at that meeting was overwhelmingly negative by all stakeholders.
- The FERC Order will result in expedited consideration of ISO-NE's proposal and any alternative proposals that can be formulated within such short period of time.
 - Before ISO-NE can file any changes to market rules, the proposal must be voted on by the NEPOOL Markets Committee and subsequently by the NEPOOL Participants Committee.

D.C. Circuit Review of ISO-NE Winter Reliability Program

- On December 22, the D.C. Circuit issued an Order upholding in part and remanding in part a decision by FERC to approve the 2013-2014 winter reliability program. The ISO-NE proposed program paid \$79 million to oil-fired resources and some demand response participants to ensure that there would be sufficient resources available during cold weather, when natural gas pipelines were constrained. Transcanada appealed two issues related to FERC's approval of the program.
- The D.C. Circuit upheld FERC's decision to assign the program costs to Real Time Load Obligation, rather than Regional Network Load. This was an issue for restructured states with retail choice and the outcome did not affect Vermont ratepayers. Assigning costs to Real Time Load Obligation meant that Load Serving Entities, including competitive suppliers, paid for the program, rather than ratepayers paying for the program through transmission costs.
- The D.C. Circuit was convinced by Transcanada's argument that there was insufficient evidence for FERC to find that the costs of the program were just and reasonable. The Court found that FERC did not take adequate steps to determine whether the costs bid by participants were reasonable, whether participants were exercising market power, and whether participants were able to recover excessive profits. The Court remanded the case to FERC so that it "may either offer a reasoned justification for the Order or revise its disposition to ensure that the rates under the Program are just and reasonable"

Demand Response in Electricity Markets

- On December 23, FERC accepted ISO-NE proposed tariff changes: delaying full integration of demand response into the New England energy market by one year, revising the methodology for determining demand response baseline, and modifying auditing requirements of real-time demand response and real-time emergency generators. The delay in full integration is in acknowledgement of the uncertainty over the participation of demand response in the energy market as a result of a D.C. Circuit ruling (currently pending in the U.S. Supreme Court). The other two tariff changes are designed to reduce the administrative burden of demand response providers.

FERC Technical Conference on Geomagnetic Disturbances

- On March 1, FERC will hold a technical conference on GMD events, with a focus on establishing a benchmark for such events, developing vulnerability assessments, and monitoring related parameters.

Public Advocacy

VGS Addison Expansion – Docket 7970 – Second Remand: Briefs on the MOU were filed by VGS, the Department, AARP, CLF, VFDA, the Palmers and Ms. Lyons on December 17 and reply briefs were filed on December 23 by the same parties, with the exception of CLF which did not submit a reply brief. There is no anticipated date for an Order. VGS and the Department have requested an order by January 8, 2016, after which date the MOU expires.

Discussions continue among the Department Gas Engineer, our safety consultant, VGS and the PA division with respect to the commissioning (gas up) of the first 11-mile segment. These discussions are with respect to safety requirements and the Department's expectations from the Company. VGS currently estimates commissioning this segment in early January 2016.

The third and fourth non-substantial change determination requests are still pending except for the approval of the two Rocky Ridge golf course matters which were dealt with separately. The Board has not issued an order in response to the safety concerns raised by Mrs. Peyser with respect to the third request; VGS has submitted a Proposal for Decision, which was agreed to by the Department. VGS continues to work with hydrology experts to address the Palmers' concerns on the fourth request, which is the re-route around the Palmer property.

VGS-Broughton Condemnation – Docket 8641 – This parcel is in Monkton. Mrs. Broughton, whose new lawyer is Jim Dumont, has filed a motion for summary judgment. Mrs. Broughton argues that because the Project today is so different than the Project which received the CPG, the CPG is no longer valid for purposes of eminent domain. VGS has responded to the Motion. A previously scheduled site visit and prehearing conference were cancelled when Mrs. Broughton was between counsel and has not yet been rescheduled.

VGS-Cuneo Condemnation – Docket 8642 – This parcel is in Williston. Prehearing conference and site visit are scheduled for December 30. Motion for summary judgment identical to Mrs. Broughton's has been filed.

VGS-Town of Hinesburg Condemnation – Docket 8643 – This parcel is in a park owned by the Town. Due to restrictive covenants in the deed, the Town cannot grant an easement and one must be condemned. Need is not contested and compensation has been negotiated. VGS has submitted to the Board a draft Proposal for Decision, which has been agreed to by the Town and the Department. Prehearing conference is scheduled for December 30.

VGS-Peyser Condemnation – Docket 8645 – This parcel is in Monkton. Prehearing conference and site visit are scheduled for December 30. VGS and Mrs. Peyser have each proposed a schedule and requested comments from the Department.

GMP/VELCO Georgia Interconnection Project – Docket 8205 – CPG was issued on August 7. Neighboring livestock became a problem at the site and the Petitioners, with the support of ANR and the Department, submitted a petition to amend the CPG to authorize the construction of a new fence. The petition was accompanied by a MOU executed by all of the parties. The Board then requested comments from the parties on the petition. On December 17, GMP advised the Board on behalf of all of the parties that no additional comments would be submitted.

Digsafe Enforcement – No Docket – The PA division is working with Engineering to streamline Digsafe enforcement policy-standardize penalties assessed, define levels of culpability, etc. These guidelines will be used for investigators in the field and by Engineering in assessing penalties.

Brockway Mills Net Metering Application – CPG NMP-6647 – In this case, the Board accepted an existing hydro facility into the net metering program. Prior to issuing its order, the Department had indicated that the Board should hold further process to investigate whether allowing an existing facility into the net metering program provides an economic benefit to the State. The Board did not grant the further process. On December 23, the Department filed a motion for the Board to alter or amend its order and grant the further process requested by the Department.

Telecommunications

CoverageCo – Contracts in place with CoverageCo specify locations of 404 CoverageCo transmitters along 399 miles of Vermont highways. PSD staff has identified the GIS information in VTA files for these routes and locations and has produced maps depicting this information for a legislative report. CoverageCo provided status information. Of these, 81 of these locations are listed as Complete, 106 are released for construction, and 217 are listed as “on Hold”. PSD staff sent a letter to CoverageCo stating that all projects are past delivery date, and demanding a schedule to bring all sites into operation, and regular reporting until then.

CoverageCo & AT&T – PSD staff provide the location information for VTA funded CoverageCo sites, as well as an additional 287 possible CoverageCo-funded sites, to AT&T for its consideration of a possible roaming agreement with CoverageCo.

CoverageCo EDA revision – CoverageCo has requested to revise the 163 locations in the EDA contract. CoverageCo provided information indicating that of the original locations, 68 are listed as on hold, or cancelled. CoverageCo provided a list of 56 sites identified as “EDA Redesign”.

Of this list 27 are sites identified in the VTA Incentive project. It appears that many of the other sites were in corridors listed in the original EDA application as “CoverageCo match” or “Existing Network”. Also of concern, 20 of these “EDA Redesign” locations show the status “Release to build”, meaning the subcontractor has been directed to install the equipment. PSD staff informed CoverageCo that approval would be needed from the EDA to change the proposed locations, and that if CoverageCo installed these sites without approval it would be at their cost.

SBA/AT&T Tower- After hearing from a Vermont Senator as well as several constituents complaining about the lack of cell service in Middletown Springs, Connectivity staff spoke AT&T who was listed on the CPG as the attaching entity. AT&T first stated that they had changed business plans and no longer would be putting facilities on the tower. Connectivity staff then spoke with SBA Towers, who stated that they continue to market availability of the tower to other wireless communication carriers, as they have invested capital in the project and wish for it to succeed. After further discussion with AT&T, they announced that they will be installing facilities on the tower, as noted in their CPG, by the end of 2017.

Legislative Presentation- Staff finished drafting the Telecommunications & Connectivity legislative presentation for the upcoming session, which is slated to be presented to the House Commerce and House Appropriations group. The presentation will be edited and finalized by the end of the week.

Consumer Contacts:

1. *Hardwick-* Connectivity staff heard from a consumer who was frustrated with his perceived lack of access to high speed internet service. Staff reviewed his address and compared it to information within the DPS database, and provided him with contact information for the four communications companies that have indicated that they provide service at his location.
2. *Pownal-* Staff has now received several complaints about the lack of mobile voice coverage in the lower corner of Vermont, along Route 7. Staff continues to work with a legislator, a small business, and a consumer who have all addressed the need for reliable coverage in this heavily trafficked area. Connectivity staff have been in touch with our contacts at the wireless companies and are working to facilitate a conversation between parties, and ultimately, a resolution.
3. *Waltham-* A consumer from Waltham contacted the division regarding her lack of broadband service. Staff reviewed her location and provided contact information for the providers who serve her area.

VTel Calais 248a Petition (Docket 8535) – The Board has yet to issue a ruling on whether the petition should be dismissed with or without prejudice or whether the Town of Calais should be entitled to costs incurred in the docket. The parties have made several filings on these issues, and the Department filed a letter with the Board stating that the Department believes that none of the parties acted in bad faith to extend or delay the docket.

VTel Cabot 248a Petition (Docket 8549) – The docket is set for a technical hearing to be held on January 15. It appears that VTel intends to proceed with this docket.

Verizon Waterbury 248a Petition (No Docket No.) – DPS has retained aesthetic and RF experts to review Verizon’s proposal to construct a new telecom facility in Waterbury near the Stowe Town line. The Department will file reports from its experts by December 31. The Department’s RF expert has concluded that collocation at an existing facility is reasonable for the proposed project. DPS is still waiting to receive a final report from its aesthetics consultant.

Comcast CPG Renewal (Docket 8301) – The Department filed a motion to modify the docket schedule to allow for the Department to file testimony on January 22, because the vendor retained to complete a scientific survey will not be able to complete its report prior to January 12, 2015. DPS staff are beginning to prepare prefiled testimony and outline the scope of the Department’s positions on the issues that will be contested in the docket.

Verizon Brookfield § 248a Petition – The Town of Brookfield Planning Commission filed responses to filings from the Department and Verizon in response to several extensive motions that BPC filed in response to Verizon’s application. Verizon is proposing to extend the height of an existing tower to provide better coverage along the I-89 corridor through Brookfield.

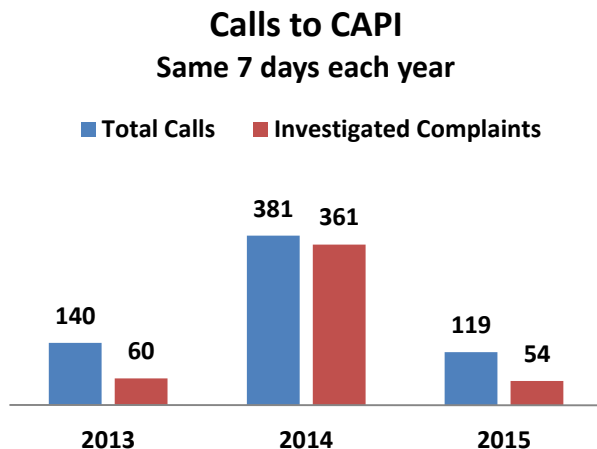
VTel / Springfield Area Public Access Contract Dispute (Docket 8609) – VTel has retained legal counsel to represent it in the dispute with SAPA over the terms of an Access Management Organization contract for distributing public access and PEG content over VTel’s cable network in Springfield. It is unclear if SAPA will have legal counsel for the docket.

Smart Meter Report - Staff worked with finance to distribute the reporting template for the 2016 report to the legislature on savings realized from smart meters. Report will also include an update on any cyber security breaches. Utilities that will provide data for the report are GMP, VEC, BED, WEC and Stowe Electric.

CAPI

Please note that this report covers activity from Sunday to Wednesday, December 13–December 24, 2015.

CALL DATA



- ❖ 4 consumer calls about the increase in the Energy Efficiency Charge
- ❖ 1 complaint about Hardwick Electric Department misapplying a customer payment
- ❖ 1 inquiry regarding VGS's contingency/emergency response plans for pipeline operation

A Hyde Park Electric (HPE) customer with a net-metered solar system contacted CAPI for assistance because HPE wasn't applying to his account the solar production credit for the amount of KWH his solar system is generating. According to the consumer HPE is not applying the credit because his production meter is not located near to the billing meter. However, the billing meter records both the consumer's usage as well as his instantaneous "push back" (into the grid) production, which HPE uses to determine the consumer's net usage overall for billing purposes each month. The consumer said that relocating the production meter as required by HPE would mean moving it 1,000 feet and burying it underground, which would be cost-prohibitive. The consumer said that he would be satisfied if HPE would apply the production credit just to the amount of "push back" generation recorded by the billing meter each month, which HPE already can determine. The consumer said that along with the bill, each month HPE sends a statement of both the beginning and ending values the billing meter records for both usage and production, which explains how HPE determines the amount of net usage for which to bill the consumer. HPE provided documentation back to CAPI, which CAPI has reviewed and has asked other DPS net-metering staff to review as well for guidance on what the next steps should be regarding this complaint.

OTHER DIVISION ACTIVITY

FairPoint Service Quality Docket 8390- The Board issued an order approving the MOU between FairPoint and the Department. According to the terms of the MOU, FairPoint must issue credits to current customers who experienced out of service conditions lasting more than 24 hours between April 2013 and February 2015 and were not previously issued a credit within 90 days of the order. The Department's consultant is reviewing FairPoint's credit calculations. The order requires FairPoint to file a petition to open a docket to address the company's request to change 5903 standards for areas of the state where consumers have a viable alternative to landline telephone service.

DPS website-Our contractor has completed a staging website, which will be shown to the Directors and other staff on 12/28. The proposed go live date for the redesigned site is on January 11th. Department staff is asked to remove outdated info prior to the relaunch.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Hal Cohen, Secretary, Agency of Human Services
Re: AHS Weekly Report
Date: December 30, 2015

Secretary's Message: Secretary Cohen is on vacation this week.

AHS Highlights:

AHS-CO:

Field Services - Barre- Remembrance Spiral

Barre District-A Community Remembrance Spiral was held on December 9th in Barre as a way to commemorate losses in the community from the tragic shootings in August, and also to help build community and instill hope. Approximately 80 people were in attendance, including Barre City Mayor Tom Lauzon, AHS Secretary Hal Cohen and his wife Shelly, and Barre City Manager Steve Mackenzie. It was a beautiful event on a dark winter night; somber and peaceful with singing and quiet contemplation. Several other events are planned, beginning with one focused on helping those in supervisory and leadership roles to understand organizational trauma and its impact on staff and the work of human services. Additional community events are also in preliminary planning stages.

KPMG – State Financial Audit

Commissioner Pallito has communicated that the State of Vermont has received an unqualified opinion on the financial statement audit for FY2015. This is extremely positive news – especially in light of the challenges that faced AHS/DVHA related in the financial statement audit. AHS/DVHA worked closely with Finance & Management and former Commissioner Jim Reardon to quickly address KPMG's questions and concerns.

VDH:

St. Albans Marijuana Education

Staff from Vermont's Screening, Brief Intervention and Referral to Treatment (SBIRT) Program did a presentation on "Seeing Through the Smoke: The Science of Marijuana", on December 15, in St Albans for a packed house of 50 attendees. The group learned about the current science and chemistry of marijuana, including the physiological effects. The group also had the opportunity learn about the psychological effects of marijuana including the risks of associated mental health and physical symptoms. The community is hoping to do an additional training on the subject in the New Year.

← Sue

DMH:

Vermont Psychiatric Care Hospital

VPCH census is 22 this week, where it has been since 12-23-15 following the second of two serious assaults on staff within three days. A petition for court-ordered medication was already submitted to the court and has been scheduled for hearing on 12/28. In the meantime, with only emergency involuntary medication available in response to demonstrated risk of harm to self or others that is not responsive to less restrictive interventions, the patient presents an ongoing safety risk to staff and the one other patient on the D Unit. Potential for new admission to this unit is being assessed daily.

VPCCH continues to expand the training it offers staff, this week re-introducing a year-long training program to increase staff competencies who work at facility and provide a career path for employees, who upon graduation would move from a mental health specialist to associate mental health specialist.

A new orientation group starts next Monday, with five unit staff, including two permanent nurses and one temporary nurse.

The VPCCH CEO and Assistant Director of Nursing, along with the DMH Commissioner, are scheduled to provide testimony on the status of the hospital and nursing recruitment efforts to the House Human Services Committee on January 7th.

DAIL:

Legislative Elder Awareness Day

DAIL is collaborating with the State Long Term Care Ombudsman, Vermont Association of Area Agencies on Aging (V4A), Community of Vermont Elders (COVE) and AARP in planning an Elder Awareness Day that will be convened by Representative Ann Pugh for the House Human Services Committee. The day is not intended to be an opportunity for organizations to make funding requests, but instead to acknowledge that the demographics in Vermont are changing, note that there is much that is positive about living in an aging state and accept that our task is to prepare for it. The group will prepare some of the key demographics and relevant data and then highlight what it is like to grow old in Vermont, providing some examples of how seniors engage and contribute to community. Focus areas will include: the rewards and challenges of family caregiving; employment opportunities for seniors and positive employment practices that benefit not just seniors, but all employees; volunteerism and community service; and, Vermont efforts to promote livable communities. Through our participation, we will highlight how DAIL contributes to positive aspects of aging in Vermont. The tentative date for the committee meeting is January 27 from 9:00 a.m. to 1:00 p.m.

DOC:

Burlington Homicide

— Scott

On December 27, 2015, a homicide occurred in downtown Burlington. Chavis Murphy is named as a person of interest. Murphy had been on supervision for Sexual Assault on a minor, Lewd and Lascivious conduct with a child, violation of conditions, negligent operation and simple assault. On October 15, 2015 his sentence on the sex cases were vacated due to a question of the age of Murphy and the victim; and his supervision ended with the DOC.

Move to the new Waterbury State Office:

The Department of Corrections was the first department to move into the new Waterbury Office Complex. The Department moved in on December 21, 2015 with much success.

DCF:

Outcomes for Vermonters

The annual "Outcomes for Vermonters" booklet has been published on the DCF website: <http://dcf.vermont.gov/sites/dcf/files/DCF/budget/DCF-Outcomes.pdf>. This booklet includes department highlights and divisional statistics for the preceding year. This book is used for legislative testimony as well as public education.

Foster Parent Public Service Announcement

The Vermont Association of Broadcasters has agreed to help DCF spread the message about the urgent need for new foster parents statewide. This will be a three month radio campaign beginning January 1st. The Public Service Announcement (PSA) will be aired over 50 commercial radio stations. The production was donated and VAB offers a lower fee than buying traditional ad space. The ad can be heard here: <http://vab.org/vab-partners-with-vermont-dcf/>

DVHA:

Blueprint for Health

All contracts are now signed for the new Blueprint Clinical Registry. Testing completed prior to the holiday break confirmed that the DocSite software source code and other information delivered by Covisint were adequate for Blueprint staff and contractors to manage development, maintenance and operations moving forward. With this hurdle cleared, the deal with Covisint was closed. The Blueprint Clinical Registry will be launched to Blueprint partners in 2016.

Vermont Health Connect Update:

VHC Renewal Testing: Due to unresolved defects in the system causing delays in User Acceptance Testing (UAT), a NO-GO decision was made on 12/18 holding off implementing the Release 2C code until UAT can be complete. 35% of the test scripts have been successfully executed. That is only a 1% improvement over the previous week. 65% of the test cases will need to be completed successfully within the next three days to complete implementation before the DDI contract expires. The UAT team has logged defects which have blocked the Medicaid renewal cases from being completed. There are ACCESS integration defects preventing the test cases from being completed end to end. Out of 40 open defects, 9 critical and 16 high are remaining. These 25 defects will need to be remediated & retested or priority lowered in order to pass the Go-No Go criteria established for this release. Out of the 25 defects, 7 have been identified as an OneGate defects. This leaves the newly established Optum OneGate team only 3 days to onboard, investigate, fix, unit test, & conduct System Integration Test (SIT)/UAT for each defect prior to the 12/31 contract expiration deadline. These defects are directly related to both verifications and Medicaid renewals. Without these defects being remediated, the state will need to appropriately increase staff to take on the burden of these cumbersome work-arounds and the contingency plan will need to be verified.

Operations is engaged in contingency planning for January 1st to accommodate the completion of renewals and the continued processing of Change of Circumstances CoCs once the system switches over to 2016. There continue to be challenges with 834 effectuations to the carriers. BCBS has agreed to effectuate the 1800 people for which they have not yet received a renewal for the month of January and is sending letters to their customers on Wednesday to let them know.

Agency of Human Services Secretary's Office

Field Services - Morrisville- Warming Shelter

Morrisville District-The Steering Committee of Patchworks Place, the local homeless shelter under development, continues to work diligently to secure a location in order to open its doors as soon as possible. The current plan is to utilize an empty parsonage on the Puffer Methodist Church property in downtown Morrisville. It is being met with community opposition due to the proximity of a preschool program. Interestingly, there is much support for the shelter with people realizing the need for one, but

the location will be critical. The Steering Committee is meeting with the preschool board, as well as parents of the program, on January 6th.

FY16 BAA & FY17 Budget

Work is nearing completion on the FY17 budget. AHS is waiting for official confirmation from Finance & Management.

Vermont Department of Health (VDH)

Oral Health Support at Middle School

The Bennington District Health Office has partnered with the Bennington Oral Health Committee to coordinate establishing dental hygiene services located at the Mount Anthony Union Middle School starting in January of 2016. This vital service will connect middle school students to dental providers in the community that can provide basic dental services and facilitate appropriate referrals that will improve the overall oral health outcomes for Bennington-area youth.

Department of Mental Health (DMH)

Emergency Departments

There were 10 people in need of inpatient psychiatric beds this week. All four involuntary adults were placed and all were placed in under eight hours. There were two voluntary adults and three voluntary minors that were all placed during this time frame as well. There was one court order who has not been placed yet and they have been waiting just six hours. Level 1 units remain at capacity, except for three beds at VPCCH which are being assessed daily given patient acuity on one unit of the hospital. The remainder of the psychiatric inpatient beds is running at about 85% capacity throughout the state.

Department of Disabilities, Aging and Independent Living (DAAIL)

CMS Home and Community-Based Rules Implementation Planning

In 2014, the Centers for Medicare and Medicaid Services (CMS) issued final regulations regarding Home and Community Based Settings (HCBS). The rule supports enhanced quality in HCBS, outlines person-centered planning practices, and reflects CMS's intent to ensure that individuals receiving services and supports have access to the benefits of community living and are able to receive services in the most integrated setting. As part of Vermont's Global Commitment to Health (GC) Section 1115 Demonstration amendment, effective January 30, 2015, CMS has asked Vermont to provide assurances that the State's Managed Long-Term Services and Supports in the Choices for Care Program (CFC) are in compliance with certain aspects of the HCBS rule. Planning for the CFC systemic review and work plan has included numerous activities, including the development of a Comprehensive Quality Strategy, review of CFC policies and rules governing CFC operations and soliciting input on a draft work plan and assessment of CFC's alignment with the HCBS rules. Based on the feedback received, the State updated its findings and work plan as it relates to Enhanced Residential Care Settings, specifically in the areas of case management and conflict of interest requirements. Additionally, the State will initiate a provider self-assessment process earlier in the work plan timeline. The *Vermont Systemic Self-Assessment Report* and *Choices for Care Work Plan* have now been submitted to CMS for its approval. Implementation of the work plan will begin in January, 2016 with anticipated full implementation of the work plan by December 31, 2016.

Department of Corrections (DOC)

Toys for Tots

Since 2010 the SESCO has partnered with Toys for Tots. Several media outlets highlighted the great work of the staff and inmates. In addition to a wheel chair accessible dollhouse delivered to DHMC there was direct community impact. One example: While delivering, the first load to the distribution point, the Toys for Tots Rep asked if there were any doll houses on this load. When he was told yes, he said, "excellent please bring them in and wait a minute." In came a person that was introduced as an Iraq Veteran that had an artificial limb from his combat in Iraq. He had recently lost his job and was not sure what he was going to be able to do for his daughter. The Toys for Tots Rep said, "How would your daughter like a doll house?" and pointed to the doll houses that were just unloaded. The Veteran was very emotional and took one of the doll houses for his daughter. He asked that his thanks be sent to the inmates and staff involved.

Population: Week of 12/13/15-12/19/15:

The departments' incarcerated population averaged 1792 for the previous week. The departments' incarcerated male population averaged 1644 for the previous week. The female population averaged 149 for the previous week. The Out of State population is currently 241.

Population: Week of 12/20/15-12/26/15:

The departments' incarcerated population averaged 1769 for the previous week. The departments' incarcerated male population averaged 1617 for the previous week. The female population averaged 152 for the previous week. The Out of State population is currently 241.

Department for Children and Families (DCF)

Emergency Housing Update

In April of this year, DCF proposed working with Housing Stakeholders including policy-makers, the Continuum of Care, Housing Review Teams, the Economic Services District (ESD) Offices, the Field Directors and other community organizations to transform ESD General Assistance Emergency Shelter from a motel centered voucher program to a flexible community based program that serves ALL homeless individuals and families. Using funds appropriated for motel vouchers, DCF's Office of Economic Opportunity (OEO) would distribute community grants that would complement its evidence informed Housing Opportunity Grant request for Proposals.

The DCF housing team, comprised of leadership from the Commissioner's Office, ESD and OEO, worked through the summer meeting with housing advocates, providers and policy makers to solicit input on the goal of reducing reliance on motels as the predominate crisis housing option for homeless Vermonters. With their input, the housing team designed a Letter of Intent process for community stakeholders who were ready to propose community-based alternatives that reduce reliance on motels and provide a stronger service array for individuals and families in crisis. Housing stakeholders received unduplicated numbers of individuals and families served by GA Emergency Shelter in FY15. The DCF housing team will have received 22 proposals as of 1.4.16 representing 11 of our 12 districts. Of those, Addison, Barre, Brattleboro, Burlington, Hartford, Newport, Springfield and St. Johnsbury have already opened or will do so in January and the others are still under consideration. By using the letter of intent framework, the housing team has been in the position to provide feedback to proposals, request more information and to work collaboratively with the community providers.

On 1.6.16, members of the DCF housing team will be testifying to the Senate Health & Human Services Committee on the progress of the initiative.

— Sarah

Concerns raised by Department of Justice regarding the administrative placement process at Woodside
Last week, Commissioner Schatz met with Eric Miller, United States Attorney, to discuss concerns that the United States Department of Justice (DOJ) has raised regarding the administrative placement process at Woodside, Vermont's state run secure treatment facility for youth. The DOJ concerns largely involve both substantive and procedural due process issues in the administrative placement process used for short-term placement. There is currently a case pending before the Vermont Supreme Court involving some of the same issues, *D.C. v. Ken Schatz*. The Department prevailed in this case at the Superior Court level. The ACLU recently filed an amicus brief with the Vermont Supreme Court in support of the appellant youth, D.C., who is represented by the Defender General's office.

Youth may be placed at Woodside in a variety of different ways, including by the Court or through the administrative process. When placed administratively, a youth is entitled to a hearing within eight days to determine whether placement was appropriate and the youth meets criteria for continued placement at the facility. The substantive due process concerns raised by DOJ involve placement of a youth at Woodside because there are no other less secure placement options available as well as concerns about the correctional nature of the facility. The procedural process concerns include the fact that the administrative hearing process occurs post-deprivation of liberty (after placement) and other concerns including the admission of hearsay evidence and lack of cross examination. Issues were also raised concerning DCF's screening instrument used for administrative placement.

DCF is working informally with the DOJ and the Vermont USAO at this point to understand and address the DOJ concerns. The next step in this process is to meet with the Washington DC DOJ attorneys next month. Discussions with DOJ and potential solutions to address their concerns may also impact the pending Vermont Supreme Court case and DCF anticipates bringing the Defender General's office into this conversation after the meeting with the DOJ next month. We will keep the Governor's office updated about these evolving issues and possible settlement options.



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**CONFIDENTIAL AND PRIVILEGED
MEMORANDUM**

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: December 31, 2016

Emerging News

A handwritten signature in black ink, appearing to be "JF" followed by a stylized flourish.

This is extremely sensitive---we are still trying to figure out how to manage.

We have recently become aware of a problematic loophole in Act 153 that would allow a newly merged district to dramatically increase spending from the Education Fund, with little or no local cost. This loophole still exists in Act 46, because Act 46 employs the same language as Act 153 to define merger tax reductions to support transition costs.

Specifically, Act 153 states:

(C) During the years in which a RED's equalized homestead property tax rate is decreased [by the \$0.08/0.06/0.04/0.02 tax rate reduction incentive] pursuant to this subsection, the rate for each town within the RED shall not increase or decrease by more than five percent in a single year. The household income percentage shall be calculated accordingly.

The loophole created by this language was carried forward into Act 46, Secs. 6 and 7, which provide transitional assistance and incentives based on those made available in Act 153.

The intent of the 5% provision was to smooth the transition of starting tax rates in merging towns to a unified tax rate in the new district. Since the tax rates in some merging towns start higher and others start lower than the new unified rate, the 5% limit was intended to pace the transition to a unified rate, on the assumption that it might take several years for rates to converge in a unified rate. The 5% provision was thus developed to smooth the transition, but – unlike the tax rate reductions themselves – was not intended as an incentive.

Here is the problem. Read literally, the 5% provision limits fluctuation of changes in tax rates

to 5% a year, regardless of the spending decisions a new unified district makes. To give an extreme example, read literally, the law allows a new district to add 50 million dollars to its budget to build a new sports complex, or to create a 50 million dollar surplus to leverage into the future, and the law would limit the tax increase to only 5% in each member town of the unified district. Obviously that would be absurd, but read literally, it is also legal. Our AOE's memory of intent also contradicts the literal reading, but reading of intent only gets you so far in a contentious political climate.

In October 2015, the AOE worked with the Tax Department to issue a narrow determination that after the tax rate reduction incentive is applied, "no additional reduction would serve the legislative purpose of smoothing the transition to the RED rate. To read [subdivision (C)] as limiting [a member town's] rate for 5 years regardless of spending decisions does not advance the goal of arriving at a common RED rate." That [October 1, 2015 letter](#) is attached. Even this determination, however, does not entirely close the loophole that we have recently discovered.

That said, it is our understanding that the intent of the 5% provision was only to soften the transition to a converged tax rate, and not to allow spending sprees by districts at the expense of the Education Fund.

The loophole was discovered because the fiscal modeling tool used by districts contemplating voluntary merger conforms to the literal reading of Act 153, and not to our understanding of the Legislature's intent. This model is now in wide use statewide.

It is our opinion that we need to ask for a technical correction to Act 153, as well as the companion language in Act 46, to clarify the 5% provision to conform to the intent of the Legislature, assuming the intent is consistent with our understanding. Perhaps this could be attached to the budget bill.

Suggested [draft clarifying legislation](#) is below.

We are mindful of the political ramifications of this. Because some districts have used the model to evaluate the impact of merging, the clarification could affect their projected budget numbers. However, failing to close the loophole puts the ed fund at risk.

We suggest stressing the following points:

1. A model is at best a model: an approximation. A fiscal modeling tool will be inaccurate for any host of reasons, including changes in health care costs, changes in ADM, new students with disabilities, an unexpected need for repairs. Our business managers know this and plan for it in their use of models. Any model is at best a forecast, and the forecast alone should not be the sole reason for a decision.

2. We (AOE) have consistently messaged that the mergers need to first focus on improving opportunities for and outcomes of children. The proposals that have come forward so far have all focused on students, and have all focused on how partnering creates greater opportunities for students. People will complain, but the bottom line is that the reasons for mergers are complex and go far beyond the models. The boards from whom we are hearing and the public in the meetings we have attended have been focused first and foremost on value for dollars.

Political solutions:

I can reach out to Shap Smith and John Campbell in advance about the loophole and proposed fix. Draft suggested legislative language is below:

Sec. __. CLARIFICATION; INTENT; TRANSITION TO UNIFIED HOMESTEAD PROPERTY TAX RATE

(a)(1) In Act No. 153 of 2015, Act No. 156 of 2012, and Act No. 46 of 2015, the General Assembly has provided incentives for voluntary school governance merger in the form of equalized homestead property tax rate reductions. In this section, both these reductions and the related household income percentage reductions shall be referred to collectively as the “tax rate reductions.”

(2) The tax rate reductions apply to a new union school district’s equalized unified homestead property tax rate during either the first four or five years in which the district operates.

(3) The General Assembly recognized that even with tax rate reductions, a member town in a new union school district might have an equalized unified homestead property tax rate that is either higher or lower than its pre-merger rate.

(4) As a result, in each of the three cited acts, the General Assembly eases a member town’s transition to the new unified rate by limiting a town’s equalized homestead property tax rate increase or decrease to five percent in a single year during the years in which the tax rate reductions apply (“five percent provision”).

(5) The five percent provision is not, and has never been, intended to be an incentive that would limit fluctuations in a member town’s equalized homestead property tax rate regardless of the spending decisions a new union school district makes.

(b) In any fiscal year in which tax rate reductions are applied to the equalized homestead property tax rate of a union school district created on or after July 1, 2010, if the tax rate of a member town is identical to the new district’s equalized homestead property tax rate, then the member town’s tax rate shall be the same as the new district’s equalized homestead property tax rate and shall not be adjusted pursuant to the five percent provision in Acts 153, 156, or 46 in that or any subsequent year.

(c) This section shall take effect on passage and shall apply retroactively to any union school district created on or after July 1, 2010.

Press Contacts:

12/17/15

Andrew McKeever, Manchester Journal: Asking questions about merger conversation between Manchester and member districts in BRSU, and our thoughts on tuitioning vs. operating. Rebecca responded to him advising that the decision on whether to operate a school or not is a local decision, made by a local board. They have two choices about how to do so: they either operate a public school, or they tuition their students to other schools, either public or independent.

Corey Turner, NPR: Working on a national story, about education funding and noticed Vermont had an unusual funding structure. In January, he will contact us to discuss in more detail VT's Act 60. Hoping to schedule with Bill Talbott.

12/21/15

Mike Curkov, WPTZ: Wanting to have an interview on Monday about how we help to usher in ESSA in Vermont. Scheduled for Monday at 10:30am. Going to air first of 2016.

Howard Weiss-Tisman, VPR: Is interested in learning more about the opioid study Wendy Geller is working on with Abby Crocker from UVM.

Tiffany Pache, VT Digger: Wanting to discuss the recent auditor's report regarding sole source contracting. Bill Talbott connected with Tiffany by phone to advise that we are working to ensure we follow state protocols.

Mike Faher, VT Digger: Asking about a state law (Title 16) that codifies and protects Vernon's unique school-choice arrangement. He has a soft deadline. We are working on a response, as time allows.

12/22/15

Tiffany Pache, VT Digger: Asking when the January 15, 2016 legislative report on Act 179: SWIFT will be complete and for "additional information" on the program. She was advised our intention was to submit it by January 15 and was sent last year's link to the report.

Lesley Engle, Fox 44: Asking for any reports that have been filed with the Agency of Education by the South Burlington School District against its former teacher Jay Hoffman. The request has been forwarded to legal counsel.

12/23/15

Matt Hongoltz-Hetling, Valley News: Spoke with Brad James regarding allowable growth.

José Aguayo, Montpelier Bridge: Asking for the current list of districts that are considering mergers and/or the study committees. He was provided a list of current 706b merger

committees, and which were considering accelerated mergers. He was also provided links to board meeting minutes to glean details of those particular merger conversations.

Public Presentations/Meetings:

None—I am on vacation in Quebec, happily skiing as many kilometers as possible before coming back to the legislative session!

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin
FROM: Secretary Chris Cole
DATE: Wednesday, December 30, 2015
SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

US 4 Crash

On December 29 a tractor trailer truck westbound on US 4 roadway started to jack knife and took the New York-registered Escalade straight on in the SUV's lane. DMV Inspector Bob Giolito was the first responder on scene to render aid. Based on his training and experience, he immediately requested a DHART flight but, because of the weather, DHART was unable to fly so paramedics were dispatched. Three adults died at the scene from a total of six occupants in the Escalade. Commercial Motor Vehicle (CMV) was towed/escorted to Earls in Rutland to a secure storage area while VSP/DMV wait to hear whether the States Attorney is going to want a search warrant to inspect the CMV. Initial observations would indicate that the CMV looks to have been in good working order.

Inspector Giolito did indicate working the area all day long on high visibility patrol to keep traffic in check because of the conditions. He noted seeing VTrans plows making passes throughout the day and having waved several times to the drivers. He noted rainy conditions kept icing the roadway.

Middlebury Tunnel

I'm preparing a letter to the editor for the Addison Independent regarding the Middlebury Tunnel project, where we are and what we are doing to reach a decision point on the state policy that all state-owned rail corridors should have double stack clearance. We plan on submitting right after the first and will share with Scott prior to submission. Your comments to the Addison Independent were right on point and represents where we are as the Agency. I remain unconvinced by rail staff and the railroad that this line will ever carry double stack freight and have requested an analysis from the engineering firm hired to design this project. I want to know the difference in time and money if we build a clearance of 18.8" (the lowest existing clearance on the line north of Rutland). Initial money estimates are a savings of approximately \$4 million out of a \$36 million total cost (this number is being further refined) and the time saved

is still an open question, for which I hope to have an answer in the next two weeks. I don't think building to a clearance of 18'8" will save enough time to make people happy, but unless someone can convince me that double stacking is likely on this corridor, I don't see how we can justify the expense or impact to the downtown. I already have agreement from the railroad that they won't fight us on the 18'8" clearance if that's the direction we want to head.

We are also planning to make the policy of double stacking on the Western Corridor an agenda item at the Rail Council meeting on February 17. There will be those who will support continuing the double stack policy, but I think we could end up getting a split vote which would probably be best, depending on where we want to head.

NOTES FOR STAFF

Driving while License Suspended Task Force

The final Task Force report was completed and submitted to the Secretary for transmission to the Judiciary Chairs.

Stormwater Legislation

Analysis of impacts and draft legislation was provided to the Town Managers of Colchester, Williston and South Burlington. I have decided to include this as part of the Transportation Bill rather than have it be a stand-alone bill.

Legislative Preparations

Agency staff continue to work on legislative language development and informational briefing papers for the Agency's legislative agenda. Deputy Secretary Tetreault, Division Director Boomhower and I met with Senator Mazza and Representative Brennan on December 23 to brief them on the Agency legislative agenda. We discussed position pilots, extending and making permanent some limited service positions and the five clean water positions. We also discussed the fee bill, the shrinkage provision under the fuel tax and new commercial fees for State Highway Access permits. There were no concerns expressed over our legislative agenda.

Champlain Parkway

A meeting was held on December 21 with FHWA to review Rail Diagnostic elements for determination of eligibility of rail activities. The elements appeared to be in line with allowable project elements; staff will pursue a written determination from FHWA.

Williston Park & Ride

Met with Williston Planning Director on December 21 regarding the Williston Park & Ride pervious pavement and tree caliper items in advance of re-submission to DRB. The consulting team will be preparing the submissions; the PPAID Director will accompany the consultants to the DRB in February.

Highgate Industrial Park

Agency Aviation staff and the Division Director will be meeting with representatives of Harrison Concrete, Franklin County Economic Development and Regional Planning, and ACCD staff at the Highgate Airport on December 30 to discuss potential plans for the development of Airport Technology Park, a proposed 175,000 sf industrial park.

PERMIT REVIEW

4C0550-20B Clean Energy and NG Advantage

121 Gonyeau Road, Milton in Catamount Industrial Park. Construction of an 1,870 sf office building with sidewalks and ramps. Joe Segale to review for Act 145 relative to I-89 Exit 17 and prepare letter.

3W0337-10D MBR Holdings VT2, LLC

202 Beswick Drive, Hartford. To change the use of the previously permitted cold storage building and an existing office building to be base operations for a landscape/hardscape and property management operation. Storage of bulk materials such as screened loam, bark mulch, stone and some palletized products such as pavers and wall blocks. There will also be a display area. Joe Segale to review relative to Sykes Avenue roundabout Act 145 fee.

700002-25 Hermitage Inn Real Estate Holding Company, LLC

Wilmington. Approval for partial findings pursuant to Natural Resources Board Rule 21 for a master plan to include lands and construction involving the Hermitage Inn, Golf Tract, East Tract, Hermitage Club Base Tract, and Deerfield Valley Airport. Pre-hearing was held on December 21; VTrans did not attend. Mitigation proposed in traffic study is reasonable and includes payment to VTrans for equipment that will enable remote control operation of the traffic signal at the US 9-VT 100 intersection in Wilmington.

4C0608-30A BlackRock/Essex FW, LLC c/o Benjamin Avery

Essex, VT, Freeman Woods Road off Essex Way and adjacent to VT 289. Construction of a 71-bed assisted living facility and 6,000 sf office building. VTrans reviewed for potential issues from stormwater from site towards the VT 289 ROW and concluded there were no concerns. We reviewed for issues relative to criteria 5 and submitted letter on December 29 stating no issues and no Act 145 required.

VT 22A to VT 17 Truck Route Proposal

Since receiving the City of Vergennes' November, 2015 proposal, Joe Segale and Costa Pappis gathered background information and met with Deputy Secretary Tetreault. Deputy Secretary Tetreault and Joe Segale met with Addison County RPC Executive Director Adam Lougee by phone for his take on the proposal. ACRPC had considered a similar option as part of a previous study completed in 2002. Deputy Secretary Tetreault and Joe Segale scheduled a meeting on January 28 with Vergennes' Mayor Benton and Adam Lougee to discuss the proposal in person. VTrans Legal is investigating the

statutory requirements necessary to officially designate and enforce a new truck route. We will continue gathering information in preparation for the meeting with the City at the end of January. Early indications are that Route 17 from 22A to Route 7 would need significant upgrades to safely and properly function as an alternate truck route to route 22A.

Northeast Kingdom International Airport

Agency staff had a meeting with contractors who are constructing the fuel farm at Newport. All the conduit is installed as well as the concrete pad. Waiting for fuel system to be delivered and then construction will begin. A meeting has been scheduled with Bill Stenger, Customs and the terminal design committee for January 12th.

**116 STATE STREET
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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 30, 2015

Secretary's Top Issues

Kiersten Bourgeois from ACCD and Deputy Secretary Diane Bothfeld will be visiting major dairy processors in January and February to determine if more milk or milk ingredients can be used by existing processors in State. Also will review all programs available in state to assist these processors if they wish to expand. Bourgeois is also exploring contacts in Canada that would like to locate processing or have a joint venture in Vermont for Dairy Processing. Work stems from a meeting earlier in December that addressed concerns with excess milk volume in Vermont and the economic health of the dairy cooperatives.

Members of the Food Safety and Consumer Protection Division have been meeting with legal counsel Schwartz to discuss strategy for several upcoming compliance cases within the Division and to inform her of the Division's SOPs related to compliance and enforcement work. The administrative penalty matrices used by the Division were shared, and sample Assurances of Discontinuance will be shared in the coming days. The Division management group will begin meeting with legal counsel bi-monthly in 2016 as was done with Attorney Zamos in order to seek advice on active cases.

Phone conference with Charlie Merinoff regarding prospective donation to the Working Landscape Enterprise Fund. The conversation was positive and Sec Ross followed up with a memo to Mr. Merinoff which he copied to Laura Gray. It is anticipated that clarity as to whether or not Mr. Merinoff and or Mr. Bhakta will be contributing and the range of how much will be determined as of this Friday January 1, 2016.

The Agency has fulfilled a public records request submitted by Troy Shaheen, with the New England Center for Investigative Reporting at Boston University. Mr. Shaheen requested all correspondence and records pertaining to the 2012 state invitation and subsequent visit by Lorentz Meats to provide feedback on Vermont's meat slaughter and processing facilities. All materials have been provided and the request has been logged in the public records database.

The Food Safety and Consumer Protection Division worked this week to compile a list of accomplishments of the Division over the last five years to augment the talking points that are used by Secretary Ross in a number of contexts. The list will be submitted to Administration by January 6, 2016.

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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 30, 2015

Status of Governor's Priorities:

Legislative Activities and Issues:

Kristin Haas, State Veterinarian, submitted the required legislative report on behalf of the Livestock Care Standards Advisory Council to the House and Senate Committees on Agriculture this week.

Press, Marketing and Communications:

Kristin Haas, State Veterinarian, shared information with the WCAX news director at his request pertaining to the resolved Finch compliance case. WCAX ran a story on the resolution of this case.

The Agency has fulfilled a public records request submitted by Troy Shaheen, with the New England Center for Investigative Reporting at Boston University. Mr. Shaheen requested all correspondence and records pertaining to the 2012 state invitation and subsequent visit by Lorentz Meats to provide feedback on Vermont's meat slaughter and processing facilities. All materials have been provided and the request has been logged in the public records database.

The Agency has provided these ag stats and accomplishments to Laura Gray and Geoff Greene, as requested. This list reflects the continued success and growth of farming and food systems in Vermont. There are many reasons to be proud: *Our cheese is tops!*

- Vermont Cheese dominates American Cheese Society Awards
- 46 of the 355 ribbons awarded at the 2015 American Cheese Society Competition went to VT cheesemakers, including 13 for first place
 - First place awards for Jasper Hill, Cabot, Consider Bardwell, Franklin Foods, Parish Hill Creamery, Spring Brook Farm, Sweet Rower Farmstead, Vermont Creamery, Vermont Shephard
 - Best in Show for: Jasper Hill

VT Specialty Food Producers reign supreme!

- Vermont specialty food companies take home 5 gold SOFIs (Specialty Outstanding Food Innovation) awards
 - Big Picture Farm (2 golds for Raspberry Rhubarb goat's milk caramel and Chai goat's milk caramel)
 - Fat Toad Farm (Outstanding product line for their goat's milk caramel)
 - Vermont Creamery (Cultured Butter Sea Salt)
 - Wozz! Creative Kitchens (Kiwi Lime Salsa)

Best Beer in the World

- According to Beer Advocate, we make some of the best beers in the world...11 of their top 250 beers in the world are produced right here in Vermont by the Alchemist and Hill Farmstead Brewery.

Dairy & Meat Processing Boom...

- Tremendous growth in meat and dairy processing sectors

- 23 new meat facilities (including packing plants, slaughterhouses, and pre-packaged retailers) have come online in the past 12 months, creating skilled jobs, expanded capacity, and economic opportunity for Vermont's farmers. State total: 1922 facilities
- 20 new dairy processing facilities have come online since January 2015, with 10 additional plants under construction. We also have 4 plants undergoing multimillion dollar upgrades with new equipment and products. State total: 135 processing facilities

We lead NE in Dairy!

- 63% of all the milk in New England is produced right here in VT
- Dairy brings \$2.2 Billion in economic activity to our state each year
- Sales of VT dairy products exceed \$1.3 billion annually

Syrup is as Sweet as Ever!

- We continue to be the national leader in maple syrup, producing more than 41% of the nation's maple crop.
- We have 4.5 million taps in the state!

Creating Jobs, Preserving our Landscape...

- Working Lands grants supported the creation of 65 new jobs this year

Domestic Export Expands our Vermont Brand...

- "Harlow's Vermont Farm Stand" at Boston Public Market, a partnership between Harlow Farm in Westminster, Agency of Ag, and VDTM now features 35+ Vermont products.
 - More than 1 million shoppers are expected at the market annually!
 - Exposure for our best-in-class-products, right in the heart of Boston
- The Vermont Building at the Big E = huge economic opportunity
 - In 2015, 29 companies exhibited their products at the building grossing \$1.68 million in sales
 - More than 1 million visitors experienced the Vermont brand in the Vermont Building!

Significant Events/Meetings:

- State Veterinarian, Kristin Haas, will be presenting information on High Path Avian Influenza preparedness to members of a Local Emergency Planning Commission at their request. This will mark the 4th of these meetings, and interest in the topic by local officials/emergency responders/planners has been high.
- The United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) is published a proposed rule and program standards to update its brucellosis and bovine tuberculosis (TB) program regulations. Comment period is open for 90 days. The proposed rule outline requirements for both interstate movements and imports of cattle, bison and captive cervids, as well as conditions for approving tests, testing laboratories and testers. APHIS has stated that these proposed revisions are needed to address the many changes that these industries have undergone since the existing programs were developed many years ago. The Animal Health Section would be charged with successfully implementing this new rule when a final version is published. Successful implementation and obtaining a consistent state designation from USDA will be essential in supporting the livestock industry in Vermont, estimated at \$636 million dollars, to move animal interstate. A designation for Vermont as a non-consistent state or inconsistent state will significantly impair the livestock industries in the state from buying and selling animals across state lines. 2015 saw approximately 14,000 livestock animals exported from VT and approximately 214,000 animals were exported. Any state designation of anything but consistent could require VT livestock producers to have to spend more money to complete testing of animals they are either buying or selling from out of state to undergo tuberculosis or brucellosis testing, which for the majority of exports and imports they don't currently have to do.
- Assistant State Veterinarian reviewed and summarized the United States Department of Agriculture Animal and Plant Health Inspection Service's (APHIS) proposed rule and program standards to update its brucellosis and bovine tuberculosis (TB) program regulations. The comment period on the draft rule will close mid-February. The summary has been provided to the 6 New England State Veterinarians to form the base for submission of official comments on the proposed rule. There are concerns that the proposed rule will not continue to allow the pooling of surveillance samples for testing for brucellosis and tuberculosis that occurs among the New England States. Not being able to pool samples could result in Vermont not meeting surveillance testing numbers required by USDA which in turn could result in VT producers having to do complete testing not currently needed to import or export livestock, making this activity more expensive. Vermont's livestock industry is currently valued at \$636 million dollars and the Animal

Health Section supports that industries ability to do business by ensuring compliance with federal rules on animal identification and interstate movement.

Evolving Issues:

- The Food Safety and Consumer Protection Division worked this week to compile a list of accomplishments of the Division over the last five years to augment the talking points that are used by Secretary Ross in a number of contexts. The list will be submitted to Administration by January 6, 2016.
- Animal Health Section has nominated two field specialists to attend a USDA hosted and funded training in Albany, NY, animal compensation calculations and indemnity payments for outbreaks of disease, such as Highly Pathogenic Avian Influenza and Foot and Mouth Disease.

Summary of Key agency Department Activity

Administration:

Farmland Conservation Activity

December was a very busy month for completing farmland conservation projects facilitated by Vermont Land Trust (VLT) and funded by matching grants from the Vermont Housing and Conservation Board (VHCB) and USDA/Natural Resource Conservation Service.

Long time dairy farmer, Larry Garvey from Hinesburg, was able to purchase and simultaneously conserve 92 acres of abutting farmland he has leased for a number of years. This parcel is the northerly portion of the LaFreniere Farm and will continue to provide tillage and pastureland for Larry and his son Michael's conserved dairy farm. Over 86% of the acres are statewide significant soils, a surface water protection zone to enhance water quality and identification of a Valley Clayplain Forest were also added to the conservation easement. The VHCB and NRCS approved a grant for \$240,000. The Garveys provided a \$2,400 bargain sale.

Danielle Allen and Ben Dana purchased a 28 acre certified organic vegetable farm from Kevin & Laura Channell several years ago and created Root 5 Farm located in Fairlee. Selling a conservation easement on this property has lowered their debt associated with the purchase and protected twenty acres of Agawam & Hadley fine sandy loam soils. Furthermore, Root 5 Farm has over 1700 feet on the Connecticut River with a 35-foot riparian buffer zone. A conservation easement was acquired utilizing a VHCB/NRCS grant for \$164,000. In addition, the Lattner Foundation contributed \$41,000 and landowners \$750 toward the easement purchase and associated costs.

Walter and Diane Berthiaume operated a dairy farm in Fairfax and began shipping/selling organic milk in 2001. They engage VLT for assistance to locate a potential buyer through their Farmland Access Program. James and Dawn Blodgett were a natural choice for the farm and have moved their herd from a leased facility in Brookfield to Fairfax and began shipping milk last May. The Berthiaumes received a grant from VHCB/NRCS in the amount of \$435,000, contributed a bargain sale of \$5,000, and donated \$3,900 towards associated costs. Diane and Walter also donated a conservation easement on 123 acres of woodland assuring the entire farm would be protected in perpetuity.

The 350 acre former Huntley Farm in Orwell was conserved in 1992. Current owners, Robert and Susan Balfe are selling their organic farm to Mark & Lauren Mordasky. Mark is a retired veteran and plans to expand his cropping business with the purchase of the Huntley Farm. VHCB approved a grant of \$125,000 for the purchase of a retro-active option to purchase at agricultural value (OPAV). The additional easement restriction will assure this farm will remain affordable in the future.

Food Safety and Animal Health and Consumer Protection:

Meat Inspection:

- End of year reporting and finishing up the self-assessment
- Final rule released for retail establishments and official establishments with retail stores to keep specific records related to grinding meat products. [Docket No. FSIS-2009-0011](#) The rule goes into effect June 20, 2106 for retail stores to comply. Meat inspection is considering a mailing to the retail licensees as a notification.
- Continuing to work with producers seeking to expand business to include inspection services
- The USDA FSIS has entered into a Consent Order with Westminster Meats, that will allow them to begin operations again. They have not shared it with the State. Before Westminster can operate, they will need to be licensed with the state, and will have to share the consent order.

- Program is working on ways to notify and implement federal requirements for recordkeeping for all establishments producing raw ground meats. Changes take effect in 180 days.
- Working with a producer in Brattleboro wishing to expand current direct to consumer sales to Wholesale distribution which will include facility upgrades and operations under State Inspection for Ready to Eat healthy meals made with VT ingredients.
- Compliance is working on violations of exemptions for two producers in the Westminster area

Animal Health:

- Members of the Food Safety and Consumer Protection Division have been meeting with legal counsel Schwartz to discuss strategy for several upcoming compliance cases within the Division and to inform her of the Division's SOPs related to compliance and enforcement work. The administrative penalty matrices used by the Division were shared, and sample Assurances of Discontinuance will be shared in the coming days. The Division management group will begin meeting with legal counsel bi-monthly in 2016 as was done with Attorney Zamos in order to seek advice on active cases.
- The Animal Health section is working with USDA APHIS colleagues to develop a communications plan for continued outreach to Vermont's larger poultry producers related to High Path Avian Influenza. This will consist of site visits to multiple farms in early 2016 in order to complete biosecurity audits on a voluntary basis. Farms that participate will be provided with signage to post on their properties highlighting good biosecurity practices.
- Animal Health Field Staff attend the Addison County Commission Sales to monitor the auction market for compliance with federal and state animal movement and identification requirements and to complete the market report, published on the AMS market report website and other publications. The ACCS is the only livestock auction market in the state and moves over 2,300 cows and calves and generating on average over \$800,00 in sales per month. Without this oversight to ensure adherence to animal movement regulations, Vermont producers would have difficulty conducting needed sales of livestock for their business survival. At the market, field staff provide technical assistance to farmers and livestock dealers to help them understand state and federal regulations so they can sell and purchase livestock at affordable prices. Animal Health personnel also provide technical assistance to sale barn personnel in regards to humane animal handling, animal identification, import/export compliance and freemartin testing.

Dairy:

- The Dairy Division be starting to pull together info that the legislature will need to process the Fee Bill that has been proposed.
- Justin Jeror is about to start working independently now he has completed his basic training with the incumbent plant inspectors.
- Hope to have another training meeting next week prior to the farm side going live with the USA Food Safety computer program. Laurel is still working out some "bugs" with CAI.
- Sent a hearing notice to a dairy farm for repeat debits violations.
- Farm and plant inspectors continue to do their assigned duties.
- Dairy Section continues to prepare for the upcoming legislative session by collecting data requested by the Administration regarding the Fee Bill and what has happened in Dairy Section over the last 5 years.
- Dairy continues to perform required regulatory activities and to pursue enforcement actions as warranted.

Agricultural Resource Management:

North Lake Farm Survey Initiative:

- Staff are conducting water quality surveys of farms in Franklin and Orleans Counties as part of the North Lake Farm Survey Initiative. Approximately 400 farms have been identified in the survey area and surveys are being conducted by several ARM Division staff members. To date, over 259 farms have been fully surveyed and data summary is ongoing.

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

- Staff conducted an inspection related to a complaint about potential manure spreading on a MFO and LFO in Addison County. No violations were noted and it appears that the complaint was related to the farm hauling manure to field stacking locations.
- Staff compiled emails related to a Freedom of Information Act (FOIA) request.
- Staff are working with LFOs regarding permit amendments for authorization to construct additional animal housing, waste storage, increase animal numbers and importation of wastes for digesters.
- Staff are drafting reports and memos related to inspections and enforcement cases and following up as needed.
- Staff are continuing to work on and test the FoodSafety Water Quality database. We are currently working on enforcement actions, permit fees and payments, data tracking and data migration.

Conservation Reserve Enhancement Program (CREP):

- Staff visited a SFO in Chittenden County to assist with CREP planning.
- Staff are processing and planning CREP contracts.

Secretary's Comments:

Avian Influenza – Still no reported issues.

CLF Settlement Discussion – have reviewed documents and will notify CLF that I will be signing the settlement next week.

Water Quality – Agency has completed the outreach meetings for the draft RAPs. Agency staff is reviewing comments and beginning process of re-drafting RAPs to create the official draft.

Food Safety Modernization Act (aka FSMA) – VAAFM hosted FDA meeting on FSMA in Brattleboro and Congress appropriated nearly all the money FDA requested to implement FSMA. Consequently, the implementation of FSMA and the envision partnership between States and the FDA is moving forward. VAAFM is preparing legislative language necessary to enable VAAFM to implement the aspects of FSMA that are appropriate. The exact terms and nature of the partnership remains to be clarified but with the Congressional appropriation it's likely that Vermont will receive some level of funding for staff and implementation.

Meetings – Phone conference with Charlie Merinoff regarding prospective donation to the Working Landscape Enterprise Fund. The conversation was positive and Sec Ross followed up with a memo to Mr. Merinoff which he copied to Laura Gray. It is anticipated that clarity as to whether or not Mr. Merinoff and or Mr. Bhakta will be contributing and the range of how much will be determined as of this Friday January 1, 2016.

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Deborah L. Markowitz
Agency Secretary

Trey Martin
Deputy Secretary

**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin

From: Deborah Markowitz, Secretary, Agency of Natural Resources

Date: December 30, 2015

Subject: ANR Weekly Report

Governor Level Issues:

Elizabeth Mine Remediation Funds: This week DEC requested that Finance & Management add language to the FY17 Appropriations Bill authorizing future annual expenditures over \$100,000 from the Environmental Contingency Fund (ECF) for the Elizabeth Mine Superfund site. Expenditures are limited to \$100,000 *“unless the secretary has received the approval of the general assembly, or the joint fiscal committee.”* This request was driven in part by EPA obligating \$5M for cleanup within the Lord Brook watershed. Expenditures from the ECF are expected to exceed \$100,000 each year from FY17 to FY21. As we have mentioned before, it is necessary to plan for increased pressure on this fund over the next few years as more of these bills are to come due and the fund is anticipated to go into deficit.

Stone Hut: The Stone Hut, an iconic CCC-era building near the summit of Mt. Mansfield, was seriously damaged by fire on December 24. The building was rented to overnight visitors but unoccupied at the time of the fire. They were expecting a friend to come and left the woodstove hot for him, but his plans changed and he decided to not use the night. The building, which is much appreciated by a large number of skiers, will not be useable for the balance of the winter season. Engineers will evaluate the remaining structure to help determine a recovery plan.

EVERYTHING ELSE:

Legislative Issues/Testimony:

Water Quality Standards Rule/Legislative Amendments: DEC has held outreach meetings with Representatives Webb and Krebs, as well as the Water Quality Advisory Committee (consultants, academics, RPCs and VLCT), regarding our proposal to upgrade our water classification systems and anti-degradation rule. This proposal, once adopted, will provide authority to improve water quality by better managing waters by us. We expect to meet with Senator Bray on the topic in the near future.

Press Releases/Coverage

New Interactive Atlas Offers A Complete Picture Of Vermont Forests: Vermont has state forest land and a 100-year tradition of creating and maintaining town forests. However, the vast majority of forested land in the state is privately owned. Until now, there was no easy way to get a complete picture of Vermont's forests. A new online tool called the Vermont Forest Stewardship Atlas is designed to identify and categorize the state's forest resources. The atlas was developed by the Vermont Agency of Natural Resources in cooperation with eight of Vermont's Regional Planning Commissions, with the Lamoille County Planning Commission taking the lead. The U.S. Forest Service provided funding for the effort.” *(Amy Kolb Noyes, “New Interactive Atlas Offers A Complete Picture Of Vermont Forests”, VPR, Dec 22, 2015)*

Significant Events/Meetings:

New Combined Sewer Overflow (CSO) Rule: DEC recently filed a new CSO Rule with the Secretary of State's office to initiate formal rulemaking. This rule will supersede the State's CSO Policy, which has been in place since 1990. The Rule brings state regulations into compliance with EPA's CSO Control Policy, including the technology and water quality based requirements applicable to CSOs, and the process by which the State will bring the remaining 68 CSOs (down from 171 in 1990) in 16 municipalities into compliance with those requirements.

Prior to drafting this Rule, the Department put a draft CSO Policy out on public notice, held a public meeting, and received public comments. One of the public comments was that the Policy should be adopted as a rule, with which the Department agreed. Because CSOs will be costly to control and eliminate (estimates are \$2 million per outfall), the Rule may generate debate from municipalities, environmentalists, and citizen groups. However, it is important to note that the Rule is not imposing new requirements, but rather is clearly stating existing requirements applicable to CSOs and identifying existing processes at the State's disposal by which the State will require the control of these discharges.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation (DEC)

Business Process Improvement Events: Our business transformation initiative has begun to expand across the Agency, to the Natural Resources Board and to VTrans. Three week-long events were held recently: Act 250 application process; ANR lands acquisition process; and DEC's grants/loans intake and reporting processes. Spirits were high at the close of the events, with staff eager to begin implementation.

EPA Quality Assurance Audit: EPA audited 3 DEC programs: Brownfield, Wetlands, and Air Quality. The programs were found to be in compliance with EPA's quality management systems. Had the results of the audit been negative, our EPA funding would likely have been impacted. EPA noted a marked improvement since the last audit in 2010. Staff and managers did a wonderful job getting the programs ready for the audit.

Hermitage Development: DEC has reviewed an updated master plan proposal from Hermitage. While Hermitage has done a good job addressing certain concerns, questions regarding wetlands impacts remain.

Fish & Wildlife (FWD)

Batty Weather Not Good for Bats: Staff have been receiving reports of grounded, trapped, or stranded big brown bats. Staff get these every winter, but the warm weather may also be causing trouble as this species hibernates in buildings. Unlike caves and mines selected for hibernation which maintain stable temperatures, most buildings are susceptible to external temperature fluctuations so bats can burn through fat stores too quickly or may have found an unsuitable location to begin with. Luckily, Vermont has a bat rehabilitator who has created a hibernation chamber for these unlucky individuals.

Deer Tooth Collection Efforts Continue: Staff continued compiling and organizing deer teeth for shipment to Matson's. More than 2,600 teeth were collected from reporting stations, with additional teeth now coming in from Wardens and taxidermists.

Habitat Planning for 2016: Staff are beginning a discussion of an initiative to increase capacity for FWD habitat protection and enhancement efforts for both state and private lands. This will be a major, multi-faceted initiative that will entail substantial outreach/information efforts to increase funding, as well as technical assistance, land acquisition, environmental review and habitat management for both aquatic and terrestrial systems.

Wardens Still Dealing with Deer: Wardens are working a high volume of deer season related paperwork turned into States Attorneys around the state. Wardens are also working on case follow up and foot patrol getting into areas that were not feasible to access during the seasons. Wardens are seeing the road kill activity picking up significantly after the close of the season.

Wardens are also noticing a number of hunting cripples showing up from the 2015 seasons, including a deer with an arrow sticking out of it in Dover on Christmas Eve that turned out to be an old archery wound.

Forests, Parks and Recreation (FPR)

Davidson Donation: FPR counsel discussed draft agreements and status of issues with Davidson's attorney and discussed the draft charitable donation agreement between Davidson's Trust and Vermont Parks Forever (VPF) with the VPF attorney. Suggested edits to this agreement to make it consistent with the ANR/VPF MOU and the draft Donation agreement with Davidson's Trust will be sent to the VPF attorney.

Muckcross Donation: Phase II cleanup of a small amount of contaminated soils is required. FPR is working to execute a contract to get the cleanup started. The Kunins support this work, which will be paid for out of the monetary donation to be made to the State. FPR counsel is working to finalize a new ROW deed with an abutter that will clarify and improve the ROW for FPR management purposes and for the abutter (no public access).

State Land Transactions: The Department closed last week on the Five Peaks Forest Legacy easement. This property consists of 1144 acres of forestland adjacent to Jay State Forest in the Town of Montgomery. The property is situated within a large relatively un-fragmented forested landscape and contains high wildlife, forestry, and recreation values. Funding for this easement purchase (\$580,000) was provided by the federal Forest Legacy program. The Department also closed last week on the Hoyt donation in Middlesex. This 43-acre forested tract is adjacent to a portion of CC Putnam State Forest and is in close proximity to the Middlesex Notch Wildlife Management Area and Middlesex Town Forest. Conservation of this parcel nearly completes a continuous area of public land stretching from I89 to the summits of the Worcester Range.

Ski Areas: We received Okemo Ski Area's 2015 lease fee payment of \$616,953 last week. This is a record payment for Okemo (by more than \$57,000!) and is based on last year's record ski season. We expect to receive similarly robust ski lease payments from Killington and Stowe before the end of this month.



State of Vermont
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To: The Honorable Peter Shumlin
From: Joe Flynn, Deputy Commissioner of Public Safety
Date: December 30, 2015
Subject: Weekly Report

Priorities:

The deadly violence of the last week and a half (all drug related) is alarming. The Northfield homicide/arson, the law enforcement raid in Burlington and the fatal shooting of a NYC gang member on Church Street are all cause for note and for serious concern.

Working with BGS Deputy Commissioner Minoli DPS submitted a Capital Construction Budget Adjustment request for \$230,000. Along with redirecting \$300,000 currently being held for land purchase to replace the VSP Middlesex Barrack this request would cover renovations at the Vermont Forensic Laboratory (quoted by BGS) totaling \$530,000. As described by VFL Director Conti "...Vermont prosecutors need a system for drugged driving cases that runs parallel to the system that has long been established for drunk driving cases; that is, a streamlined, in-state testing model that is supported by expert witnesses who are employed by the Vermont Forensic Laboratory. The groundwork for such a system is already in place, given the professional and expert staff at the Vermont Forensic Laboratory. An area for blood-drug testing has been identified, but it requires renovations before it can be deemed suitable for analysis. By all accounts the drugged driving problem in the State of Vermont will continue to grow. Without an easy system to evaluate blood samples and arrange for expert testimony this problem will grow unchecked by the legal system. Drug-impaired drivers will not suffer the consequences of their actions because they will not be properly convicted of their offenses. This will lead to an increased number of crashes resulting in bodily injury and deaths in the State of Vermont..." Equipment to outfit this space is expected to be funded by a future grant through GHSP.

Comprehensive security and contingency planning continues for the Governor's State of the State Address. There will be a Unified Command model implemented to include Sergeant at Arms, law enforcement, ems, fire and hazmat with the command post being in the Ethan Allen Room this year. There is a final planning meeting Monday January 4th at 1000 in the Ethan Allen Room.

The State Fire Safety Building Engineer is at the Waterbury State Complex (12/29/15) to evaluate some possible structural problems with the newly constructed elevator shafts. We received a complaint from an elevator inspector alleging contractors were not building the shafts in accordance with the approved engineering plans. More to follow.

Officer Involved Shooting in Burlington. DEA drug raid on target of controlled drug buys. Subject armed with black powder rifle as stack of officers' breached door. Trooper Mike Cannon and DEA agent shot and killed male subject. US Attorney requested MCU investigate DEA agent actions for justification along with Trooper Cannon.

Deputy Commissioner attended the Governor's Criminal Justice and Substance Abuse Cabinet meeting.

CJS

Frequent hoods & air handling system outages cause intermittent stoppage of work in the VFL. BGS/Control Tech/Precision reps have evaluated two areas and a significant amount of work remains to be completed to rectify issues with hoods & air handling, both at the equipment and control level.

Year-end backlogs in the VFL (as of 11/30/2015):

Blood Alcohol (0)

Drug Chemistry (764)

Serology (66)

DNA (casework) (124)

DNA (CODIS) (1081) – Note this has been reduced from nearly 2200 in less than 6 months.

Firearms (28)

Latent Prints (464) – Prints are handled by a contractor from NH as the Latent Print position was swept in a previous rescission.

Arson (0)

✓ Pepper

Staff from the Joint Fiscal Office working on Senator White's marijuana legalization bill have reached out to the Medical Marijuana Program to inquire about impacts to DPS on potential operations.

Former legislator Anne Gallivan made inquiries about discounted record checks for Mobius (a state-wide mentoring project). She was referred to the current policy (which allows no-cost state conviction reports for agencies that serve vulnerable populations) and encouraged to follow up directly should there be any additional questions.

The currently vacant VCIC Deputy Director and Criminal Record Specialist (Sex Offender Registry) postings have been extended slightly due to the recent issues with VTHR. In addition another staff member (responsible for the criminal history database) has recently informed us they will be leaving for a job with INS in the coming weeks (currently waiting on an exact last day with the state).

FCC license applications being filed for a new Hyde Park site and the AOT District 1. Monitoring FCC license renewals for all state entities.

Researching and organizing long term needs for mountain top hardware to include antenna, hard lines, grounding, and jumper cabling.

Radio installations performed for Environmental Enforcement.

Fire Safety

The Division received \$5.2 Million in new plan review construction valuation collecting \$27,000.00 in permit fee revenue. Revenue for the first 5 months of FY16 is lower than projected due to a reduction in plan review receipts.

Fire investigators are conducting fire investigation of the "Stone Hut" a cabin located at the top of Mount Mansfield. The building is used by hikers from November through April on a weekly basis. The building sustained a lot of fire damage over the weekend. There is no electricity to the site only a wood stove and some type of fuel fired portable cooking appliance which is required to be used outside only. The Commissioner of Forest and Parks asked for the investigation.

The State Haz Mat Team is assisting the City of Springfield, Vermont in an incident involving a clandestine lab in a vacant house.

Administration

Met with KPMG on 12/22/15 to go over their draft findings report. The five findings will likely stand as DPS had no further mitigating information to provide. The next step will be for KPMG to forward their report to Karen Jaquish at Finance & Management. This has changed this year as previously, the department being audited would be presented with the report directly. Finance is now coordinating the State's response and development of the Corrective Action Plan.

DEMHS

Director met with the President of Vermont Rail Systems and also provided a tour of the EOC.

Coordinated with AOT and Vermont utilities in advance of this week's winter storm. While not much of a storm it did provide as a useful exercise in what so far has been a season absent of wintry weather.

The Homeland Security Program Manager position has been extended 3-days due to the DHR shutdown.

FEMA has approved Local Hazard Mitigation Plans for 3 more communities as they (FEMA) continue to work through the backlog in their queue.

FEMA has issued a time extension through 11/2016 for Irene related upgrades to the DPS building.

State Police

A Troop:

Sex assault investigation in Winooski by CUSI Det. Victim interview set. Alleged suspect has multiple arrest warrants out on him.

Follow up on arson case at Champlain College. Detective met with staff members for information regarding students living in the all at the time of the fire.

Assigned assault case at CRCF. Inmate on Inmate.

Assault case assigned at the CRCF. Inmate scratched a guard during a use of force incident.

Follow up on a theft case of electronic equipment out of Radio Shack. D/Trooper working with Uniform on good intel of possible suspects.

Assisted Hinesburg PD with potential bomb case. Hinesburg PD obtained warrant for residence of two males involved in bomb scare at CVU. Nothing located. Bomb squad members assisted as well.

Northfield Homicide and arson investigation with MCU. Numerous interviews and search warrants completed. Three suspect placed under arrest for incident.

Untimely in Moretown. Report of a 73 year old male suffering from depression. Male was recently released from psychiatric ward. Male called wife and said she would be better off without him. Male then shot himself in the chest with a 30-06. Death ruled a suicide.

Death investigation in Waitsfield / Apparent overdose / Awaiting Tox from autopsy.

Death Investigation in Northfield / Natural causes / Elderly male with numerous health concerns.

Sex Assault in Marshfield / Mother reported that her daughter had been sexually assaulted by a known male. Investigation and interview by D/Tpr showed that incident never happened. Victim admitted she was coached by suspect's estranged wife. Purpose of the report was to keep the suspect in jail as he was arrested last week for Agg Domestic Assault. Estranged wife believed this allegation would keep him in jail.

Death investigation in Woodbury / Elderly male shot himself in chest. Male had been treated for depression and had recently gotten out of the hospital for psychiatric reasons.

Follow up on vulnerable adult case. Victim admitted the allegation was made up.

NUSI assigned sex offense case that is two years old. 18 year old female inappropriately touching an 11 year old child.

Sex Assault case assigned to NUSI. 54 year old female alleging her landlord touched her inappropriately and exposed his penis. Investigation started.

Court paperwork completed regarding fatal hit and run in Highgate / Search warrant applied for computer in vehicle.

Assisted uniform division with search warrant for stolen solar panels.

Sexual assault investigation out of Derby. D/Tpr took case as Derby conflicted off. Suspect is the son of a Newport PD officer. Victim is a 15 year old female and does not want any investigation.

Death Investigation in Eden. Death determined to be natural. Elderly male with numerous health concerns and under the care of a primary physician. Cancer appeared to be cause of death.

Assigned sex assault investigation in St Albans. Female victim presented at the ER for SANE exam. NUSI handling case.

B Troop:

CSST activation Northfield.

Prison assault case at Northern State Correctional Facility. Inmate assaulted the Assistant Superintendent.

Prison Drug cases (11), two of which will require further follow up. The remaining 9 are for drugs that the correctional center officers had recovered in the facility that need destruction.

EOD activation in Brattleboro regarding possible explosive device being used for Bank Robbery.

Assisted ATF with processing evidence for Pipe bomb incident in Northfield. (EOD).

EOD activation for Pipe bomb found in Barre.

Det. Trooper assigned a sex assault case at the prison. Inmate alleging that his roommate assaulted him.

Det. Trooper was assigned new NIU case regarding allegation of sex assault on a minor.

Accidental Gunshot wound in Lunenburg, VT. Black powder revolver was dropped on to the floor and it discharged striking male in the leg. Non-life threatening injury.

Arson Investigator Smith was in Northfield most of the week for the Northfield fire/homicide.

Arson investigation in Orleans at the church. Male subject wrapped cloth around knife and lit it on fire to "see" then found candles and lit them. Church caught on fire. Case is being reviewed by Orleans County SA.

56 yr. old male in Concord, VT with extensive medical history to include Cardiac problems and renal failure-Natural.

63 yr. old female in Island Pond, VT with medical history. She was hospitalized a month ago. Natural.

C Troop:

New Case Drive by shooting of an adult female in Rutland Town. Offender arrested and charged with Aggravated Assault.

Assist to Uniform with attempt to locate and interview suspect in Lincoln Elementary School burglary. Suspect not located, attempts to continue.

Assist with locating suspect John Stice in DCF – Middlebury death threats case. Tips received by dispatch regarding suspect location in Ticonderoga, New York were found not to be current.

Conference call with FBI & Verizon re: Hart case; Meeting at Rutland re: Hart case; Write up two new search warrants on Hart case.

New case – Child Pornography located on cell phone of 20 y/o male who resides at Howards Center in Starksboro – phone will go to ICAC.

CSST Activations (Monday/Tuesday/Wednesday) –Northfield Fire.

New case 18 y/o female reported 20 y/o male friend L&L conduct in front of her, met with female at RPD.

New Case – Dead Body Wallingford. 78 year old female in poor health found deceased on her couch. ME Sign off.

Assist with armed robbery in Danby.

Conducted presentation to Rutland County Sheriff's Dept. on interview and interrogation with Det. Trooper.

Continued investigation of Murray suicide.

Completed jail assault complaint. Unfounded.

Assists to Detective Trooper on Rutland Town sexual assault investigation.

Assisted Fair Haven Police Department with completion of sex offender registry checks.

New Case: Sex Offense. Town of Rutland. 46 year old female reported being physically and sexually assaulted by a 64 year old male subject. Interviews Conducted.

New Case: Child Abuse. Town of Poultney. It was reported a 15 year old boy may be being physically abused by his father. Interview Conducted.

New Case: Child Abuse. City of Rutland. It was reported a 6 year old boy may be being physically abused by his 39 year old uncle. Interviews Conducted.

Fire Investigation / Dorset.

Dead body- 92 yr. old female deceased in Dorset VT. Not suspicious in nature.

New case, 14 yr. old male reporting sexual abuse as a child.

D Troop:

Assist Wilmington PD with Bank Robbery.

Attempted 1ST Deg. Murder - Putney.

Sex offender registry (2).

5 DRE evaluations reviewed and approved.
DRE Training in Berlin.

DUI Drugs - from VSP New Haven – Discovery request for DRE materials.

Death Investigation – Marlboro – 66 year old male, lived alone, natural causes.

Cavendish – Armed robbery of general store. Offender arrested, also tied to Springfield armed robbery on same day.

Assist D/Tpr. with interview of offender in Bridgewater.

Assist to Wilmington with bank robbery, video canvas, witness interviews, processing of evidence (note left on receipt) for prints.

Assisted Det. Sgt. with Cavendish General Store robbery, interviews done with owner of getaway vehicle, video obtained from school, interview done with suspects former landlord.

Assist to Springfield with gas station robbery (same suspect as Cavendish robbery).

DCF intake, sexual assault at VT Academy, interview at CAC.

Substitute teacher with pornography on cell phone.

Sex assault Weathersfield, follow up, attempted interviews with suspect.

Assisted DCF with interview turned into no trespass order for bethel school (Completed).

Completed death investigation.

Completed – uncooperative victim CAC, DCF, & Women Safe notified.

Thursday night and Friday Day – Bomb Squad activation for Northfield explosion.

More evidence collection for bomb incident.

Northfield for Arson Fire/Homicide.

Wilmington non suspicious fire.

Completed non suspicious car fire write up Richmond.

Major Crime Unit:

Northfield Homicide; follow up interviews, proffer with Tammy Wilder, obtaining additional video footage. Unit working as group to meet discovery deadlines of 12/30/15. Wilder, Zampieri and Hoisington indicted and arraigned in federal court, continued to be held.

Meeting with FBI in Rutland relating to cellphone analysis in Denise Hart Investigation. While meeting with them, report of civilians finding skeletal remains off side of road over guardrails in Goshen. Det Sgt Scribner and Det Lt Trayah responded and found jacket matching description of last known clothing of Denise Hart with remains, fully skeletonized. Scene held overnight, CSST responded in daylight and documented/recovered remains. Dental records match at autopsy of Denise Hart. MCU/C Troop BCI/NIU south jointly working case with investigative plan being developed on next steps on suspects.

Assisted BCI with an armed robbery in Rutland. Located suspect and conducted interview/Interrogation on suspect front porch. Suspect confessed to robbery for Christmas money. All evidence seized as well as the money taken from the store.



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Justin Johnson, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Justin Johnson

DATE: December 30, 2015

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Issue Updates:

State House Lawn – Ice Rink Proposal: We have developed a Conditions Document for review by BGS and we expect to share this with the applicants and meet with the applicants to discuss. We would like a nod from the recipients before sending to applicants. Applicants still need to meet with Capital Complex Commission regarding signage and lighting which is occurring on Friday, January 8th.

FINANCE AND MANAGEMENT

Issue Updates:

- On Tuesday, December 29th, KPMG issued an unqualified opinion on our 2015 CAFR. The CAFR has been posted on the Finance and Management webpage and a copy was sent to the VT Legislative Reports email address. Hard copies will be available next Monday.
- A copy of the CAFR has also been submitted to Government Finance Officers Association (GFOA) for consideration of their Excellence in Financial Reporting Award. If awarded, this would be the 8th year in a row for VT.
- Progress continues on the development of the 2017 budget. Final details are being addressed between the Analysts and their departments.

HEALTH CARE REFORM

Issue Updates:

All Payer Model: The negotiating team briefed the Governor on Tuesday. The team will push ahead with the project, aiming for launch on 1/1/17. The team has several immediate tasks.

- (1) Agree to a term sheet from the federal government by 1/15/16.
- (2) Develop a communications strategy for public discussion of the proposed agreement with the federal government
- (3) Ensure Medicaid is ready to implement the changes necessary to operate the model
- (4) Ensure the GMCB is ready to implement the changes necessary to regulate and operate the model

The discussion did not focus much on number 4, GMCB readiness. AOA staff remains concerned that the GMCB will not be ready with a revised hospital budget process, revised insurance rate review process, and new regulatory process for ACOs. Time is getting tight, as hospital budget guidance is usually distributed in March or April. Insurance rate review submissions are also generally done in March.

UVMMC hired Sachs Policy Group to advise it on how to create a NextGen ACO program. The Sachs team includes several key players from the Maryland-CMMI all-payer model negotiation. UVMMC made their consultants available to our all-payer model negotiating team. We had a productive conversation about Maryland's all-payer model negotiation and got their input on the current state of our negotiation. The feedback and suggestions were mostly technical, aside from one key point. Sachs does not believe the federal government will accommodate us with a floor or anything like it. We have considered this a potential deal breaker provision in our negotiation. We agreed to meet with them again with AHS representatives to discuss how Medicaid fits into an ACO based all-payer model. That meeting will be held at UVMMC on January 11. AHS leadership has been invited.

SIM/VHCIP: We are processing over a dozen contract amendments and also in final negotiations for 9 new agreements that would begin on 1/1/16.

A key piece of our work continues to be updating CMMI-required documents. We are talking with CMMI approximately every other day to make sure they understand our project status and have the written information that reflects that status. We anticipate submitting revisions to the previously approved no-cost extension documents by the end of the year. We will be submitting additional documentation required by CMMI related to our sub-grant program. The additional documentation was requested because CMMI has concerns that some of the provider-related payments were not in compliance with the grant's terms and conditions.

Universal Primary Care: We submitted the universal primary care cost estimate report to the legislature on Wednesday 12/16. We reviewed the final tables with Justin and also met with Joyce Manchester at JFO to review. Marisa posted the report to the HCR website and distributed the report to stakeholders who reviewed and commented on the draft report. The next steps are to work on a comparison with the GMCB's primary care payment work group recommendations and prepare materials to use in committees. Robin spoke with Peter Hirschfeld about the report on 12/30.

Rule 09-03: We submitted the 09-03 Findings and Recommendations along with proposed legislation sponsored by Claire Ayer and Ginny Lyons. We will have one last meeting with stakeholders in January to go over the details of the rule and legislation. We will meet next week with Susan Donegan on the outstanding issue of advocates requesting information on complaints. We will meet with Ginny Lyons in early January to discuss legislative strategy.

Excise Tax Study: The federal budget deal contained three sections related to the Excise Tax on High Cost Employer Sponsored Health Coverage, i.e. The Cadillac Tax. Specifically, the bill made two significant changes to current law, delaying the tax by two years and allowing the tax to be deducted. Additionally, the bill directed the Comptroller General to conduct a study of the age and gender adjustment that may have a significant impact on how the tax is calculated and potential future tax liabilities.

Delayed implementation provides certainty for 2018 and 2019 by removing any chance that the State will pay the tax. Yet, the delay creates uncertainty for 2020 and beyond by keeping a potential multi-million dollar tax liability on the horizon. Accordingly, the State, and other employers, should still keep working to contain health care costs and promote delivery system reform.

The federal changes upend our recent public employee benefit study. AOA staff will submit a memorandum to the Legislature explaining the impact of recent federal changes on the study.

Legislative Issues:

Senator Ashe is taking up several bills next week, including two of particular note. First, Ashe has a bill submitted by VEHI, which allows VEHI to continue to include small group employers in their pool. Unfortunately, there is federal guidance which does not allow associations to include small group employers in a pool separate from the rest of the small group market, so we believe federal law prohibits what they are asking for. Chuck Storrow from KSE provided us with a legal opinion. We are meeting with them on Monday to discuss.

Second, Ashe is sponsoring a bill from Blue Cross Blue Shield that would allow for direct enrollment for individuals in health plans outside of the open enrollment/special enrollment periods for the sole purpose of changing the administration of the plan. People who do so would forfeit any subsidies for those months that they are enrolled outside of the exchange, because it is considered an outside market by the federal government. We originally thought we could do this by rule, instead of by statute, but Blue Cross is contesting that DVHA has regulatory authority over these outside market plans. This raises a larger issue, which is that it is not clear that anyone has regulatory authority over the outside individual market, so we may need to clarify that. Lawrence & Robin are working on the issue with DVHA.

HUMAN RESOURCES

Legislative/Policy Update:

Scheduled to testify twice next week before Senate Government Operations. Tuesday the topic is nurse reclassification and staffing of psychiatric nurses as well as an invitation to discuss “anything else I might want to share...”. On Thursday topic is workplace safety and possible privatization of the worker’s compensation office – I will be following the testimony of VSEA.

Communications:

The new DHR website is complete and live! We are receiving great feedback.

Significant Meetings/Events:

Moving forward on overhaul of New Employee Orientation. Coordinating with VSEA regarding the provision of VSEA brochures as part of orientation.

Prepping W-2 and ACA 1095C forms for dissemination in late January.

Coordinating on proposed changes to the benefit plan to provide health care coverage to dependents of employees who are the victims of work-related violence.

Developing a protocol and IT solution for the collection and reporting of misconduct and discipline to ensure accurate uniformity and consistency data.

Developing possible initiatives for the EO on the employment of people with disabilities.

Met with VSEA' Supervisory and Corrections Units in a last effort to reach a settlement on a successor CBA. While some Unit specific issues were resolved, no ultimate agreement was reached (wages are still the main sticking point).

Met with Joe McNeil and others to discuss and formulate strategy for fact-finding on January 11, 2016.

Began prepping and drafting language for VTA negotiations, tentatively scheduled for January 12, 2016.

In July and August, we received Class Action RFRs impacting:

- 13 Departments
- Approximately 110 Jobs
- 805 Positions (723 employees as of 9/6/15)

Including:

- All nurses in AHS and the Veteran's Home
- BGS Maintenance
- Benefit Program Eligibility workers and supervisors in DCF/DVHA
- VSEA submitted one class action RFR for the VVH Utility Workers (28 positions)
- The rest were submitted by management

Coordinated and co-facilitated day-long, strength-based retreat for the Forestry leadership team on 12/22. Evaluations were positive and leader was interested in additional retreat team with his team, as well as taking the strength-based materials across the division of FPR.

INFORMATION AND INNOVATION

Significant Events/Meetings:

Enterprise Resource Planning (ERP) System: An unexpected hardware failure on Tuesday, December 22nd caused an outage for the VISION, VTNR and Budget systems.

- Substantial efforts were put in by many to regain production services as quickly as possible.
- We will be gathering information about the event, and associated restart of the systems, to evaluate our disaster response plans.

Evolving Issues:

Anywhere/Anytime computing (Office 365) – email/MS Office: We have migrated approximately 3700 users. We are taking a break from migrations until the week of January 12th. This will allow us to catch up on operational tasks.

Web Updates:

- There was an outage of the Vermont Information Consortium (VIC) development environment on 12/29. The cause is still under review. This did not affect any live websites, only sites currently under development.
- Training for the Healthcare Reform website was held 12/17. The site is now ready to go live when the Health Data site launches in January.
- Training for the President Pro Tem. Website was held 12/18.

Project Updates:

- Department of Liquor Control Retail & POS: Project in **Red**. The vendor, STG, informed the State they cancelling their contract effective January 3, 2016. STG referred to extenuating circumstances that will eventually come to light.
- VoIP Implementation – The first WSOC transition was a success, and we are on track for the remaining WSOC transitions.
 - Legislative Reporting - Reconciling what's still missing for \$500K reporting. Plan to escalate if needed to get remaining records.

LIBRARIES

No report.

TAXES

Operations Update:

VTax Conversion and Go Live: JFO, and staff from the Speaker and Speaker pro tempore offices, were very enthusiastic about the tour of the project space and a demo – they would like us to provide a demo to the full legislature.

Otherwise, the Department is literally quite quiet – many employees who had to work overtime for the successful launch of Phase 2 are using up their accumulated time off. After the New Year, we anticipate that the phone volume, which has not quite abated to normal levels, will spike again as we work to register our quarterly and annual filers onto MyVTax before the January 25th filing deadline.

Legislative Update:

Burlington Issues: The Commissioner had a meeting with Bob Rusten (CFO) and Eileen Blackwood (City Attorney). After a bit of a delay, they expect to get their online travel company litigation back on track. They seem to think AirBnB is not as big a problem for them as for other more recreational tourism towns, but they are grappling with regulatory issues including neighbor complaints. We will propose a provision in the Miscellaneous Tax Bill to allow reciprocal sharing of sales tax info for purposes of enforcement of our sales tax and their gross receipts tax. They are aggressively pursuing imposition of their gross receipts tax on food sold on college campuses – unlike the state meals tax, their charter provision has no exemption. They also are trying to limit use of property tax exemptions. I told them that the Administration was unlikely to take a position if the fight to retain the fraternity exemption is resurrected (sunsets this year pursuant to 2014 legislation) – they actually would like the sunset to go further by specifying that the houses must remain on the tax rolls even if sold to the University.

Finally, they are not aware of any of the Burlington institutions using funky financing mechanisms that transfer ownership on newly constructed dorms (thereby calling into question the property tax exemption). The Department is likely to respond to a town/ institution outside of Chittenden County that their description of a transaction with a construction company whereby it would hold title to a dorm under a ground lease for 60 years likely destroys the exemption – there is a great deal of distinction from other leases involving Spinner Place and New England Fine Arts.

Gearing Up for Tax Season: Refunds: The Commissioner is set to testify on Department updates before Finance and Ways&Means next week. This will be our first opportunity to signal to them that we intend to set March 1st as the date when we will begin issuing refunds. Our message will be simple – this is necessary to protect taxpayers from the growing identity theft refund fraud. By delaying, we will have the best information – employer W-2s – to efficiently and comprehensively route out fraud. Without this information, we have to employ a number of screens that then require manual, ad hoc review. With delay, we also minimize the risk that a fraudster will beat the real taxpayer to a refund. If a taxpayer does fall victim to fraud, they will experience delay in refunds for years to come. As for the EITC community, although we do get 2/3rd of the refund requests before March, we are only delaying a couple weeks from most payouts, and their bigger refund is always from the IRS, which is not anticipating delay as of now.

AirBnB: We are reviewing a template contract for tax collection that the company provided.

Likely Misc. Tax Bill Provisions: We continue to polish our draft bill for introduction simultaneous to the budget.

Sent from my iPad