

**From:** Springer, Darren [Darren.Springer@state.vt.us]

**Sent:** Saturday, July 11, 2015 11:55 AM

**To:** GPS

**CC:** Johnson, Justin; Coriell, Scott; London, Sarah; Allen, Susan; Richards, Alyson; Miller, Lawrence

**Subject:** Highlighted Weekly Report- Executive Privilege 07 10 15.pdf

**Attachments:** Weekly Reports - Executive Privilege 07 10 15.pdf; ATT00001.txt

Highlighted Weekly attached.

Gov - Please see upfront section in ACCD, Janette at GF does expect to get funds from the Enterprise Fund, and is pushing hard on this. Joan Goldstein called me yesterday and I asked her to send us the list of proposed projects from Janette so we can evaluate. They are considering other options (such as using Windham VY funds) for some companies we were going to help with Enterprise. There is apparently a significant disconnect between what we all heard from Mike Russo at GF, and what Janette is saying now....

Also see Annie's DOL report, she asks that you call head of Communications Workers of America regarding some FairPoint layoffs. We can work to set that up if you are interested in doing it.

Thanks, hope everyone has a good weekend.  
Darren

# WEEKLY REPORTS

Checklist  
7/10/15

Darren Springer/Alyson Richards

- ☒ Agency of Commerce and Community Development – Patricia Moulton
- ☒ Department of Labor – Annie Noonan
- ☒ Department of Financial Regulation – Susan Donegan
- ☒ Agency of Education – Rebecca Holcombe
- ☐ VT Commission on Lottery – Greg Smith

Sue Allen

- ☒ Agency of Transportation – Sue Minter
- ☒ Agency of Human Services – Hal Cohen
- ☒ Agency of Agriculture – Chuck Ross
- ☒ Agency of Natural Resources – Deb Markowitz
- ☒ Public Service Department – Chris Recchia

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

To: Governor Peter Shumlin  
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development  
Date: July 10, 2015  
Re: Weekly Report

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**Pat Moulton, Secretary**

- Pat is away on vacation and Lucy is covering all urgent things. Pat is available by phone if needed.
- **Global Foundaries (GF):** Pat spoke with Janette Bombardier this week and she has a clear expectation for some if not all of the Vermont Enterprise Fund. I explained the legislature has picked away, and that given the timing, we have planned on committing some of the remaining \$2 million to other companies. She pushed back, and has "25 projects" that she may need some help with to "sustain operations" in Essex. She feels we need to send a message to GF. I explained we heard from Mike Russo was that they did not want to take Vermont's money, but rather bring money to Vermont. Her response was "Mike is in government relations, he doesn't run the sites, he doesn't know." While I am away on vacation, Joan Goldstein will meet with Janette to better understand the 25 projects and what other resources we may be able to bring to bear. Joan is also examining the other companies on our Enterprise Fund list to determine where VEGI may be able to provide enough incentive so we don't need to use the Fund. We had planned on using \$500K for the GS Percision project in Brattleboro, but I would advocate we use the Windham County economic development money so we can spread the enterprise fund as widely as possible. The other "must have" from the enterprise fund is likely GW Plastics expansion. Final amounts to be determined. Is my hope we can have \$1 million in play for GF.
- **GS Precision:** Norm Schneeberger is continuing to balk at the cost of extending a road in the exit 1 industrial Park. He has concerns even though he is not paying a nickel toward that cost. His secondary concern is his ability to handle additional debt of the new building. This is apparently a progression of "reality" therapy for Norm. The current discussion is expanding both of his existing buildings and exit 1. It is sounding more like he will do whatever he's going to do in Vermont, but now he is worried about paying for it. New market tax credits are still applicable, as is the Windham County economic development program.
- **Seldon Technologies:** This Windsor based water purifier manufacturer is owned by a South African company, Eco-net. Eco-net has been subsidizing the operations of Seldon for the last few years. Due to financial issues, Eco-Net must scale back significantly their cash contributions to Seldon's R&D and scale up for manufacturing. Senator Leahy was at an event celebrating a Mexican contract, but the cash from that contract won't be significant for another year or two. They are also waiting on a major Chinese contract. In the meantime, they have a short-term borrowing need of \$1 million. We will talk with VEDA about this, but we may need to look at other creative sources. The first thing we need to understand is how much the company is bleeding now, and when the turnaround will occur such that they can repay what could be a six-month loan of \$1 million. There is some risk if the company will go out of business if they cannot pull the funding together. This has to be determined. Seldon is an EB5 user therefore maintaining the job count is really important.
- **Keurig/Green Mountain:** Pat received a credible tip that K/GM will lay off 140 in August. I am trying to track this down with Brian Kelly. I am getting referred to "govt. relations" people who are checking. I am also trying to get together with Brian soon. I will keep you posted.
- **July 4 Tourism Numbers:** As you'll see below, overall traffic counts are up by 10% from this past July 4 weekend. It's too early to look at tax revenue, but we are hopeful the summer will continue to track well.
- **You Can Quote Me:** Pat taped "You Can Quote Me" with Kyle Madura on Wednesday. Topics ranged from tourism numbers, to the Vermont/Quebec initiative, the economic development Bill, and recent rankings for Vermont. It airs Sunday morning at 7:30.

## Lucy Leriche, Deputy Secretary

- **Confidential Amoskeag:** Kevin Hastings is the owner of Amoskeag Woodworking and Morse Hardwoods of Fairfax, VT. Three years ago, Amoskeag was a \$3.1 million custom millwork business with another \$1.2 million in hardwood sales from its Morse Hardwood division. At its peak, the company hired 55 employees. Dramatic drops in the custom millwork business combined with one particularly unprofitable contract sent Amoskeag into a tailspin early in 2013. They'll be hard pressed to do \$2 million in sales this year. Losses are mounting and their capacity to keep the doors open has been severely diminished. Beginning last year, Hastings began exploring ways to diversify the business and has found some real traction. They have been getting up the learning curve rapidly but may be running out of time.

Kevin purchased the 50,000 SF Fairfax facility for \$1 million in 2010. The facility and its equipment represent critical wood processing infrastructure, some of the last of its type and scale in Vermont. He is highly leveraged and is in trouble with creditors including Peoples Bank and VEDA. Since there is no collateral left and there is a large need for working capital, to be viable the business needs an equity investor. If and when there is a realistic business plan and if they can find working capital at the level that is necessary, VEDA will (continue to) be flexible with them and be open to some kind of restructuring. ACCD is working with all interested parties to try to save this business. Stay tuned. The situation is relatively urgent. *More importantly, discretion is critical. Word of any impending shut down would do real harm to Amoskeag's options.*

- **Vermont Strong Scholars:** Lucy held a productive meeting with representatives from the Vermont State Colleges, UVM, VSAC, Agency of Education and Aly Richards from the Governor's office to discuss next steps for the Vermont Strong Scholars program, including the all-important issue of a sustainable funding mechanism. Parties agreed to explore some limited use of the Higher Education Trust Fund. In the meantime, the CMO will continue to work with AOE to develop accurate outreach information on the program benefits in a way that honors the legislature's mandate that no promises be made to students until funds are available.
- **Vermont Life:** Conversation, research and analysis continues on the future of Vermont Life magazine. Lucy and Pat will be requesting a meeting with Justin and others to give a presentation on our findings and recommendations.
- **Summer Study Committees:** Lucy attended an internal kick off meeting with Pat, Joan and other key ACCD staff for the Employee Relocation Tax Credit study to lay some groundwork and construct a frame for our first official meeting. That meeting will be called as soon as we receive all appointee names. Lucy is working on getting those from the relevant places. Lucy attended the first Peer to Peer Lending analysis led by DFR. We will explore the feasibility of offering some sort of exemption to Licensed Lender laws.
- **Vermont Sustainable Jobs Fund Retreat:** The main topic of conversation--how does the organization remain relevant and valuable to Vermont. Of highest concern was finding other sources of funding to sustain operations in a difficult state budgetary climate. VSJF staff have an interest in consulting for a fee outside Vermont. Lucy expressed caution that we be sure to do so in a way that expands market opportunities for Vermont businesses. Chuck Ross felt strongly that VSJF had more work to do in the Agricultural space before devoting too many resources to other sectors.
- **Radio Frequency Testing at National Life:** Lucy reached out to NL facilities folks for a meeting to discuss Department of Health radio frequency testing at ACCD offices. Staff remains concerned about what they perceive as disproportionately high rates of cancer among ACCD staff and wonder about a correlation with the communications equipment installed at NL. We hope the results from testing will help put staff at ease.

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

- **Economic Development Marketing:** This week's focus of the group was message development for each of our key audiences. Tactics are the next priority as we develop specific strategies to reach our targets. As reported elsewhere in this report, the first video interviews with prominent VT business leaders were conducted this week, for what will become of series of videos to help 'tell our story' from various perspectives.

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

- **VCGI Imagery Program**

- **Orthophotos:** Steve is working with Tax Dept and Robinson Aerial Surveys to possibly renew a contract for storage of old orthophoto negatives dating back to the 1970s. Fugro plans to provide a “pilot” delivery for the spring 2015 ortho acquisition in mid-July. The Vintage 4 (2016-2020) ortho RFP has been circulated for comment, both internally within ACCD Admin and to GIS partners inside and outside of State government.
- **LIDAR:** Ivan and Leslie are pursuing the Silver Jackets program as a possible funding match to an FY2016 USGS LIDAR data collection. Silver Jackets funding would be tied to the use of LIDAR data for flood risk management. Ideally, a multi-organization Vermont Silver Jackets Team would be formed to increase Silver Jackets funding opportunities over the long term.
- **GIS Governance & Coordination:** VCGI has worked with ANR, VTrans, AHS, and E911 to revise an existing Memorandum of Understanding (MOU) in support of a shared online interactive mapping platform called Geocortex. The system supports web mapping applications (desktop and mobile) used by these agencies. The cost sharing arrangement defined in the MOU has and will continue to yield significant savings.

## **DEPARTMENT OF TOURISM & MARKETING**

### **Steve Cook, Deputy Commissioner**

- **VermontVacation.com:** VermontVacation.com’s travel planner received a recent update that fixed issues in search and category functions. VDTM, in partnership with the Vermont Chamber, is working on a number of upcoming updates including regional search and customized lists. The Chamber and VDTM will meet with vendor Everwonder early next week to discuss final details.
- **Vermont Brewers Association NY Media Interview:** Steve will join Laura Streets of the Vermont Brewers Association and Brewfest on Thursday July 9th to participate in a live interview with Syracuse station WSYR. The topics include the Vermont Brewfest & Vermont beer production.
- **Festival of Fools BTV:** Steve launched a digital advertising campaign in partnership with Burlington City Arts for the month of July. This year the focus is to increase visitation from the Quebec region. Digital advertising has been placed with a Quebec focus.

### **COMMUNICATIONS ♦ Laura Peterson, Director of Communications**

- **Press Releases:** Laura issued press releases on Vermont’s Fairs and Field Days, Open Farm Week (August 3-9), and the [Hubbardton Battlefield](#) reenactment. She was pleased to see [this story](#) in the Burlington Free Press about three historic sites within a day’s drive. WCAX will report on the Hubbardton reenactment on “The:30” on Friday.

### **MARKETING ♦ Patrick MacCormack, Digital Marketing Coordinator**

- **VermontVacation.com:** VDTM experienced a significant upgrade in Everwonder’s platform over the past week. Ongoing efforts are moving in the right direction, helping to increase usability and the end-user experience. Members of VDTM and IT met to discuss future processes for VermontVacation.com. These processes will help organize internal resources with ongoing needs for the website.

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

- **World’s Best Foliage | Campaign Development:** The team has decided on the key reasons to believe Vermont has the world’s best foliage. An opportunity still exists to gain image assets to back these reasons up. David reached out to several photographers, coordinated their submission, presented them for review and met with Vermont Life amongst other members of the team to review their archive of fall photography. Decisions are still under consideration on how VDTM may attain these assets.

### **RESEARCH & STATISTICS ♦ Greg Gerdel, Research & Operations Chief**

- **Leisure and Hospitality Sector Leads Job Growth:** For calendar year 2014, the greatest increase in number of Vermont jobs was in the Leisure and Hospitality sector (+789) followed by Construction (+681). The largest losses were in Durable Goods Manufacturing (-844). Private Ownership employment grew by 2,493 (1%). Federal government employment increased by 111 (1.7%). State government employment increased by 257 (1.6%). Local government employment was virtually unchanged, adding 16 jobs or .1%. – Vermont Labor Market Quarterly, Dept. of Labor, July 6, 2015.
- **Part Time Workers in Vermont:** At 28 percent, the proportion of part time workers in Vermont was substantially higher than the national average of 19 percent during 2014. However, only 15 percent of Vermont’s part time workers do so for economic reasons, compared with 26 percent of part time workers nationally. Economists consider workers in part time jobs for economic reasons an underutilized part of the labor force. The non-economic reasons for part time work include: childcare, family or personal obligations, school or training,

retirement or Social Security limits on earnings, and other reasons. The Leisure and Hospitality Sector supports a significant proportion of part time jobs.

July 4 Weekend Traffic at Key Visitor Centers				
		2015	2014	% Chg.
Bennington		2256	2019	11.7%
Fair Haven		2784	3067	-9.2%
Georgia South		1868	1827	2.2%
Guilford		16134	14514	11.2%
Hartford		5966	6083	-1.9%
Randolph South*		4430	5101	-13.2%
Sharon North**		8963	5519	62.4%
Williston North		5893	5620	4.9%
		48,294	43750	10.4%
*Problems with counter during the weekend				
**Closed July 4, 2014 due to facility problem				
Source: Vermont Information Center Division, BGS				

- **Visitor Center Counts Up for July 4 Weekend:** Despite a problem with a malfunctioning electronic counter at Randolph – and partly due to a full day’s closure of Sharon Northbound when the facility had mechanical problems on July 4, 2014 -- holiday weekend traffic was up at most of the key visitor centers, with the exception of Fair Haven, which was -9.2 percent off last year’s count.
- **Guilford had its busiest July 4 weekend since 2008.** A review of recent years demonstrates that having July 4 fall on or adjacent a weekend has a tremendous impact on the number of people who travel to Vermont for the holiday. Traveler counts at the visitor centers for 2015 are more than 35 percent higher than when July 4 fell on a Wednesday in 2012.

#### **VERMONT LIFE ♦ Mary Hegarty Nowlan, Editor/Sky Barsch, Associate Publisher**

- **Advertising:** Had our monthly ad sales meeting on Monday in which we asked our reps to explain the low sales numbers for Autumn 2015. Among their myriad reasons for not growing sales, they said that the job is difficult to do part time and that we should have an in-house, full-time person devoted to sales. We continue to try to make headway on this issue.
- **Business/Accounting:** Still no response from Finance & Management about the VISION conversion.

#### **DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Joan Goldstein, Commissioner**

- We are pleased to announce the hiring of Krista Conley. Krista will direct her efforts with International Trade and assist with the EB-5 program. Krista is an entrepreneur who is also a Mandarin speaker with experience at the Hong Kong Economic Development Office and previous Government experience working for Senator Kennedy in DC and Boston. Welcome Aboard Krista!
- **Video Interviews:** While in Bellows Falls, conducted video interviews with Sam Heleba of Graphics Controls and Paul Millman of CHROMA Technology. Both had great perspectives on investing, starting and growing a business in VT. We also got some great sound bites from each: “the Governor gave me his cell number! I'm not getting Andrew Cuomos". "I could never have started and grown Chroma in NY. The economic and political intimacy here is profound" and there are many others. These will be distilled into 2 minute ' commercials' which can be used for internal VT audiences and external ones as well. We have contracted with Mondo Media and collaborated with Sky Barsch from VT Life. We will do 4 more under this contract but intend to do these on a fairly regular basis as the material is rich and provides helpful content. We want to hammer the message home that there are great opportunities here. We are brainstorming further about distribution strategies for the 2 minute versions and perhaps longer ones depending on the medium.
- **Northeast Precision** is grateful for the training dollars received and the VMEC instruction which streamlined parts of their operation.
- **NSA** is concerned about loss of business due to Chinese competition and may be eligible for NETAAC assistance.
- **UVM Tech Commercialization Office** went to the Spark VT presentations and learned about the world changing ideas that are competing for funds to get them on the road towards Commercialization. From cancer



detection and treatment to civil engineering solutions this is where Economic Development starts! We will be working closely with the group to help, where we can, with pre seed funds - we do sub grant them funds- and it was indeed inspiring to see the PhDs and MDS present before a national panel of experts in chemistry, medicine, and other brainiac fields. They evidently may need some 'plain English' training.

#### **VERMONT TRAINING PROGRAM ♦ Beth Demers, Director**

- **Vermont Technical College:** Beth Demers received an application from the Vermont Technical College that included training for an apprenticeship at GE Aviation of Rutland. The roughly \$80,000 application is up for the VTP Review Team.
- **Draft Applications:** Beth Demers reviewed draft applications with: Laura Zindel Designs (Brattleboro) and Vermont Castings (Randolph). Both are expected to come in with final applications within the next two weeks.

#### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

##### **Commissioner MacKay**

##### **Silo Busting**

- **9 (L) Guidance Drafting:** Joined Dale, Chris and John from DHCD in a meeting with Jen Mojo from ANR and Jon Groveman from the NRB to discuss the latest draft of the guidance document (per requirement of the Economic Development bill). DHCD is taking the lead on the guidance documentation and educational material and the NRB is taking the lead on the 9 (L) procedures. John Adams has done a wonderful job drafting and redrafting the guidance document as our analysis and approach has matured. The draft works to take apart the legislation and provide direction based on planning and land use practices. We are meeting with a sub-group of the District Coordinators later this week and will regroup with our Sister agencies the following week to ensure we are all on the same page and layout a timeline for stakeholder feedback, final draft and trainings.

##### **Deputy Commissioner Hollar**

- **Farrington Mobile Home Park:** The owners of the park have accepted an offer from the residents to purchase it for \$3,575,000. This large mobile home park in the City of Burlington was put up for sale last winter for \$5 million. DHCD held a meeting with residents to explain their rights under the state's mobile home park statutes. They have since created a cooperative and have been assessing the infrastructure needs of the park. They will now begin assembling the necessary financing and funding to purchase the park. Part of the deal includes selling a portion of the undeveloped land to the Champlain Housing Trust for \$800,000.

##### **Fair Housing**

- **St. Johnsbury:** In an attempt to encourage mixed income housing, the town has restricted affordable housing development in its zoning ordinances. This runs counter to its fair housing responsibilities under federal grants, including through the Vermont Community Development Program, and is in clear violation of Vermont law. Until this ordinance is changed, the town is ineligible for funding from the U. S. Department of Housing and Urban Development (HUD). Met with the new town manager, chair of the planning commission, member of the selectboard, NVDA and others to explain the implications for the town and offer alternatives. Dale Azaria explained the fair housing laws and Gary Holloway provided a long list of resources and ideas for encouraging the type of investment they seek. While they anticipate pushback from some community members, the town leadership now appears resolved to change the ordinance.
- **New Fair Housing Rule:** Coincidentally, HUD issued an important new fair housing regulation this week which is designed to promote diverse, inclusive communities and overcome the negative effects of segregation. It sets new rules for those receiving HUD funds to comply with their existing obligations to "affirmatively further fair housing," a key provision of the 1968 Fair Housing Act. It requires state and local governments and housing authorities to consider how to eliminate fair housing barriers for people of color, families with children and people with disabilities. Led by Dale, DHCD had submitted comments on rule in its draft form and we were pleased to see that some of our concerns were addressed. A full review is pending.
- **Low Income Housing Tax Credits:** Participated in a public hearing on proposed changes to the state's Qualified Allocation Plan as a member of the Joint Committee on Tax Credits. VHFA staff are recommending changes to the definitions of special needs and supportive housing, how a 25% target for senior housing is applied and the weighting of scoring criteria. The committee will also consider requiring all funded projects to be smoke-free. HUD is requiring all public housing units to go smoke-free in the near future. Decisions will be made at the next meeting of the JCTC in August.

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

##### **Downtown and Village Report**

- **Record Number of Downtown and Village Center Applications:** The number of applications and the amount of money requested continues to climb (see the table below). Applications from Village Centers have increased by over 300% since FY 2014. The upswing is likely due to enhanced local and regional outreach efforts and better coordination among partners. Applications will be reviewed and scored by the Downtown Board with allocations made July 27.

	This Year	Last Year
Tax Credit	49	40
Sales Tax Reallocation	2	1
Total Requests	\$3.5 million	\$2.7 million
Total Available	\$2.4 million	\$2.5 million

- **St. Albans – Tax Credits:** Caitlin met with the developer of a potential tax credit project in St. Albans. The project includes two adjoining buildings on Main Street with plans to rehabilitate the property for luxury apartments with two commercial ground floor tenants. This project will likely qualify for both the federal and state tax credit programs.

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

- **Rutland Northwest Neighborhood Revitalization Grant:** Laura reviewed the list of properties under consideration for demolition and rehabilitation as part of the Rutland Northwest Neighborhood Revitalization Grant. The list consisted of seven properties, the majority dating from the late 19<sup>th</sup> century. Three of the properties are proposed for demolition; one is not historic and the other two have little historic integrity due to alterations and deterioration. The other four properties are proposed for rehabilitation, with character-defining features to be preserved. The rehabilitation of these properties may be suitable mitigation for the adverse effect caused by the demolition of the other properties. The Division provided initial assessments of integrity and contribution to a potential National Register historic district, along with direction on what additional documentation is required for our review and concurrence.

#### **State Archaeologist**

- **Digital Survey Application:** Devin is compiling information for the developers of a digital historic resources survey application that is being created by the National Park Service, the National Alliance of Preservation Commissions and the City of Alexandria, VA. Vermont is supporting the project with a Certified Local Government grant and will begin field-testing the new app later this summer.

#### **State-Owned Historic Sites**

- **Western Sites in the Media:** Vermont Public Television recently re-aired the documentary, *Champlain: The Lake Between*, part of the Chimney Point Lake Champlain Voyages of Discovery project for the Champlain Quadricentennial. The *Burlington Free Press* had an amazing four full-page spread, with amazing color photos, on visiting Chimney Point, Mount Independence, and the Hubbardton Battlefield, in the July 2 weekend section, just in time for the holiday weekend. Visitors have told us they saw the article and decided to come. On July 8, the *Rutland Herald* had a great story about the upcoming Battle of Hubbardton weekend, to get people excited to come. WCAX's The:30 show asked for us to arrange for a reenactor to come on Friday for a five-minute segment; Dan O'Neil, one of our lead reenactors will be interviewed. Thank you Dan!
- **Coolidge Site:** The July 4 "President Coolidge Birthday Celebration" was a great success. The Top 10 Summer Event designation, naturalization ceremony, Jim Cooke's final performance as Calvin Coolidge, and cooperative weather brought out the crowds – approximately 700 - the most we have seen in many years. The stores also did very well; in fact, the Cilley Store had an all-time record day! Laura did a fine job as featured speaker at the cemetery and later presenting Governor Shumlin's congratulatory letter to Jim Cooke. We even got Tracy right into the act, being part of the marathon reading of the Coolidge autobiography.
  - An excellent article about the day appeared in the July 5 edition of the *Rutland Herald*:  
<http://www.rutlandherald.com/article/20150705/NEWS02/707059917>
- **Constitution House:** Final preparations were made for the July 12 "1777 Constitution Day Celebration." Reenactors were confirmed, including two on horseback who will deliver the news about the British "invasion"! Calendar announcements were sent to the area papers.
- **Bennington Battle Monument:** The week leading up to July 4 was busy in spite of the rain, with over 1100 visitors but the July 4 event was a washout, it poured rain. The week also included a motor coach, 9 blue star visitors, 4 with a library pass, 2 green mountain passes and 6 fresh air children.
  - Bennington received a generous grant from the Alma Gibbs Donchian Foundation of \$2,500, which will enhance the new exhibit planned for the base of the monument.



- **Justin Morrill:** In collaboration with the Friends of the Morrill Homestead, text for the Brumidi exhibit was edited. The exhibit is presently in transit from the U.S. Capitol in Washington, D.C., where it has been on display for the past several years.
  - The Morrill property received the generous grant from the Alma Gibbs Donchian Foundation of \$2,000, allowing the site to remain open on weekdays from Wednesday to Friday.

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

- The foreclosure sale of five mobile home parks owned by R & G Properties in Berlin and Northfield became final on June 30, 2015 when the properties were transferred to the new owners. The parks; Berlin MHP, RMC (Junction) MHP, Eastwood Manor, River Run, and Northfield Falls MHP, had been in foreclosure proceedings since 2004, and in receivership since 2006. The new owner is HARR, LLC which bid \$900,000 for all five parks at a foreclosure auction in April. The receiver will transfer any security deposits to the new owner. The new owner is responsible for notifying the leaseholders.

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

##### **Technical Assistance to potential applicants**

- **Town of Athens:** Nathan traveled to Athens with Caitlin, and Michele Bailey from the VT Arts Council to meet with the Old Meeting House Committee to discuss potential funding to assist with the restoration of the historic 1817 Meeting House. Also at the meeting was Jon Muise from USDA-RD, and Lisa Ryan from PTV. The building is currently not open to the public due to extensive rot to floor joists.
- **Town of Brattleboro –New England Center for Circus Arts (NECCA)** contacted staff to inquire about funding opportunities that could assist with the expansion of the NECCA in Brattleboro. A pre-application was provided to assist with determining eligibility of the potential project.
- **GS Precision:** Josh & Nathan met with Adam Grinold, BDCC Executive Director to discuss the expansion planned by GS Precision, recent changes to the plan and important timelines and factors to consider when applying for CDBG funding. An application for \$1M in CDBG funding is expected in the fall to support the expansion and addition of 100 new employees.
- **Town of Waltham:** Cindy Reid with Cathedral Square submitted a pre-application for the Gevry Park Redevelopment in Waltham. The town plans to request \$498,000 in VCDP funds at the Fall Board Meeting. The project involves transforming a blighted brownfield currently a mobile home park (with 13 mobile homes all of which are unoccupied and uninhabitable) into an affordable rental community with 14 net zero high performance modular homes (Vermods - <http://vermodhomes.com/>) configured into 7 duplex units.
- **City of Newport:** Cindy and Nathan met with Mike Welch from NCIC to discuss timing of applications on two projects that are expected from the City. One, a potential Economic Development Implementation application would assist Revision Military with a planned expansion and the other would be a Public Facilities Implementation application to assist with the redevelopment of the Gardner Memorial Park.

#### **ITS/CONNECT VERMONT ♦ Robert White, ConnectVermont Director**

##### **Future Plans/Activities**

- Attend Tri-State Conference call with Google WAZE team to discuss next steps of Tri-State joining WAZE Onboarding.

Memorandum


To: Honorable Governor Peter Shumlin

From: Annie Noonan, VDOL Commissioner

Date: 7/10/15

Re: Weekly Report: Week ending July 10, 2015

Gov



**Critical Issues:** On Tuesday, July 1th, 6-9pm, VDOL is conducting a Rapid Response for the Dislocated Workers from FairPoint (call center workers from CWA). As you know, the entire call center in Vermont is being closed, and their last day is this coming Friday, July 17th. We have been working with CWA President Mike O'Day, who advised us that the company claimed 51 "surplus" staff (all subject to layoff), of which 25 have found work (some moving to FairPoint, Maine). VDOL will be working with the remaining 26 workers (average hourly wage is \$34/per hour). In addition, Tracy Phillips and I did a presentation to about 75 IBEW workers two weeks ago, answering questions about UI and job retraining. At this point, Mike Spillane is still unsure of the layoff numbers for his group (again, based upon bumping rights and vacancy rights). I think that Mike O'Day of CWA would greatly appreciate hearing from you. His number is 802-233-1501. Vermont Health Connect is attending the meeting to present job openings to these dislocated workers. VDOL received 'formal' notice yesterday of the layoffs at Fab-Tek in Colchester. An agent for them contacted us last week with questions on the WARN Act. They are laying off 20-25 workers this Thursday (immediate layoff), and have asked VDOL to have staff present to answer any immediate questions. We will be doing a full Rapid Response during the week of July 20th. They also anticipate partial layoffs affecting up to 50-75 more employees, but we are working with them to see if they would qualify for UI STC program for those workers. State Auditor Doug Hoffer will be issuing a report on the VDOL's UI & WC Misclassification work. We had a preliminary run-through of the report yesterday, and it focuses primarily on need for improved procedures and protocols, including computer systems for case-tracking. Part 2 of his audit involves BGS and AOT in their oversight of contractors. I continue to be concerned about the legal and political fall-out from the Uber issue that I anticipate will be coming at VDOL and the 5th floor. VOSHA had to get a court order today to enforce an entry-right to a worksite. UI received a call this week from Politico and Digger asking if we would provide information about any unemployment compensation that Senator Sanders may have received. That information is confidential; (we advised the 5th floor of this call). Our Worker Comp Rules (1-27) were approved by LCAR. Our SEA, Apprenticeship, WARN and multiple VOSHA rules were all approved recently. We are still pending filing of additional WC rules (opiates, doctor fees, debarment), UI Employment Security Board and UI Newspaper rules.

**Unemployment Insurance and Wage & Hour:** For the week ending 07/04/15 we took 1,487 calls. This is a decrease of 533 calls from the prior week. We paid 3,281 claimants during the week ending 07/04/15 compared to 3,411 for the prior week. We are battling with the USDOL, Maryland and West Virginia on the UI Consortium project, as we believe their direction is not programmatically or fiscally prudent. We are asking USDOL ETA to let VDOL out of this consortium with no penalty and to permit us to continue exploring joining Idaho's project. VDOL's chief IT programmer and a senior UI supervisor went to Idaho to examine the system and we believe this would be a better choice for Vermont.

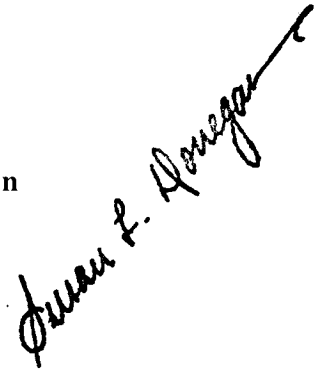
**Grants:** VDOL received \$2M grant funding for the continuation of Reemployment Eligibility Services and Assessment, and anticipate \$2.7M funding coming at the end of this grant cycle. We also received a grant for \$106K to help with WIOA implementation; and received a USDOL NEG "Sector Partnership" grant for \$2.3M. We are also part of the SNAP grant with AHS. VDOL is anticipating a \$3M US Apprenticeship grant award, and \$11.9M USDOL Health Pathways Opportunity (HPOG) 5-year grant. I am still attempting to work with Mayor Louras on a NEG for Rutland. Today, we submitted our JVSG Veterans Grant funding request, asking for additional funding (currently \$560K). In FY16, it is likely we will need to eliminate one FTE. We are submitting both our annual VOSHA grant and Project WorkSafe grant next week. WorkSafe continues to be under-funded by the federal OSHA, and has become too reliant on our WC funding, so we are asking for additional federal money, or will eliminate 1 or 1.5 positions through attrition. We are also assisting VTC, UVM and CCV on their grants (TAACCCT 2, 3 and 4 respectively). LMI Division Chief Mat Barewicz advises that LMI will be level-funded (+1%).

**State of Vermont**  
**Department of Financial Regulation**  
89 Main Street  
Montpelier, VT 05620-3101  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

For consumer assistance:  
[All Insurance] 800-964-1784  
[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: July 10, 2015**  
**Re: Weekly Report**



**Securities Division:**

In an order signed this week, Michael J. Bombardier of Colchester has been permanently barred from working as an investment advisor in Vermont. During the summers of 2012 and 2014, Bombardier was found to have given numerous clients financial advice without being registered as an investment advisor in Vermont, which violates state law. He will pay the state \$5,000 in penalties.

Also this week, a complaint was settled between Hobart Terhune of Dover and People's Securities of Bridgeport, Conn. Mr. Terhune had lodged a complaint with the Securities Division claiming that a representative of People's Securities had made investment recommendations that were unsuitable for his income. After an investigation by DFR, People's Securities agreed to pay Mr. Terhune a settlement of \$18,000. Based on information obtained during this inquiry and another complaint regarding People's Securities received Wednesday by the Banking Division, DFR is looking into possible violations that may lead to financial penalties against the company.

**Banking Division:**

DFR has received the Merchants Bancshares Inc. application for approval to merge with NUVO Bank and Trust Co. in Springfield, Mass., and the regulatory review and approval process is now under way. This merger will add a commercially-oriented institution to Merchant's portfolio. Nuvo, which has \$153 million in assets, focuses on small and medium-sized businesses, professionals and individuals in western Massachusetts. This out-of-state acquisition is especially beneficial to the Vermont banking sector because it promotes growth without cannibalizing existing in-state financial institutions. Merchants Bancshares Inc. is the parent company of



Merchants Bank, which has 32 branches throughout Vermont. A target completion date of early fall is anticipated.

### **Insurance Division:**

Price optimization (PO) is a sophisticated software tool based on predictive modeling that is intended to assist insurance companies in setting rates. While there is no single definition of PO, one working definition is that it is a practice whereby premiums are set based on the maximum amount a consumer is willing to pay, rather than the traditionally accepted method of calculating premiums based on projected costs, such as claims, overhead and profit.

The key differences between traditional rate-setting and PO is that when using PO market demand and customer behavior are quantified instead of being subjectively determined and the loss cost of business metrics is mathematically measured. While PO provides insurers with additional data that can be used by management to make adjustments to rates and more accurately forecast the outcome of a rate revision, it also allows insurers to analyze patterns of policyholder demand behavior.

DFR has issued a bulletin that requires insurance companies to notify the department if they employ such rate-setting techniques. This unique approach has drawn the attention of the trades and the media and prompted other states to consider adopting Vermont's bulletin. The following article was published in "Insurance Journal," on July 2.

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## **Vermont issues bulletin on price optimization in personal lines ratemaking**

### **Insurance Journal July 2, 2015**

Vermont regulators issued a bulletin last week addressing the issue of "price optimization" in personal lines ratemaking.

The Vermont Department of Financial Regulation (DFR) noted in the bulletin that some property/casualty insurers have been relying upon the practice of price optimization to help determine the premiums that they will charge to policyholders.

But DFR warned property/casualty insurers that adjustments to rates may not be based on non-risk-related factors and that going forward, all personal lines rate filings must disclose whether the company uses non-risk-related factors such as "price elasticity of demand."

The DFR Insurance Bulletin No. 186 was issued on June 24 and is applicable for all property/casualty insurers issuing personal lines policies in Vermont.

DFR also noted that the National Association of Insurance Commissioners' (NAIC) Casualty Actuarial and Statistical (C) Task Force is currently in the process of drafting a "white paper" analyzing price optimization and its use in insurance ratemaking.

"While there is no universally-accepted definition of price optimization, the practice, in some of its applications, involves the judgmental use of factors not specifically related to a policyholder's risk profile to help determine or adjust his or her insurance premium," the bulletin said.

"An example would be using an individual policyholder's response to previous premium increases to determine how much of a premium increase the policyholder will tolerate at renewal before engaging in comparison shopping or switching to a different insurer," the bulletin said. "This practice can result in two policyholders receiving different premium increases even though they have the same loss history and risk profile."

DFR reminded property/casualty insurers doing business in Vermont that all ratemaking must conform to the statutory requirements contained in Chapter 128 of Title 8 V.S.A.

"Specifically, insurers are reminded that, under Section 4685(d) of Title 8, unfair discrimination is considered to exist if price differentials 'fail to reflect equitably the differences in expected losses and expenses' for different classes of policyholders," the bulletin noted. "In classifying policyholder risks for ratemaking purposes, insurers are allowed to use rating plans 'which provide for recognition of probable variations in hazards, expenses, or both.'"

DFR pointed out that both base rates and rating classes must be based on factors specifically related to an insurer's expected losses and expenses.

And while insurers may employ judgment in setting their rates, judgmental adjustments to a rate may not be based on non-risk-related factors such as price elasticity of demand, which seek to predict how much of a price hike a policyholder will tolerate before switching to a different insurer, DFR noted.

"The use of such factors not only unfairly discriminates between policyholders of the same risk profile, but is also directly in conflict with the statutory principles that underlie Vermont's 'open and competitive' property and casualty marketplace," the bulletin said.

DFR said it recognizes that not all insurers have adopted the practice of price optimization. DFR also said that to help identify the possible use of inappropriate rating factors, insurers are directed that henceforth all personal lines rate filings must disclose on the SERFF general information page whether the company uses non-risk-related factors such as price elasticity of demand to help determine the insured's final premium.

Rate filings currently under review by DFR should be amended to disclose this information, the bulletin said. The authority for this requirement is contained in 8 V.S.A. § 4688(a)'s language that

“every insurer shall file with the commissioner all rates and supplementary rate information, and supporting information which are to be used in this state.”

Several other states including Florida, Maryland, Ohio and California have addressed the practice of price optimization in recent months.

Consumer advocacy groups the Consumer Federation of America (CFA) and the Center for Economic Justice (CEJ) issued a statement Thursday applauding Vermont DFR Commissioner Susan L. Donegan for the action and called on all insurance commissioners around the country to prohibit price optimization.


“Most Americans are required by law to buy auto insurance and by their mortgage company to buy homeowners insurance, and it is terribly unfair and entirely illegal for insurance companies to vary premiums based on whether or not they are statistically likely to shop around,” said J. Robert Hunter, director of insurance for CFA and former Texas insurance commissioner. “It is the obligation of insurance commissioners to protect consumers from this kind of price gouging, and we applaud Commissioner Donegan for her action.”





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

TO: Governor Peter Shumlin   
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: July 10, 2015

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**Media Contacts:**

- Christine Hinkel, WCAX, interviewed Jill Remick about kindergarten readiness and “redshirting” and may have someone from AOE on “The :30” next week on that same topic.
- Jennifer Costa, WCAX, interviewed Jill Remick about Act 166 and the allegations from some parents that their providers are not sharing the subsidy with parents, but rather overcharging families in the amount of the tuition rate.
- Lola Duffort, Rutland Herald, sought comment from Jill Remick on anyone at the Agency who used to work with Diane Wolk who recently passed away, and who was a former member of the State Board of Education.
- Tim Clark, Atlantic Media, interviewed Jill Remick in follow up to his interview with Secretary Holcombe on implementation of Act 46.
- Chuck Pizer, VTPBS, set an interview with Rebecca and Melissa Riegel-Garrett on implementation of Act 166 for August 5.
- Katy Savage and Tony Marquis, Vermont Standard, interviewed Vaughn Altemus about accelerated mergers in Act 46.
- Amy Nixon, VTDigger, requested comment on the renewals by the State Board of Education of independent schools.
- Amy Nixon, VTDigger, requested copies of the State Board of Education draft minutes from the June meeting.
- Jess Wisloski-Martin, VTDigger, interviewed Jill Remick on the national rankings of Vermont schools by organizations such as US News.
- Andrew McKeever, Manchester Journal, interviewed Rebecca on Act 46 and the overall state of education in Vermont.

**Public Presentations/Speeches/Meetings:**

On vacation! The only meetings have been remote with congressional staff, to support efforts related to ESEA reauthorization.

## Emerging issues

Justin

### **Suggestions for Contract Negotiations:**

Thanks to Justin for taking on contract negotiations. Here are two suggestions from AOE for negotiations:

- 1) The fact that so many managers are covered by the same contract/union makes it very difficult for us to manage issues. Almost all of the management problems we have are low level employees who harass their junior managers/supervisors. HR and senior management risk much by supporting junior managers with how to "out smart" the union talk when it is unclear where that might end up. We feel moving to create a separate union for managers/supervisors would change the game.
- 2) There is a lot of paid time for participation in VSEA (Article 5.3)—more than what we've seen in other unionized contexts. Since just about anything can be represented as union business, this makes it difficult to manage. We have one person in particular we seem to be paying to work for VSEA.

### **Streamlining Review of Independent School Approvals**

We are working to substantially streamline review of independent schools. Changes include:

1. The development of an online application process.
2. Recommended approval concurrent with NEASC approval, if a school has a NEASC accreditation. This substantially reduces the state burden on institutions that have NEASC approval.
3. We are exploring opportunities for contracting with a retired independent school headmaster, or the like to conduct the educational reviews on our behalf, rather than having our staff conduct the reviews.
4. We asked the SBE to clarify their expectations for fiscal reviews, to reduce the ambiguity and complaints we have had related to these reviews. This has already led to more substantive and timely reviews.

### **Act 166/PK Update**

The AOE has been fielding calls from the press and parents about providers essentially adding the amount of the PK subsidy to their overall tuition for the same number of hours, and therefore not passing any benefit on to parents or districts. We will continue to refer back to the intent of the law, but there is little we can do to control how providers set their fees.

### **Act 46 update:**

We have consulted with Legislative Counsel, Sarah London, and a number of other parties related to the question of whether districts with different structures can merge, and offer different opportunities to students within, based on address. So far, every party concurs this would likely not survive a legal challenge. We are now following up with the AGO as well, and should have that comment by the time we meet.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

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**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Sue Minter  
**DATE:** Friday, July 10, 2015  
**SUBJECT:** VTrans - Confidential Report to the Governor

**NOTES FOR GOVERNOR**

**Staff Retreat**

We had a full-day retreat for about 20 top managers at VTrans. It was an excellent opportunity to have comprehensive assessment of **future budget challenges and opportunities** in all areas of our Agency (roads, bridge, rail, aviation, transit), which helps set the stage for our budget development and future fee bill. Our budget demands and the risks to critical areas continue to grow substantially for all the modes and Congressional action is ever more critical to our future. We also had a great brainstorm on **policy issues** to move forward and will be discussing these with staff in the near future.

**Staff morale, workforce challenges and quality concerns:** Our discussion also included frank discussions around our workforce challenges. Just as you hear from VT employers, we are having trouble meeting our workforce needs. Fewer people want to be plow drivers/maintenance workers with all the sacrifices that requires. And our engineers go to private consultants or out of state. Our contractors report similar challenges. In addition, our workforce is very stressed with all the projects, including the acceleration of projects, and the expanded workload with fewer people. As important as the workforce challenge is, so too is how this undermines the quality of products we are putting out onto the system. In addition, the retirement incentives are extremely disconcerting for our managers, as many people are looking for the door. We need to know now how to ensure succession for those who are leaving with mission-critical skills. We are pulling together a task team to address these myriad recruitment and retention needs for our workforce (as well as for industry).

**Derby Walmart**

Our team has worked double-time to get the permits Jeff Davis needed to proceed with his project. He also left us in a difficult position given the very late submission of details from his engineers, which needed our review and subsequent changes. Curiously, we stopped receiving calls from Jeff on the final day (yesterday), and decided to issue his permits, with the expectation that he would meet our requirements. It is worth mentioning the state/VTrans is incurring costs in order to move forward with activities needed for the intersection that he would not address.

### Outreach

This week I visited St. Johnsbury and met with town and regional officials, as well as elected Reps and Senators. I see St. Johnsbury as another excellent example of how the public infrastructure investments are paying dividends for revitalizing a small community on the edge, and creating opportunity and momentum for private sector investment. There is optimism about the future of St. Johnsbury. Among other things, I believe we should begin thinking about how to make the Lamoille Valley Rail Trail succeed. This will require a broader gathering of interests.

### Schedule

I am off from work next week, and will be at home for Monday and Tuesday, and on a camping trip with family for Wednesday-Monday. Chris Cole is back and on deck.

### NOTES FOR STAFF

#### Newport Airport Update

QResorts had been given a deadline of July 9<sup>th</sup> to provide a construction schedule for the new terminal and fuel farm. That date has passed and no updated schedule has been provided. VTrans will be reaching out to Bill Stenger to discuss submission of the schedule as these project timelines will impact other airport improvements which VTrans is scheduled to implement utilizing FAA grant funding.

#### VT Railway Herbicide Treatment of Rail Line in Montpelier

VTrans, Agency of Agriculture, Vermont Rail System and the City of Montpelier met this week to review alternatives and cost estimates for non-herbicide treatment of a portion of the rail line running through the City between Main Street and Granite Street. The City is considering paying the railroad to weed whack on a regular basis. An agreement would be structured which would expire October 31, 2015. Long term solutions to address this issue on a statewide basis will require additional discussions with an expanded stakeholder group to include all operating railroads in VT.

#### Hartford Rail Bridge 502

The rail bridge over US 4 (Bridge Street) was damaged by a truck hitting the bridge abutment in late June. Engineering reports indicate that the bridge will require emergency repairs. VTrans is coordinating with Vermont Rail Systems to plan to implement the emergency repairs within the next month. Traffic will be halted from moving under the bridge when trains are traveling over the bridge, trains will be "walked" over the bridge, and anticipated bridge/road closures will be limited in nature. No hazardous materials are currently being shipped along this line and VTrans has indicated to the railroad that until the bridge has a permanent fix, no hazardous materials should be transported over the bridge. However, it is important to note that the State cannot dictate what materials the railroad can transport. Coordination with local officials and impacted entities will occur once the replacement plan has been finalized.

#### Brattleboro I-91 Bridge

The Traffic Congestion Strategy for Exit 3 was implemented on Sunday, July 5<sup>th</sup>. In contrast to last year when we saw 3+ mile backups on the interstate over a long period of time, this year traffic on the Interstate in Brattleboro flowed steadily during the Exit 3 closures. Interstate traffic slowed upon opening Exit 3 on-ramps but maintained a consistent flow. We are waiting

for recommendations for further implementation of this strategy for the remainder of the summer. There will be an I-91 southbound lane closure from 5:00 a.m. to 9:00 a.m. this Sunday, July 12 to complete the fracture critical bridge inspection. Installation of Form Traveler and Critical Path work on Pier Table 2 continues to match schedule milestones. The first segment is scheduled to be cast on July 31<sup>st</sup>. There is an “all team” meeting on project July 17<sup>th</sup> to discuss quality issues.

The table below demonstrates the success of the traffic management strategy employed at Exit 3 on I-91 over the July 4 holiday weekend compared to last year.

	Sunday July 6th 2014		Sunday July 5th 2015		
Time Interval	Total Volume	Average Speed	Total Volume	Average Speed	
9:00 AM	58	61.9	63	67.8	
10:00 AM	112	62.2	92	66.1	
11:00 AM	213	61.3	172	65.6	Closure time this year
12:00 PM	342	63.3	285	65.4	
1:00 PM	489	62.4	489	64.3	
2:00 PM	782	62.3	693	63.9	
3:00 PM	863	33.9	987	62.3	
4:00 PM	739	10.5	1094	62.0	
5:00 PM	752	9.1	1096	54.6	
6:00 PM	774	9.4	1131	27.4	
7:00 PM	509	8.1	988	27.9	
8:00 PM	693	9.6	889	22.8	
9:00 PM	726	9.9	905	63.5	
10:00 PM	739	9.3	809	52.3	
11:00 PM	829	10.1	643	61.7	

#### **Hartford I-91 Bridge (Lateral Slide)**

The project remains largely on schedule for the major bridge slides targeted for August 22 for northbound and August 29 for southbound. These are two successive weekend closures of I-91 with detours. We hope to interest the media in this innovative bridge project.

#### **I-89 Bridges Project – Waterbury**

We were pleased that there were no significant traffic delays over the 4<sup>th</sup> of July holiday weekend. Construction on the southbound bridge is proceeding with final pavement of the bridge and approaches occurring this week. It is likely that the southbound bridge will reopen to traffic late this week or early next week, ahead of the July 17<sup>th</sup> completion date. With construction of the southbound bridge wrapped up in the next week or so, focus will shift to the northbound bridge. It is planned that traffic pattern changes will occur prior to the Stowe Lacrosse Tournament and Waterbury Crossroads Motorcycle Rally events scheduled for the weekend of July 17<sup>th</sup>-19<sup>th</sup> which annually entails congestion that we cannot avoid.

On the nearby roundabout project at the intersection of Routes 2 and 100 in Waterbury, final paving did not occur due to utility work (Fairpoint) not being completed; the contractor hopes to finish paving this week. Local officials are working with Secretary Minter on an official “opening” of the roundabout in the next 2 weeks.

#### **Construction Program Highlights**

- We have 55 active work zones; 32 bridge, 5 reclaim, 5 paving, 10 safety, 2 park n ride, 1 rail. We anticipate a total of 105 projects in 2015. 51% of the program has an active work zone.

- The bi-weekly estimates paid to the contractors this week amounts to \$6,994,532.10.
- This was the week of motor vehicle crashes within the work zone. The Berlin Signal project (by the hospital) on VT 62 saw a head on collision with fatality resulting. The Waterbury I-89 Interstate bridge project had a tractor trailer ditch itself to avoid a motorist make a last minute lane change at the entrance of the lane division; no injuries but extensive damage to two vehicles. The Wardsboro Jamaica VT 100 reclaim project saw a vehicle crash due to excessive speed; no injuries reported. The Hartford Sharon I-89 paving project experienced a rear end collision due to a distracted driver; no injuries reported but extensive vehicle damage. VTrans will continue to explore ways to make work zones as safe as possible, but driver behavior remains a huge challenge.

#### **DMV Statistics**

- We have successfully completed another end of fiscal year with all work making it through the various units ahead of schedule
- \$6.5 million was collected in gas tax
- 8,458 customers visited our offices this week generating 8,511 transactions
- Overall average wait time to reach a counter was 20 minutes with 75.5% of customers reaching a counter in 30 minutes or less
- Telephone Information Unit handled 3,853 calls this week with an average wait time of 2.5 minutes
- Driver Improvement processed 1,030 new suspensions and completed 1,387 reinstatements

#### **REAL ID stats from 01-01-14 through 07-05-15**

Total Records with REAL ID flag: 223,038(82.2%)

Total Privilege cards: 48,404(17.8%)

Total Records with REAL ID flag issued last week: 3,045 (86.1%)

Total Privilege cards issued last week: 493 (13.9%)

#### **Motor Vehicle Crash Stats**

Highway fatalities are increasing weekly. We went many days in the spring without any, and now there are several weekly. Most are due to impairment (drugs and/or alcohol).

#### **Fatal Crashes June 30, 2015 – July 6, 2015:**

7/4/15: Lyndon, Elliot Road. Single vehicle ran off road into tree. Driver fatality. No seatbelt.-

7/6/15: Berlin, VT 62. Two vehicle head on. One driver fatality.

--2015 Fatalities: **21** Total – **13** vehicle operators, **4** passengers, **3** bicyclists, **1** ATV occupant

#### **Fairpoint**

Deputy Secretary Cole received a phone call from Fairpoint CEO Beth Fastiggi to discuss a potential settlement to the lease payments Fairpoint owes VTrans for occupations of State railroad ROW. State statute requires VTrans to receive fair market value for all occupations of State rail ROW. Fairpoint has appealed the amount of these lease payments to the Transportation Board and attorneys for both sides are deposing their witnesses and experts. The lease payments that VTrans charges are less than fair market value charged by private railroads and we are confident the TBoard will agree with these amounts. As was explained to Ms. Fastiggi, VTrans has few options here given state statute and they previously rejected our offer



to phase these payments over time. The total amount of the lease payment is approximately \$90,000 and was previously approximately \$25,000.

#### **TDI Clean Power Link**

VTrans attorneys are putting the finishing touches on highway ROW lease documents for TDI. There are two outstanding issues on which we haven't reached complete agreement: 1. VTrans includes a CPI cost escalator in our all our ROW lease agreements but this wasn't disclosed to TDI when we reached agreement in principle; they have signaled through their lobbyist that they believe they have a deal at \$4M a year but we have indicated that this is standard to our agreements and shouldn't be an issue; and 2) VTrans and the Public Service Department are insisting upon receiving dark fiber in conduit with 76 junction boxes, both to be installed at TDI's expense. TDI is concerned that this will cause their permit to be reopened as this was not how they designed their project. VTrans and PSD attorneys are developing a strategy to engage the permitting board, whether Act 248 or 250 to permit this aspect of the project through the state agencies. TDI's concern is more about permits than cost.

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary, Agency of Human Services  
**Re:** AHS Weekly Report  
**Date:** July 10, 2015

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**Highlights:**

**AHS CO:**

ABA services at Washington County Mental Health pg. 2

**VDH:**

Health in All Policies In Practice with Public Service Department pg. 3

Addison County Steering Committee on Opiate Addiction pg. 3

Health in All Policies In Practice with Public Service Department pg. 3

Pertussis (Whooping Cough) pg. 4

**DMH:**

Vermont Psychiatric Care Hospital (VPCH) pg. 4

Emergency Departments pg. 4

House Human Services Committee pg. 5

**DOC:**

Out of State Monitoring pg. 5

Population pg. 6

**DCF:**

S.9/Act 60 Implementation pg. 6

Nulhegan Band of Coosuk Abenaki Nation Applies for CSBG Funds pg. 6

USDA Food and Nutrition Service Update pg. 7

Reach Ahead Changes Implemented Successfully pg. 7

**DVHA:**

VHC Project Update pg. 7

Blueprint Updates pg. 8

Emerging Issues pg. 8

**Secretary's Message**

I asked representatives from each of the Agency Departments to work together to develop an inventory and assessment of how we acquire physician services. We have a number of physicians on staff and also have a number of other physicians on contract individually. In addition, we have several separate contracts with UVM and UVM Medical Center. The group is evaluating and comparing rates, indirect costs, benefits of staff or contract relationship and similar need for physician services across departments. The group is working to have recommendations in the next few months.

Also, AHS staff is reviewing the master grants with Designated Agencies to identify areas where the documents should contain clearer delineation of expectations on both sides. We will work with

Vermont Care Partners and the DAs on updating the documents. The current agreements were extended for 90 days and we hope to have revised documents ready for signature by the end of September.

I am scheduling a meeting with AHS staff to begin the conversation from the Retreat last week to address your charge to recommend steps we can take to enhance employment and other opportunities to help people move out of poverty. After the internal meeting, I will invite other state partners to join us, including DOL. We plan to have recommendations by mid-August.

I met with Rep. Ann Pugh this week, which was a productive conversation. AHS Commissioners and staff are testifying today at a House Human Services Committee meeting to review the situation at Rutland Mental Health Services and how AHS departments are collaborating in their oversight of DAs.

### **Agency of Human Services Central Office (AHSCO)**

#### **FFY 16 Refugee Resettlement Plan**

The US Dept. of State, PRM Division, sent us a copy of the refugee resettlement plan of USCRI (local resettlement agency) for VT for FFY16 to obtain the State feedback. USCRI/VRRP is proposing to resettle 325 refugees for next year (affiliates are also authorized to resettle an additional 10% of refugees with links to VT without further consultations), the same number as this year, all in Chittenden county. For the first time in years, this is not a proposal to increase numbers. Consultation meetings were held and a final discussion will happen on 7/9 at the Refugee and Immigrant Service Providers Network (RISPNet) meeting chaired by the director of the Refugee Office before sending our response to PRM. We expect to support this proposal.

#### **ABA services at Washington County Mental Health**

On Tuesday, July 7<sup>th</sup>, AHS received notification from the Director Children, Family and Youth Services of Washington County Mental Health that they intend to start phasing out services to their children with Autism Spectrum Disorder. Our understanding is that this is in reaction to the recently published rates for Medicaid reimbursement of Applied Behavioral Analysis. The Director announced that they are laying off their ABA provider staff and his intention to start sending out notification to current beneficiaries and requested a list of alternative Medicaid enrolled providers to send to beneficiaries as a part of that notice. The AHS is convening with general counsel in order to determine appropriate response given the rights and responsibilities WCMH has agreed to under their Master Grant with the Agency. We also are scheduling a meeting with the WCMH Executive Director to discuss our respective concerns.

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

#### **Cyanotoxins Drinking Water**

Of the 21 drinking water systems sampled for cyanotoxins this week, there was one detection at one system (Paradise Bay). This was in the raw (untreated) water sample, and was just above the detection level. The finished (treated) drinking water results were non-detect (<0.16 ng/mL) for the toxin. Verification samples collected the next day were found to be non-detect for both raw and finished water. There is little health threat from the cyanotoxin in raw water. Water treatment processes are designed to be capable of preventing lower levels of toxins and other contaminants from passing through to the finished drinking water. DEC will work closely with the water system next week to evaluate their filtration and disinfection systems.

#### Funding Cuts to Tobacco Control Program Local Grantees

The Vermont Tobacco Control program experienced an overall budget reduction of nine percent due to budget cuts in multiple funding streams in FY2015. With the Vermont Tobacco and Review Board Schools and Communities Subcommittee, VDH discontinued funding to grantees that did not meet the basic monitoring requirements and performance measures of their grant. Based on these criteria, the Alliance for Community Transformation in Bennington will not be funded for FY2016. The Health Department also reduced the number of youth tobacco prevention grantees, eliminating funding where schools closed due to consolidation or without a designated adult advisor. This ended funding to Essex-Caledonia School District (Concord High School, Concord School, Gilman Middle School and Waterford Elementary School) and Rutland Southwest Supervisory Union (Middletown Springs Elementary School, Wells Village School). The total amount of the cuts to these community organizations was \$50,500.

#### Addison County Steering Committee on Opiate Addiction

The Addison County Steering Committee on Opiate Addiction launched a new website called, [www.addictionhelpvt.com](http://www.addictionhelpvt.com), this week. The site was created by two Mount Abraham High School students and focuses on opiate prevention, treatment and recovery. The site includes videos of a local physician who prescribes medication assisted treatment for opiate addiction and videos and links to the Health Department's ParentUpVT website.

#### Maternal and Child Health

Beginning July 1, Joseph F. Hagan, Jr., MD will lead the ChildSafe clinic at the UVM Children's Hospital/UVM Medical Center. The clinic serves children and families where child abuse, neglect, and child sexual abuse are suspected or diagnosed, provided in collaboration with the VDH and the DCF.

#### Blood Pressure Control Videos Produced

VDH has been working with Rutland Regional Medical Center using ASTHO Million Hearts funds to produce two short videos that promote blood pressure control with diet. One is for health care professionals advising patients with hypertension, and the other is for consumers living with high blood pressure. The videos address the evidence-base for the diet known as Dietary Approaches to Stop Hypertension (DASH) and advise patients how to integrate the DASH diet into daily living.

#### Health in All Policies In Practice with Public Service Department

VDH staff will attend a series of half-day expert/stakeholder workshops hosted by the Public Service Department to update the 2011 Comprehensive Energy Plan. Discussion topics included policies addressing land use/smart growth; the availability of different modes (bike, pedestrian, transit, carpool, rail, etc.); and interaction of energy policies with transportation revenue policies. Stakeholder comments will be incorporated into a draft plan that VDH staff will review to ensure health is included in the final document.

#### Ebola

Since October, 2014, VDH staff has conducted daily monitoring in accordance with CDC's *Interim U.S. Guidance for Monitoring and Movement of Persons with Potential Ebola Virus Exposure*.

Travelers returning from Ebola-affect countries, and other individuals in defined exposure categories, conduct twice daily temperature and symptom checks. Monitoring by VDH consists of an initial interview followed by verification that temperature/symptoms checks are occurring and that

individuals remain symptom free. This monitoring occurs every day (including weekends) for 21 days from the date of last potential exposure to Ebola. VDH then submits weekly reports to CDC documenting the status of all persons in Vermont who are undergoing monitoring.

To date 57 individuals have been monitored by VDH and the monitoring has occurred in 11 of 12 Health Districts. There are 7 individuals currently under monitoring in Vermont.

#### Pertussis (Whooping Cough)

On June 25<sup>th</sup> the results of the Vermont Pertussis Vaccine Effectiveness Evaluation) were presented to the Advisory Committee on Immunization Practices. This joint CDC and VDH study was conducted in the spring of 2014 with the assistance of healthcare providers from 91 Vermont primary care facilities.

Study results indicate the effectiveness of acellular pertussis vaccines appears to be the same against strains of the bacteria that have the pertactin protein and those that are pertactin-deficient, which now cause the majority of pertussis cases in the United States. Consistent with previous estimates, the 5-dose DTaP series provides excellent vaccine effectiveness in the short-term, but wanes over time, and the initial vaccine effectiveness for Tdap is modest, but wanes rapidly. Despite a lack of long-term protection, pertussis vaccines continue to be the best way to prevent the disease and its complications.

#### Robert Wood Johnson ACA survey

VDH staff participated in a Robert Wood Johnson Foundation-funded project that seeks to analyze potential impacts of the Affordable Care Act on the diagnosis, treatment and control of infectious diseases and conditions. The project is being conducted by the Center for Health Security – an independent, nonprofit organization of the University of Pittsburgh Medical Center.

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

##### Vermont Psychiatric Care Hospital (VPCH)

VPCH average census is at 22 this week. Nurse recruitment is increasingly problematic with only three new nurses coming in for July orientation through current traveling companies. An RFP for additional RN traveler services was issued and responded to with selection and new contracts to follow. Also, still pending is the Human Resources workgroup recommendations for updating and more competitive market factor compensation for nurses. These changes, when made, will undoubtedly assist nursing recruitment at the hospital. Compounding the nursing challenges are full-time nursing staff leaves of absence for family medical or injury (not hospital related), as well as, termination recently of two traveling nurses who were unable to meet the challenging requirements of serving this patient population. Recruitment efforts continue for temporary mental health specialists and ancillary positions. Increased use of voluntary and mandated overtime is continuing in order to maintain current bed capacity at VPCH.

#### Emergency Departments

For the week of July 2<sup>nd</sup> through July 8<sup>th</sup>, there were 25 individuals who were seeking inpatient psychiatric hospitalization: 9 involuntary adults, 13 voluntary adults, 1 court ordered evaluation, 1 voluntary minor, and 1 involuntary minor. One complicated adult outlier requiring involuntary care waited 3.5 days. All others were admitted in less than 48 hours. Voluntary adults were all placed within 48 hours and the one court-ordered evaluation was placed within 5 hours. The one involuntary minor was placed in less than 24 hours and the one voluntary minor in DCF custody waited 3.5 days and was returned to their foster family rather than being hospitalized.

#### National Association of State Mental Health Program Directors: Brian Hepburn

Interim Commissioner Reed was contacted by the new NASMPD CEO based on inquiries to this organization by VT Digger on emergency department wait times in Vermont. Upon review of Act 79 in 2012, subsequent developments in both acute and community-based care, and current monthly reporting of system-wide bed capacity, Mr. Hepburn remarked that Vermont appeared to be doing better than many other states, with regard to wait times, currently. The ongoing placement challenges for inpatient care that Vermont struggles with are common across the country. Readily available comparisons are difficult as each state has different processes for accessing inpatient care, variability in civil and forensic inpatient services, insurance coverage limitations, and local resource capacities. NASMHPD plans to redirect VT Digger back to DMH for this level of detail and plans only a general response on national trends.

#### Rutland Mental Health Services (RMHS): Designation

Both DMH and DAIL Commissioners have recommended Provisional Designation with intent to De-designate for Programs serving Children, Adults, and Developmentally Disabled populations. RMHS will be submitting a Plan of Correction within 30 days to both Departments addressing areas of deficiencies.

✓ Sue

#### House Human Services Committee

The House Human Services Committee held a daylong meeting on 7/10 for briefing and updates in areas of interest to that committee. Commissioner Chen, Incoming Commissioner Hutt, Interim Commissioner Reed, AHS General Counsel and other representatives from AHS departments provided testimony on the status of RMHS, Quality oversight and cross-departmental communication, and assurance activities in the areas of DA contracting and for-profit venture oversight. Additionally, DMH provided a current update on the Vermont Psychiatric Care Hospital focusing on facility, staffing, survey and plans of correction, emergency involuntary procedures and seclusion/restraint reduction initiatives and patient and staff safety.

#### Department of Corrections (DOC)

##### Out of State Monitoring

During this week, we are keeping an eye on the out of state population, who are settling into the new facility in Michigan. Our history is poor when settling into a new out of state facility. Inmates tend to get restless and then disruptive. Thus far, we are seeing no signs of that developing but we are continuing to monitor the facility.

##### Media Update

Media has been quiet this week, although they continue to ask questions about any systemic changes that we have made in light of the situation at the facility in Dannemora.

##### For consideration:

DOC has been in touch with VDH about potentially training field staff in the use of Narcan (Naloxone/Narcan) as a pilot for first responders. We have been in touch with VSEA to try to partner on the roll-out.



### Corrections Oversight Committee:

The Corrections Oversight Committee, now the Joint Legislative Justice Oversight Committee, has set its next two meetings. The first, August 12, will take place in the State House and the second, September 17, will take place at the Southern State Correctional Facility in Springfield.

### Population

DOC's incarcerated population averaged **1876** for the previous week. The Department's incarcerated male population averaged **1722** for the previous week. The out of state population is currently at **280**. The female population averaged **154** for the previous week.

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

#### Annual Child Protection Report

The Family Services Division released the 2014 Report on Child Protection in Vermont on June 30. The data shows that many Vermont families are struggling; substance abuse continues to be a serious issue; young children are entering DCF custody in record numbers; and caseloads continue to rise. Vermont's Child Protection Line received a record 19,288 calls in 2014, up from 17,460 in 2013; substance abuse was a factor in approximately one-third of the reports. A total of 5,846 reports were accepted for intervention in 2014, an increase of 27% since 2010; 5,846 child safety interventions were conducted. There are currently 1,326 children in DCF custody — an increase of 33% since the start of 2014; this increase was most significant for children under the age of six (68%). This upward trend is primarily being driven by parental opiate addiction, which reduces a caregiver's ability to parent safely.

#### S.9/Act 60 Implementation

Act 60 (formerly known as S.9) went into effect July 1, 2015. This legislation seeks to make system-wide improvements across the range of parties that work in child protection, and as such, has a substantial impact on the work of the Family Services Division (FSD).

Considerable revision of existing policies was required. Interim policies regarding child safety investigations were published on July 1<sup>st</sup>. Staff and stakeholders will have the opportunity to provide feedback during a comment period, which ends August 14, 2015. FSD leadership will present the new policies and comments to the Vermont Citizen's Advisory Board in September. FSD is also in the process of developing new policies regarding enforceable post-adoption contact agreements and supervision after a child is reunified to a home in which they were previously abused or neglected.

Other implementation efforts include updating policies regarding information sharing, revising agreements with Special Investigation Units in cases of serious physical and sexual abuse, and communicating policy changes to mandated reporters. DCF will also be undertaking stakeholder engagement efforts to share information and solicit feedback with individuals working across the child protection system.

#### Nulhegan Band of Coosuk Abenaki Nation Applies for CSBG Funds

The Nulhegan Band of the Coosuk Abenaki Nation has filed a Community Services Block Grant (CSBG) application to the Federal Office of Community Services (OCS). OCS grants directly to tribes rather than through the States. All current CSBG funding goes through the Vermont Office of Economic Opportunity (OEO) to the five federally designated Community Action Agencies. The funding for the tribe, if awarded, will come out of Vermont's current CSBG allocation. There are no

new funds. The tribal CSBG allocation will be very small and is not expected to exceed a few thousand dollars as their numbers are small. There are 273 total members of the Nulhegan Abenaki Tribe in Vermont with 18% living below the poverty level who qualify for CSBG funding.

If granted, the Tribe will establish a community garden with Abenaki seeds best suited for Vermont's climate. The garden will be used as a hands-on tool for food and nutrition education teaching the importance of healthy eating. The goal of the community garden is to promote community participation and revitalization by growing healthy ancient foods for community consumption. This effort will promote feelings of self-sufficiency, stability and community sustainability.

#### USDA Food and Nutrition Service Update

Secretary Cohen, Commissioner Schatz, Deputy Commissioner Brown and AHS CFO Clark traveled to Boston on June 29<sup>th</sup> to meet with our federal partners at the Food and Nutrition Service (FNS) to discuss audit findings of SNAP Employment and Training (E&T) funding used in the Reach Up program. It was a productive meeting; our federal partners clearly indicated their willingness to work with us to resolve the audit findings and to create a new stand-alone SNAP E&T program. They granted an additional 60 day extension to respond to the audit finding allowing FNS staff time to work with DCF to develop a statistical model to support the spending of the SNAP E&T funds in the Reach Up program retroactively to FFY2013.

#### Reach Ahead Changes Implemented Successfully

Enhancements to the Reach Ahead program were successfully implemented on schedule for July 1<sup>st</sup> with no known production issues. The success of this project can be attributed to the dedication and hard work by both the ESD Reach Up team and the DCF Information Technology team (ISD). Collectively, the teams identified clear requirements that were then carefully implemented and thoroughly tested to ensure no production issues arose post go-live. Congratulations to both ESD and ISD team members who worked very hard on this. The enhancements included extending the Reach Ahead program from a one year to a two year program allowing families leaving program due to earned income to automatically receive a child care subsidy for an additional year and provided a restructured supplemental food benefit over the two year period. This change will help address the benefit cliff for families leaving Reach Up for employment as child care expense is a major financial barrier for many families to obtain and maintain employment.

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

##### VHC Project Update

- Release 1:
  - Additional post deployment validation activities with carriers started
    - CoC testing ongoing
  - 1<sup>st</sup> draft of the IMS delivered from Optum (6/30). SoV rejected and second draft expected by weeks end.
- Release 2:
  - Joint Application Requirements/Design (JAR/JAD) sessions continued for renewals and premium updates
  - System application and technical design sessions began
  -

##### Operations Update

##### *Change of Circumstances (CoC) Backlog*

The Operations team is closing an average of 200 CoCs from the backlog per day. Hitting the October 1st deadline continues to be a challenge for several reasons: (1) There are many types of basic CoCs that we still cannot process due to lack of complete testing with BCBS, (2) There are several critical types of CoCs that we cannot process because a system solution has not yet been defined, and (3) staff throughput is still below expected levels. A leadership meeting will be held on Wednesday to solution around gaps in system & business process functions.

To increase throughput we are: (1) increasing training, (2) Co-locating staff in one room for additional processing support, and (3) launching a processing contest/measuring throughput at an individual level.

1. **Closed:** The COC did not need to be completed; the case was reviewed and the SR was closed.
2. **Duplicate Case:** The change was already completed previously (either pre- or post-R1).
3. **Ready for Review:** The COC was successfully completed through the system and an 834 transaction should have been generated. Please note this does not mean that the 834 was sent to BCBS as they may have been held. This number indicates only that the COC was completed, and an 834 was expected and likely generated

The following tables provide data related to the CoCs processed with each Carrier:

BCBS on Case	
Carrier Impacted by Change	Includes BCBS
Case Status	Count of COC SRs
Closed	234
Duplicate Case	924
Ready for Review	414
<b>Grand Total</b>	<b>1572</b>

NEDD on Case	
Carrier Impacted by Change	Includes NEDD
Case Status	Count of COC SRs
Closed	10
Duplicate Case	57
Ready for Review	19
<b>Grand Total</b>	<b>86</b>

MVP on Case	
Carrier Impacted by Change	Includes MVP
Case Status	Count of COC SRs
Closed	37
Duplicate Case	195
Ready for Review	101
<b>Grand Total</b>	<b>333</b>

Medicaid on Case	
Carrier Impacted by Change	Includes Medicaid
Case Status	Count of COC SRs
Closed	190
Duplicate Case	992
Ready for Review	739
<b>Grand Total</b>	<b>1921</b>

### Blueprint Updates

Implementation of Blueprint payment changes began July 1.

Review of the contract for migration of the DocSite database from Covisint to VITL servers and Blueprint management continues. Darin Prail, CIO of AHS, has determined DocSite is a good system with no red flags for migration/implementation. The contract itself is being consolidated so that one grantee is responsible for the entire system and subcontractors will be responsible to them.

### Emerging Issues:

In the effort to implement the new, higher Medicaid Patient Centered Medical Home (PCMH) payments, an error occurred at HP resulting in an overpayment to practices for June 2015. This overpayment totaled \$314,631 across all practices. It is being recouped by HP. The Blueprint has communicated with practices about this error and the correction, and continues to be available to answer questions from practices and resolve any concerns.

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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:** July 10, 2015

**Secretary's Top Issues**

Representatives of the Mexican Consulate have contacted the Agency of Commerce and Agriculture regarding a New Times Article on the Milk with Dignity program from Migrant Justice. Migrant Justice contends that working conditions are poor for migrant workers in VT and a Milk with Dignity Program would require a code of conduct for farm owners and that buyers of milk should require farmers to meet this code and to pay more to farmers within this program. Migrant Justice is working with Ben & Jerry's to be the first dairy processor to sign on to the Milk with Dignity Program. The Mexican Consulate has concerns surrounding the article and the conditions for migrant workers – many from Mexico on VT Dairy Farms. Representatives from the consulate wish to meet with State officials on July 20. Deputy Secretary Bothfeld is working with Commissioner Noonan and other to prepare for this visit to discuss this important issue.

**Highly Pathogenic Avian Influenza update**

- The number of Midwest commercial premises affected remains at 211.
- The request made by the Governor of Iowa for a Presidential Declaration of Emergency was denied by the White House. Three impacted states continue to operate under Governors' Emergency Declarations
- A meeting of the Vermont Avian Influenza Advisory Council considered whether the Agency should ban poultry commingling events (ag fair events and poultry swaps) in Vermont this summer.

**VT Railway Montpelier Herbicide Spray Issue**

VAAFM has been communicating with Mayor Hollar and AOT and VT Railway independently to frame up a conversation and a proposal to consider in a joint conference call. On Wednesday morning all the parties had a conference call and discussed various proposals. As a result of the call the City of Montpelier is negotiating an approach for this year with VT Railway. The approach appears to be based on having the VT Railway do mechanical maintenance on those portions of the 2.5 mile track through the City that adjoins concerned and or sensitive areas like the neighbors and businesses along the track from Granite Street to Main Street. It appears the VT Railway will do the work and bill the City so issue relating to liability etc. will not come into play. The details are not yet worked out. VAAFM has asked for an outline from the Mayor and will share it as soon as possible.

**VAAFM Semi Annual Staff retreat**

The Agency of Agriculture conducted a staff retreat on Thursday to provide employee recognition, HR Training, Agency and legislative updates and orchestrate some other team building and fun activities including lunch and some recreational games. The Retreat was attended by over 75% of the staff which included many field staff whose duty stations are not Montpelier.

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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: July 10, 2015

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

**Jobs in Agriculture**

**Press, Marketing and Communications**

- Henry Marckres, Chief, Consumer Protection, was interviewed on maple issues by Laura Dattaro of Weather.com, for a story they are working on.
- Dr. Shelley Mehlenbacher will be on Vermont Edition next week discussing how VT poultry owners can prepare for and help prevent Avian Influenza (AI). AI is a highly contagious bird disease spread by migrating birds. IT DOES NOT AFFECT HUMANS. It is expected to arrive in VT in the fall of 2015 or spring of 2016.
- Diane Bothfeld spoke with Steve Zind/VPR about milk prices (very low at the moment – and likely will be for a while)
- VAAFM partnered with Tourism to issue a press release highlighting Vermont Fairs and Field Days – their history, unique attractions, and the important role they play in building Ag Literacy

**Significant Events/Meetings:**

- Assistant State Veterinarian met with Produce Safety Coordinator, Local Foods Administrator, and Consumer Protection Section Chief to discuss Agency staffing possibilities in preparation of the final rules for Produce Safety and Preventive Controls for Human and Animal Food/Feed. The group also met to prepare a FSMA update for the all Agency staff retreat.
- Assistant Veterinarian provided input and edits to the Specialty Crop Block Grant submission for year two of funding for the Agency's Produce Safety Coordinator position.
- Animal Health field staff facilitated the import of red deer from New York to a compliant captive deer facility in Rutland, VT. Staff issued a permit for movement and import after review of regulatory paperwork from NY concerning the originating herd and completed a post-import herd inventory reconciliation. The import information was provided to VT Fish and Wildlife.
- Animal Health staff are beginning to compile information needed to complete the Vermont CWD Herd Certification Program annual report that is submitted to USDA APHIS VS. This report allows Vermont to obtain its approved CWD status and allows Vermont cervid producers to export deer to other states.

**Evolving Issues:**

**Highly Pathogenic Avian Influenza update**

- The number of Midwest commercial premises affected remains at 211. Of those, cleaning and disinfection has been completed on 68, and 44 premises have been approved to restock. State, federal and contracted responders continue to provide assistance to Incident Command
- The request made by the Governor of Iowa for a Presidential Declaration of Emergency was denied by the White House.

- Three impacted states continue to operate under a Governors' Declarations
- A meeting of the Vermont Avian Influenza Advisory Council was held this week. Topics of discussion included carcass management in the event of an AI outbreak in VT, and conversation around whether the Agency should ban poultry commingling events (ag fair events and poultry swaps) in Vermont this summer. To date, this has not been done. Several Vermont commercial poultry producers will be submitting a joint letter to Secretary Ross and to the Governor's office requesting that poultry events be banned in the state until further notice in order to "protect" the commercial flocks from AI. A ban on these events would actually eliminate the AI surveillance that the Animal Health office performs on backyard flocks, which would hinder the state's preparedness efforts.
- State veterinarians Haas and Mehlenbacher worked this week on updating the Vermont Avian Influenza Response Plan. A final draft should be completed by July 17<sup>th</sup> in preparation for the emergency exercise scheduled for August 5<sup>th</sup>.
- State Veterinarian, Kristin Haas, communicated this week with the Chair of the Food and Agriculture Council (FAC) regarding best management practices for biosecurity on farms. The FAC represents a collaborative relationship between USDA's Rural Development, NRCS, and FSA. The FAC Chair agreed to assist the Agency in dissemination of AI-related educational materials to municipal officials and poultry producers/owners. State Veterinarians will likely be providing training to the NRCS and FSA inspectors on biosecurity best management practices on farms.
- Animal Health Section field staff met with the owners of the Wild Hill Preserve in Fairlee, VT, to provide technical assistance with tagging the fallow and sika deer present on the facility. Wild Hill Preserve is under the jurisdiction of Fish and Wildlife, who requested the help of VAAFM staff in tagging deer.
- Assistant State Veterinarian and Animal Health Administrative Assistant dedicated 4 hours of time to compile from many different sources names, location, and contact information for VT poultry producers in an attempt to build an emergency contact and education/outreach list in preparation for the impending avian influenza outbreak which is expected to occur on the east coast in fall of 2015 or spring of 2016. As there is not registration requirement for livestock producers (below a certain flock size), the Agency does not have the ability to easily provide information to poultry producers for emergency information or even just to provide education and outreach. Staff have already dedicated over a week's worth of time in research to compile what is likely only a partial list. The Agency recommends that all poultry producers contact the Agency to obtain a premises registration and provide contact information to enable outreach and emergency contact when needed.

### **Summary of Key agency Department Activity**

#### **Administration:**

Agency of Agriculture staff met with Human Rights Commission and the Grocers Association and the VT Petroleum Association as well as other state entities to discuss upcoming work in honor of the 25<sup>th</sup> anniversary of the Americans With Disability (ADA) law. Human Rights Commission is spearheading an effort to place proper information on all gas pumps in VT and provide written information to owners and operators of their requirements to assist disabled people to access gas at stations and convenience stores. Stickers have been printed, letter drafted and Q&A document prepared and all information will go to all gas station and convenience store owners in late July. Agency of Ag has been asked to sign onto the letter in support of this project.

The Agency of Agriculture will meet with members of the Department of Environmental Conservation (DEC) to revisit a 2010 Memorandum of Agreement with DEC regarding development of "farm structures" within flood hazard areas and river corridors. This is in light of new rules adopted by DEC in March that "clarify how the State of Vermont will regulate development exempt from municipal regulation in flood hazard areas and river corridors to ensure compliance with National Flood Insurance Program (NFIP) criteria and enhance flood resilience." [Vermont Flood Hazard Area and Corridor Rule, March 2015]. DEC and VAAFM want to work in a coordinated fashion to address permit review for businesses developing improvements on their farms.

The Agency received four requests for variances from municipal setbacks in the last two months for the construction of "farm structures" as defined in the Accepted Agricultural Practices. The request for construction in municipal regulatory setbacks include sap collection facilities, animal housing, and a high tunnel to extend a vegetable producers growing season so they may increase their sales. The Agency continues to provide information to farmers addressing regulatory jurisdiction under the Accepted Agricultural Practices regulations and/or whether other local or state entities may have jurisdiction.

#### **Agricultural Development:**



Rene J Fournier, Inc Farm – Swanton – Conserved. On June 2, 2015 the Rene J Fournier, Inc. farm (owned by Susan and Earle Fournier) sold develop rights on 100 acres utilizing VHCB & NRCS funding. It is an organic dairy farm located on “Hog Island” with over 1,400 feet of frontage on Lake Champlain. Incredibly, this farm has 88 acres (92%) of primary agricultural soils and an archaeological sensitive site containing a Native American burial ground. The Fournier Farm received \$400,000 for the sale of a conservation easement.

Working closely with the ANR OPLA and with PSD, and based on the previous round of comments and the workshop of June 18<sup>th</sup>, Senior Agricultural Development Coordinator Alex DePillis and Chief Policy Enforcement Officer Stephanie Smith drafted comments for the PSB, on aspects of the rules that might be revised. Specifically, VAAFM seeks to clarify steps that developers should take to protect soils for post-project agricultural productivity, and reiterated that for a biodigester project, some portion of greenhouse gas reduction stands outside of the environmental attributes associated with the electricity. Comments were submitted under Deputy Secretary Bothfeld’s signature.

### **Fancy Food Show**

Senior Market Development Specialist Reg Godin and Business Development Administrator Chelsea Lewis returned Tuesday night from the 61<sup>st</sup> Summer Fancy Food Show in New York City. They led the execution of a Vermont booth co-sponsored by AAFM and the Vermont Specialty Food Association (VSFA). VSFA hired the services of former Executive Chefs Sean Buchanan and Sefton Stallard to perform Vermont themed recipes that included products from Exhibitors at the show. The recipes included Vermont grilled ham and cheese sandwiches, Chorizo tacos and a cheese plate. Over the course of three days thousands of samples were handed out to promote Vermont food and the businesses exhibiting at the trade show. In addition, Vermont Tourism was on prime display as attendees took advantage of Vermont Vacation guides, cheese trail and brewer’s brochures, as well as [Dig In Vermont](#) material.

Over 35 Vermont producers comprised a trade show contingent that thoroughly impressed their peers by taking away 4 of the 32 prestigious soft awards, selected from over 2,500 nominations. Vermont’s performance was bested only by California and New York.

The soft Awards, which stands for “specialty outstanding food innovation,” are the most prestigious awards in the specialty food industry and represent the best of the best. Vermont’s winners were Big Picture Farm, Fat Toad Farm, and Vermont Creamery, along with Wozz! Creative Kitchens, a New Hampshire producer who makes their product at the Vermont Food Venture Center in Hardwick. Potlicker Kitchen also received a nomination for Outstanding Jam, Preserve, Honey or Nut Butter.

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

#### **Consumer Protection:**

Henry Marckres, Chief, Consumer Protection, has been working with Michael Richardson of the Ontario Ministry of Agriculture on developing Ontario’s new maple regulations.

Dwight Brunnette, Consumer Protection Specialist, has been working with the Department of Motor Vehicles on testing their new wheel load weighers, used for weight enforcement on Vermont’s roads.

#### **Meat Inspection:**

- A representative from VT Meat Inspection was invited to attend the national meeting for USDA FSIS Front Line Supervisors. We have been invited in order to correlate with FSIS for our cross utilization program. I have inquired if there are funds available from FSIS to cover full or partial travel expenses.
- There have been three visits with producers this week regarding starting meat and poultry slaughter processing establishments. The number of new establishments slated to begin are increasing. One project is in Shaftsbury where the producer is considering construction of a combination Red Meat and Poultry slaughter and processing operation. Another is in East Arlington where the individual is planning on starting with a custom processing operation by beginning of August and then transitioning into a State Inspected smoking and curing operation with a focus on Beef Jerky and Bacon products, the third is a Ready to Eat (RTE) Processing establishment that is transitioning out of the Mad River Food Hub into their own facility to accommodate the growth of their meat and poultry soup business.
- Meat Inspection is working with Chris Dutton of VT Technical College as they try to develop an educational training program for individuals wishing to learn the skills associated with on-farm slaughter of red meat animals
- Staff will be meeting next week with an individual interested in re-opening a custom processing plant in Berkshire



- Staff have been asked to provide cross utilization coverage for FSIS at Westminster for the next two weeks. This is a plant that typically has a federal inspector full time.
- A Meat Inspection compliance officer made a visit to VT Packing House as a follow up to their humane handling Notice of Intended Enforcement and Verification plan with FSIS. Our officer observed their stunning techniques, reviewed paperwork related to their following of the verification plan FSIS laid out for them.

### **Animal Health:**

- Animal Health Field Staff
  - Inspected a Pet Shop in Hinesburg that is waiting to obtain a 501c3 to then register as a pet rescue
  - Continued a tissue residue investigation for an antibiotic violation on a dairy farm in Troy.

### **Agricultural Resource Management:**

On August 8, late blight was confirmed by the UVM Plant Diagnostic Clinic on tomatoes from a farm in Hinesburg. This disease of solanaceous plants (tomatoes, potatoes, peppers, eggplants, and flowers like petunias and nightshade), has been a recurring problem in the United States since the late 19<sup>th</sup> century, and is especially problematic for farmers and home gardeners during periods of cool wet weather, and is especially difficult to deal with when there are continued periods of fog and still air, as we experienced for much of June. The pathogen (*Phytophthora infestans*), which was responsible for the Irish Potato Famine, is manageable using scouting and fungicidal treatments. The last time late blight was widespread across New England as early as this was in 2009, when tomatoes were attacked in nurseries, greenhouses, and other production areas, during similarly cool wet weather. It has occurred sporadically in Vermont since then every summer.

This week the vector management group submitted 267 batches of mosquitoes for disease testing at the Vermont Department of Health Laboratory, making a total of 707 mosquito pool samples ( 14,000 mosquitoes) for the 5 weeks of surveillance. All samples tested to date have not shown any evidence of West Nile Virus or Eastern Equine Encephalitis virus. The cattail mosquito, *Coquillettidia perturbans*, is the most abundant mosquito in the CDC light traps this season.

### **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. There are approximately 350 farms in the survey area and surveys are being conducted by 8 ARM Division staff members. To date, 83 farm surveys have been completed and data has been entered. There are also several surveys that require additional information before the data can be officially entered and the surveys can be deemed complete. The following number of farm facilities were surveyed within the last week as part of this initiative:
  - 6 SFOs

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

- Staff conducted a follow-up inspection on a farm in Addison County to evaluate their manure management. The farm was operating over the MFO threshold during our first inspection in April and has since sold most of their cows. In previous inspections their manure pits have been at and exceeding capacity and this continues to be the case. We are working with our enforcement section on next steps.
- Staff conducted an inspection of a MFO in Addison County related to a complaint about nutrient management. We conducted a nutrient management plan (NMP) evaluation where we looked at the management practices and record keeping related to a field bordering a residential property. All aspects of the farm's NMP and related management met the conditions of the MFO General Permit.
- Staff arranged and attempted to have another conference call with a MFO in Addison County to discuss BMPs and timelines related to an enforcement action issued by the Agency. Email updates occurred instead of the conference call as scheduling conflicts arose at the last minute. Options are being discussed and participants include NRCS, AAFM, the farm's technical service provider and the farm owners. We have been having weekly update calls as we are trying to keep the farm on track to implement conservation practices or develop an alternative long term solution this year in response to an enforcement action.

- Staff are working with LFOs regarding permit amendments for authorization to construct additional animal housing and increase animal numbers.
- Staff are drafting reports and memos related to inspections and enforcement cases and following up as needed.
- Staff are continuing to test the FoodSafety WQ database and we have sent comments to the database designer.

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

**VT Railway Montpelier Herbicide Spray Issue** – have been communicating with Mayor Hollar and AOT and VT Railway independently to frame up a conversation and a proposal to consider in a joint conference call. On Wednesday morning all the parties had a conference call and discussed various proposals. As a result of the call the City of Montpelier is negotiating an approach for this year with VT Railway. The approach appears to be based on having the VT Railway do mechanical maintenance on those portions of the 2.5 mile track through the City that adjoins concerned and or sensitive areas like the neighbors and businesses along the track from Granite Street to Main Street. It appears the VT Railway will do the work and bill the City so issue relating to liability etc. will not come into play. The details are not yet worked out. VAAFM has asked for an outline from the Mayor and will share it as soon as possible.

It was also agreed to consider advancing a process over the next year that would enable various interested parties to explore, discuss and potentially recommend what might be done on a more systematic basis to address these concerns in other communities around the state. The goal is to outline what this framework might look like at the same time the agreement between the City and VT Railways is announced.

VAAFM will share any proposed agreements and longer term discussion frameworks as they are developed. The goal would be to announce an agreement before the end of next week and an outline of a discussion framework for the ensuing year.

**VAAFM Semi Annual Staff retreat** – conducted a staff retreat on Thursday to provide employee recognition, HR Training, Agency and legislative updates and orchestrate some other team building and fun activities including lunch and some recreational games. The Retreat was attended by over 75% of the staff which included many field staff whose duty stations are not Montpelier.

**Merinoff Meeting Preparation** – met with staff to outline priorities for follow up meeting with Charlie Merinoff and his wife Leigh. The meeting will be a conference call on Friday.

**Trade Mission Request** – A number of agricultural industry leaders have requested the Agency consider a trade mission to Japan. Staff met to outline the possibilities, opportunities and challenges. A similar request has been made by agricultural leaders and Senator Leahy's office. VAAFM is also beginning to gather information on this as well.

**Organization Restructuring** – VAAFM is meeting to consider what reorganizational efforts must be considered and implemented given the increase in staff stemming from the VT Water Quality Law of 2015 and the additional staff now under is supervision associated with the Lab. HR has been included in these processes. No final re-alignments have been determined yet.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**

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

**Date: July 7, 2015**

**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Universal Recycling Milestones:** July 1 has arrived! Many phone calls and inquiries are coming in and program staff are responding to questions about recyclables and provisions of Universal Recycling.

**TDI MOU:** ANR provided TDI substantive and comprehensive comments on their proposed MOU this week. The significant re-write of the stipulated agreement followed a series of face to face, email and phone negotiations with MOU. TDI is digesting the new version, and while the parties anticipate additional tweaks in advance of TDI's requested July 17 MOU deadline, progress is being made on finalizing an agreement that resolves outstanding natural resource issues before the PSB.

**I-89 Exit 4 Project:** The District 3 Environmental Commission is scheduled to have its second hearing on the project proposed off of Exit 4 on I-89 by developer Sam Sammis next week on July 12. At the first hearing issues related to party status were addressed, and the applicant began presenting evidence on the impact of the project on prime agricultural soils under Act 250 criterion 9(B). The applicant is only seeking findings at this time under criteria 9(B) and 10, compliance with the Town and Regional Plan. If the applicant receives positive findings on these two criteria, he may apply for findings and a permit under the remaining criteria. At the July 12 hearing CLF and VNRC, representing their members and local citizens, will put their evidence on under 9(B). The main issue is whether the applicant may mitigate the impacts to the prime ag soils off site. Off-site mitigation of impacts to ag soils outside of designated growth centers is only allowed under limited circumstances. CLF and VNRC argue the site does not qualify for off-site mitigation.

**Clean Water Initiative Implementation Meeting:** Leadership from VTrans, AAFM and ANR met to check-in and discuss next steps in implementing the recently enacted Vermont Clean Water Act and Lake Champlain TMDL. This was the first in what will be ongoing periodic meetings at the leadership level. The three agencies also have established a schedule and scope of work for interagency meetings of senior staff on the various components of the state's clean water initiative.

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## **EVERYTHING ELSE:**

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

**Lake Champlain Basin Program releases “State of the Lake” report:** Every three years the Lake Champlain Basin Program releases a comprehensive report about the Lake. A copy of the report can be found here. <http://sol.lcbp.org/>.

**Vermonters voice concern about cleaning up Lake Champlain:** VT DEC has released a new basin plan for Northern Lake Champlain and is hosting three meetings to take public comment. DEC Watershed Coordinator Karen Bates is quoted in this WCAX segment.

**St. Albans Bay: Best Intentions Ditched:** St. Albans Messenger story by Michelle Monroe about the run-off from one farm field on St. Albans Bay. The extensive story highlights some of the challenges that lay ahead as pollution from agricultural run-off is addressed one field at a time.

**Will lower property values be the trend along Lake Champlain?** Seven Days blog post by Terri Hallenbeck about the impact diminished water quality is having on property values.

**New England Bans Emissions Ruling:** AP story on the Supreme Court ruling regarding EPA's proposed rules regulating emissions from power plants.

**Rethinking Recycling:** Times Argus Editorial about the Universal Recycling Law (Act 148)

**Three Recycling Hurdles:** Rutland Herald Op Ed by Master Composter Bruce Herforth about Act 148 and particularly the landfill ban on food residuals that takes effect in 2020.

**Smooth sailing – so far – for private Burlington marina proposal:** Seven Days article about the development of a new private marina on the Burlington waterfront mentions the need for DEC permits.

**TAM recognized for Environmental Excellence:** Bennington Banner story about local trash hauler TAM's Environmental Excellence Award.

**Canadian Government is moving toward a ban on microbeads:** One of Canada's largest food chains is banning microbeads starting in 2018.

**Town Forests on WCAX News:** Commissioner Snyder was interviewed by Channel 3's Alexei Rubenstein about town forests and their importance, the 100<sup>th</sup> anniversary of town forests in Vermont, and in particular the celebration planned by the Trust for Public Land next week at the Barre Town Forest.

**Forest Pests:** An Associated Press story about invasive insects in northern New England appeared in the Rutland Herald and other newspapers around the Northeast. Barbara Schultz, FPR Forest Health Program Manager was quoted:

**VPR Campsite Story:** Vermont Public Radio did a story about use of campsites at Burton Island and other popular state parks in Vermont:

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

**Drinking Water and Clean Water SRF Programs - Revised Allotments:** Facilities Engineering received notification from EPA Region 1 of the amounts rescinded from the federal fiscal year 2015 clean water and drinking water state revolving loan fund capitalization grants. The clean water grant is reduced from \$6,863,000 to \$6,817,000 and the drinking water grant is reduced from \$8,845,000 to \$8,787,000. These reductions will have only a slight effect on the two programs.

**Supreme Court Rules that EPA Mercury and Air Toxics (MATS) Rule Failed to Consider Costs:** The Supreme Court issued a ruling in the case [\*Michigan et al.v. EPA\*](#) and found that the agency failed to consider costs in advance of developing this rule – which requires reductions in emissions of mercury and other toxic air pollutants from fossil fuel-burning power plants. EPA analysis of costs and benefits of the rule were conducted after (rather than before) EPA developed the mercury rule. They showed that total monetized benefits – including reductions in sulfur dioxide and fine particles that would result from the controls needed to reduce mercury – were three to nine times greater than costs of control. The full implications of this ruling (for mercury and other pollutants) are not currently clear, but for the time being the mercury and air toxics rule remains in place and many affected power plants have already installed mercury controls or reduced their emissions for other reasons.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of Planning and Legal Affairs**

**VGS Phase VII Looping Project:** ANR and VGS finalized an MOU that resolved all outstanding natural resource projects related to this project. VGS will file the stipulated agreement with the Public Service Board prior to the project's technical hearing scheduled for June 14.

**Mylan Technologies (St. Albans):** In a filing with the St. Albans DRB Monday, Mylan presented updated plans that moved the pedestrian path away from the river into the western end of their existing parking lot, per ANR's recommendation. The re-located path no longer constitutes a new encroachment in the river corridor, which would have presented issues for the project in Act 250.

**Swanton Wind – Legislative Inquiry:** OPLA responded to an inquiry from Rep. Brian Savage, regarding a proposed 6-7 turbine wind energy project in Swanton. The Representative has been receiving calls from concerned neighbors and constituents regarding the project and wanted to better understand the natural resource features present at the site, the process for review of natural resource impacts, and ANR's role in that review. Rep. Savage was also interested in review of noise impacts, for which he was directed to PSD.

**New Applications:** For the week of June 22, OPLA received 7 new Act 250 applications and 1 new Section 248 petitions. For the week of June 29, OPLA received 7 new Act 250 applications and 4 new Section 248 petitions.

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

**ECO AmeriCorps:** After last week's press event, the Administration & Innovation Division has received inquiries from about twenty potential host sites and member applications are already being submitted on our on-line application system so we are off to a great start. Credit is due to the team of folks who labored to have the outreach materials and online application system ready to go so that we are already up and running just days after receiving the formal grant approval.

**H.269 Mildly Contaminated Soils Legislation:** Waste Management has developed an "Interim Policy" guiding implementation of this new law and are now seeking public comment. There is a potential that we will also host a public meeting to discuss any concerns. In tandem, we have also drafted their procedure for a category of solid waste sites that will also be allowed to accept mildly contaminated soils under the new law. On a related note, we are making good progress on our background survey for development soils that will allow us to determine appropriate background levels of contamination to guide our decisions.

**Global Foundries (Essex):** We issued a variance to Global to exempt scrap silicon wafers and wafer pieces generated at its Essex Junction facility from regulation as a hazardous waste under

the Vermont Hazardous Waste Management Regulations. The Scrap Wafer Waste may contain sensitive information such as defense articles and technical data. As such, disposal of this waste must also satisfy the International Traffic in Arms Regulations. The variance proposed does not endanger human health or safety. This variance was previously issued to IBM.

**Lamoille Recycling Meeting:** We attended a public recycling workshop/meeting held by the Lamoille Regional Solid Waste District. Nearly one hundred people attended and questions focused mainly on what can and cannot go into recycling bins and where you can take other items for recycling. Hillside Trash hauler, Donna Hill attended and most people were her customers. The question of cost of recycling hauling services was also brought up consistently.

**Solid Waste Infrastructure Advisory Committee Meeting:** We organized a summer meeting of the SWIAC group to review and discuss a proposal they previously asked to consider to establish a Solid Waste Service Fee (a fee on trash, recycling and organics collection/drop off services) as a potential replacement for the state franchise fee (\$6/ton of trash) and to fund infrastructure to implement Universal Recycling (Act 148). The meeting was well attended and the group agreed to meet again to continue the dialogue.

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

**Habitat Policy Protection:** Staff worked on developing a regulatory guidelines document addressing pool-breeding amphibian habitat, which could be applied in Act 250, Section 248. Staff drafted a description for the necessary habitat and an initial approach for evaluating the value of sites.

**Bat Monitoring Project:** Staff deployed acoustic detectors at the first priority grid cell for the North American Bat Monitoring Project, a continental bat monitoring program with consistent survey methodology. The first year of surveys requires extensive planning to properly site detectors to survey for all 9 of VT's bat species in a diversity of habitat for about a week.

**Fishing Activity:** License issues were the order of this week due to the holiday weekend. There were more violations uncovered for fishing without licenses than the Department has ever recorded before. Other fishing violations were detected as well, including short fish. Also, the Secretary caught her first ever Bass - on a fly - at Knight Island State Park over the holiday weekend!

**Criminal Assistance:** VTFWD Wardens participated in agency assists to Windsor and VSP included the discovery of 96 bags of heroin and over an ounce of marijuana in separate incidents. Wardens Currier and Joyal assisted with the scene and locating the female who shot her firearms instructor as well.

**Windsor Prison Update:** Staff continues progress on anticipated transferal of a large portion of the Southeast State Correctional Facility lands (a.k.a. Windsor Prison Farm, 990± acres) to become a wildlife management area. FWD has been involved in negotiations with groSolar and Green Mountain Power on where best to locate a proposed 4.9 MW solar farm on the property



that will least impact fish and wild resources and future wildlife management on the remaining property. A recent proposal had the solar farm using 50 acres but this has been scaled back to about 40 acres thereby reducing impacts to critical habitat. This project has been touted as the largest in the state. It is anticipated that negotiations with BGS for property transfer to FWD will resume in the very near future with as much as 850 acres potentially becoming a WMA.

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

**State Land Transactions:** The appraisal for the Molly's Falls Pond property has been completed and approved and the request for Governor's approval to acquire this property has been submitted. We now anticipate closing on this property by late summer/early fall.

**Licenses:** After more than a year of work from ANR IT, we have completed development of a new ANR license database which was officially launched last week. We are in the process of conducting training sessions for district staff in the use of the new license database. This database is a huge step forward and will greatly improve administration of ANR leases, licenses, and special use permits for uses of state lands.

**State Park Visitor Numbers:** Prior to the Fourth of July weekend, total state park visitation was down 13% from 2014. Most of that decline could be attributed to poor weather during the wettest June on record. Day use was mostly affected. Camping activity is down only about 5%. The holiday weekend saw campgrounds filled to capacity and day areas very busy.

**Fee Increase:** The increase in state park fees has been approved by LCAR and will be effective July 11.

**Sentinel Rock SP Dedication:** The ceremony to dedicate Sentinel Rock State Park will take place this Sat, July 11, in Westmore.

**Recreational Trails Projects Selected:** The 10 projects selected for funding from the Recreational Trails Program were announced this week.

**Summer Trail Projects:** St. Johnsbury Stewardship Forester Lou Bushey has been working with the Northwoods Stewardship Center to get the summer trail projects underway. The NWSC Kingdom Corp Crews will be working at Bald Mountain, Mount Pisgah and the south end of Lake Willoughby in Willoughby State Forest, and on the Unknown Pond/Middle Mountain Trail on the Sweet Tree and Plum Creek properties. All three crews begin their work next week.

### **Natural Resources Board (NRB)**

**Severance Corners PHP (Colchester):** The District 4 Commission is considering a request to remove from Act 250 jurisdiction a site at Severance Corners in Colchester where a Priority Housing Project (PHP) is proposed. This is known in Act 250 as a "Stonybrook" request. This site was the focus of discussion in the Legislature last year in the context of how to address PHP's on land that has existing Act 250 permits and conditions that could be affected by the

PHP. At a minimum, the Commission is likely to request more information from the applicant regarding their request. The request raised arguments that were off point, and did not address the criteria in law under the "Stonybrook" analysis necessary to gain approval to limit jurisdiction on a parcel.

**9L:** The NRB, ANR and ACCD are meeting this week to continue to work on the 9L Procedure and Guidance required in S.138. The agencies are making good progress and hope to have draft to share with the public in August.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: July 10, 2015

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** Entergy responded to our latest counter-proposal with a reduced counter proposal which the joint Agencies (ANR, DOH, DEMHS) and AGO discussed today and consensus reached was that there is no path forward to reach agreement on the matters outstanding. The Agencies prefer to look toward billback authority and legislation on taxes to resolve financial issues, and doing so retains our ability to oppose withdrawals from the NDT. Liigation in federal court is likely inevitable on NRC decisions. On a more positive note, we found a path forward in the ISFSI (Dry Cask Storage Pad) docket to support that without compromising our position on the NDT expenditures for that purpose.

**VGS:** We received a briefing this week on construction schedule and contractor selection from VGS. They have an agreement (was to be signed today) to have the work performed by Michel's – a national pipeline company, at a cost within their budget and with incentives to do better, and a cap if they do worse. Phase I construction is to begin in August, break for the winter, and restart next spring with completion about October 1, 2016. See below for

more detail. Don Rendell and I have discussed how to announce that ratepayers will not be absorbing the costs of the underestimation shortly following a presumed Board decision to allow the project to proceed.

**RUS/EVT:** EVT submitted a proposed decision to the Board wherein they asked the board to collateralize EVT's "interest" in the EEC, which we think will work. I understand RUS would accept that too. Unfortunately, authority of the Board to do so has been raised by my staff and discussed with both the AGO and the Treasurer, and they are planning to do a whitepaper on the matter expressing their concerns. They may believe the only way forward is clearer legislative authority. I disagree, and will discuss with Bill Griffin and, if appropriate and needed, Beth Pierce next week in advance of our meeting on this next Friday.

**TDI:** We are nearing finalization of our agreement with TDI on the Clean Power Link. Vermont will gain almost a half a billion dollars in benefits under the settlement terms, for both the lake, renewable energy and the ratepayers over the 40 year life of the project.

**Solar Siting Task Force:** We sent out notices today to statutory members of the "Solar Siting Task Force" and hope to hold the first meeting on July 28th or 29<sup>th</sup>. We are required by statute to do so by August 1, 2015.

**CEP:** We held our first public meeting last night in Woodstock, and it went very well. People seem genuinely supportive of the goal and appreciative of the effort, despite their recent struggle with the Taftsville solar project (recently dropped by the developer).

#### **Meetings/Calls this Week:**

Jul 7 – TDI MOU meeting; Biomass and Forestry Practices meeting  
Jul 8 – TDI MOU meeting; 2015 Comprehensive Energy Plan  
Jul 9 – CEP public meeting, Woodstock  
Jul 10 – TDI Discussion on FiberAccess

#### **Meetings next Week:**

Jul 13 – Governor's Cabinet meeting  
Jul 14 –  
Jul 15 – 2015 Comprehensive Energy Plan (CEP) meeting  
Jul 16 – CEP public meeting

**Media:** WCAX on CEP Meetings and NRC dispute, Several media outlets re VGS Phase I hearings last Monday and Tuesday: VTDigger, VPR, Free Press; The Recorder re NRC decision Entergy use of DTF funds; Susan Smallheer regarding NRC decisions. NHPR on

Regional Energy Issues, AP (Dave Gram) on CEP Meetings and process, and I “yelled” at him about his coverage of the Vermont Energy situation in Monday’s Times/Argus – He said he’d talk to me before he did an article on what he perceived to be the “hypocrisy” perspective, but he did not.

↑ Scott

## Everything Else:

### **PERD**

#### 2015 Comprehensive Energy Plan

- Staff posted stakeholder meeting materials at [http://publicservice.vermont.gov/publications/energy\\_plan/2015\\_plan](http://publicservice.vermont.gov/publications/energy_plan/2015_plan), including presentations, agendas, and discussion questions. On Monday 7/6 staff will send email to stakeholder invitation lists with this info/link.
- Held second stakeholder workshop at Capital Plaza on June 30, focused on energy supply resources in the morning, and transportation/land use in the afternoon. Approximately 60 people attended the first session and 40 in the afternoon. During the morning, Secretary Markowitz participated as a speaker and in the afternoon, Secretary Minter and Commissioner Mackay played prominent roles helping to frame the conversations. Breakouts provided substantive comments covering a wide range of territory that staff will have for review during the forthcoming drafting period.
- Discussions with ACCD regarding division of labor for “economic impact of energy” section are ongoing.
- Staff presented to the Climate Cabinet on some open questions regarding the approach to carbon pricing in the CEP. Discussion also addressed the need for location and upfront affordability to be taken into account in building efficiency.

#### Residential and Commercial Building Energy Standards (RBES & CBES)

- Code Update:
  - Processed ~\$4,000 invoice from EVT for the energy code and blower door trainings.

#### Energy Efficiency Utility Activities

- *TEPF Clearinghouse (EEU-2013-10)* –
  - Staff filed its recommendation with the Board for a contractor (Bear Code LLC) and budget (\$300k) for the development, promotion and annual maintenance of a thermal energy and process fuel statewide information clearinghouse (“TEPF Clearinghouse”). The Department recommended the annual maintenance portion of the budget be \$48k. The proposed project timeline is two years with the website launch and initial promotion occurring within the first year after project kickoff, and the second year would be dedicated to ongoing annual maintenance and promotion. Staff also filed under seal the bids (including the Department’s proposed scope of work embodied in Bear Code’s bid) and bid amounts from all bidders (there were three bids total). The Board will make the final determination regarding a contractor and budget. No date is scheduled for this determination.
  - The Clearinghouse will consist of a webpage-based portal that enables access to Clearinghouse information, including at least: (1) a directory of materials about

TEPF efficiency (and thermal renewable energy) services and resources; (2) direct links to qualified service providers; and (3) referrals to entities having information about associated environmental issues such as the presence of asbestos in existing insulation. The Clearinghouse project will also include the development and distribution of Clearinghouse promotional materials.

#### Thermal Energy Finance Pilot – Heat Saver Loan

- Staff met with Jim Ashley who was advocating that Geothermal systems be allowed to be financed under the HSL program (although he admitted it was much more likely system were being installed in new construction rather than retrofits). Staff agreed to consider if the program continues after the pilot period.
- Revised the program application to include information on pellet systems and heat pumps to align with new EVT incentive information
- Received comment from Dept. of Health and State Weatherization Program on proposed Vermiculite and Asbestos component needed to make Heat Saver Loans available through the TEF Pilot Project. Changes to proposed process will be incorporated next week.
- Convened bi-weekly planning call with partners. VSECU reported 13 new loans for June with 10 more pending already. Full program information for the quarter will be developed over the next two weeks as we enter the quarterly reporting cycle. EFG reported meeting with seven fuel dealers over the past two weeks, several of which are now promoting their products to include access to the HSL. Moved forward with agreement on marketing activities to include print materials and new web presence for Heat Saver Loans.
- Fuel dealers are beginning to ask what will happen once the program funding runs out or the Department closes the pilot next year. Staff agreed that it is time to begin thinking about options for continuation as well as reiterating to the fuel dealers/vendors the Department's communication that this is a pilot program planned from the outset to end next year.

#### SEP Projects/Grants

- SEP Building Energy Disclosure/Labeling Competitive Award – Received VEIC signature on grant agreement and provided to Commissioner for final approval/signature.

#### Clean Energy Development Fund

- Reviewed & approved \$46,063 for a group of incentive payments for the SSREIP consisting of 24 PV systems resulting in 165 kW of new PV capacity and one solar hot water system on a low income housing project for the Windham-Windsor Land Trust in Brattleboro. The PV system pictured below (6.2kW) was installed on a net-zero Vermont modular home for the Housing Foundation.
- Made new contact with the City of Burlington and had a meeting with BED regarding awarding a Sun-Shot sub-grant to the City to lower the permitting costs for PV systems within the City.
- Received eight (8) proposals in response to CEDF's RFP for advanced wood heating



systems to be installed in schools or low income housing projects. The proposals were spilt evenly among schools (4) and housing (4). The 8 projects in total requested \$336,344 in funding for projects estimated to cost a total of \$1.6 million (The CEDF only has \$150,000 available through this RFP). If all projects were built the applicants estimated they would reduce heating oil use by ~66,000 gallons (+2,000 gallons of propane for one project). The CEDF will be working with Forest and Parks in reviewing the proposals.

- Community Solar Finance Program – Signed copies of grant agreement received from VSECU; will present these to Commissioner Recchia next week for signature
- Vt. Clean Energy Industry Report 2015 – The draft is with the Commissioner’s office; publication is tentatively slated to take place two weeks after incorporating comments from the Commissioner and sending the draft for formatting. Given that the project is now a month behind the agreed upon schedule and a new timeline for the contractor to complete the report has not been established, we do not have a new target deadline.
- Upcoming meetings
  - CEDF Board meeting: Monday July 6<sup>th</sup>

#### Renewable Energy Items

- Attended monthly meeting with AAFM and ANR. AAFM is interested in coordinating with PSD on Act 99 net metering comment revisions, and will be sending draft language ideas along (understanding that they may need to file these as separate comments)
- Discussed solar aesthetics guidance with David Raphael. He’ll send a revised version based on our conversation and potentially for discussion by Solar Siting Task Force.
- Agreed to request from Swanton on July 14 to meet to discuss their interest in developing the Lower Swanton Dam following our joint agency (PSD, ANR, ACCD) letter, which offered to review long-awaited draft study plans. They’re bringing their FERC attorney from DC and ANR has concerns about what we can actually be discussed in the absence of these plans.
- Received email from Anders Holm that the meeting with New England Hydropower (to assume development of the Upper Middlebury hydro site) will take place July 7.
- Returned call from Rep. Dickinson asking about GMP’s plan to build a Northwind 100 at the prison in St. Albans. GMP has abandoned this project.

#### Net Metering

- Staff met with GMP and REV representatives to discuss areas of agreement for the net metering program redesigned rate structure.

#### Net Metering Activity 6/20/15 - 7/2/15

	Registrations	Applications	45 Day Notice	CPGs Granted
<b>Count</b>	27	7	0	43
<b>kWAC</b>	200.00	251.00	0	608
<b>Ave Size kW</b>	7.399	35.82	0	14.148



### Cumulative Capacity of ALL Formal Notices Submitted\*\*

Year Total to Date		Total Since 1999	
2014 kW	2015 kW	1999 – 2015 kW	% of 15% NM Cap
14592.31	18674.83	95429.89	~ 63.6%

**\*\*Note:** These totals now include systems of all sizes, and include those systems for which 45 day notices have been filed as well as those for which formal permit applications have been filed.

#### Heating Fuel

- Since last reporting Crude Oil prices down from last week now at \$56.71 v. \$59.97 two weeks ago. The natural gas market prices are down now at \$2.829 v. \$2.853 two weeks ago.

#### VSPC Load Forecasting Subcommittee

- Began examining historical relationship between changes in load and changes in industry-specific employment levels. Preliminary results of this effort to be presented in brief to LFC week of July 6<sup>th</sup>. State economist Kavet has invited PSD to identify any economic variables that it thinks would be useful for future load forecasting efforts (to be customized from Moody's projections). LFC will be considering this question over the coming year.

#### Utility Resource Survey

- Responses received from GMP, Stowe, and VPPSA. Other utilities are being contacted.

#### AESC 2015

- Report has been uploaded to web but not yet filed with the Board (expected to happen week of July 6th). Workshop is likely to be held in August or September.

#### Other

- Met with members of the Building Performance Professionals Association (BPPA) to discuss H. 40 implementation. The members presented a position paper which requested the following three items be considered during the process to implement H. 40:
  - Establish rules to address buildings holistically and comprehensively (deep retrofits/efficiency as well as renewable energy).
  - Implement three energy saving tools (energy labeling, guaranteed savings, and tax credits) to facilitate the uptake of building performance services.
  - Partner with BPPA to grow the qualified group of building performance contractors statewide.
- Drive Electric VT – Staff attended Outreach and Marketing subcommittee meeting. Focus of the discussion was on Governor's EV event during Nat'l Drive Electric week in September. The date of the event is not yet scheduled but should be 9/16, 9/17 or 9/18 (the actual date/time should be firmed up by mid-July). The event will essentially be a press conference that promotes businesses who will have pledged EV support (i.e. installing workplace charging stations, purchasing EVs for their fleet, employee

incentives for purchasing or driving EVs etc. within 6 months after the event), accompanied by ride-and-drive activities. Planning for the event has just begun as the Governor's Office just recently confirmed the event. Initial planning discussions included the following action items: develop list of prospective businesses to target (goals to have at least 10 businesses participate), outreach to businesses, and vote on tag line to accompany event name. Right now it looks like the event name will be "Drive the Dream VT" which borrows from the national workplace charging initiative/banner "Drive the Dream" based on California's initial efforts). Another action item includes development of supporting materials, among others.

- Held second interviews with two finalist candidates for the Utility Economic Analyst position. Have made an offer and are in discussions with the candidate.
- Staff attended their last VSJF Board meeting (resigned after serving on the Board since 2007). It is yet unknown if they will ask another PSD staff to serve on the Board.
- Staff presented the general outlines of Act 56 to RPS program implementers in other Northeastern states, via CESA.

### ***Engineering***

#### Vermont Yankee Spent Fuel Management & Decommissioning

Systems maintenance and testing to support Spent Fuel Pool integrity continued during the reporting period – most notably, quarterly testing of the diesel fire pump was successfully completed. Two fuel assemblies were repositioned within the Spent Fuel Pool to accommodate the installation of an additional Spent Fuel Pool filter and demineralizer unit. The relocations help to assure that future maintenance of the filter / demineralizer will not result in foreign material landing on either fuel assembly. Installation of the filter / demineralizer is a corrective action resulting from the trouble-shooting and subsequent cleaning of the "A" Standby Fuel Pool Cooling (SFPC) heat exchanger previously described in the June 10 report. No issues identified during the reporting period impacted Spent Fuel Pool integrity.

#### Second Round Discovery Comments for Second VY Dry Cask Storage Pad Delivered

The primary focus of these requests was to seek clarification of several of Entergy's First Round Discovery Answers. Of particular note: While one of Entergy's answers provided justification for construction of second ramp on the west side of the proposed storage pad, it did not describe the construction of a concrete "turning pad" that is likely necessary for this ramp. (The existing east ramp includes one such pad.)

#### NRC Issues Draft Regulatory Guidance for Spent Fuel Storage System Recertification

The NRC issued, for public review and comment, a draft of Regulatory Guide NUREG-1927, Rev. 1, which significantly expands the information that an Independent Spent Fuel Storage Installation (ISFSI) licensee will need to submit to the NRC when requesting renewal of an ISFSI Certificate of Compliance (CoC). For the first time, the CoC regulations include ISFSI Aging Management Program (AMP) requirements, which are potentially significant to the ongoing CPG process for the second VY ISFSI as a potential source of conditions for granting the CPG. The comment deadline is August 21.

#### Oral Arguments on VT Petition to Intervene on VY License Amendment to Eliminate 30 Day

#### Notification on DTF Withdrawals

Oral Arguments before the NRC's Atomic Safety Licensing Board (ASLB) were held July 7 to determine whether the State's Request for Hearing / Petition to Intervene can proceed on VY's Licensing Amendment Request (LAR) to substitute 10 CFR 50.75(h) regulations for VY's Reactor License Condition 3.J. Condition 3.J requires 30 Day notification prior to any VY Decommissioning Trust Fund (DTF) withdrawal and was made a condition on Entergy's purchase of VY to help assure that the DTF would be used strictly for decommissioning activities. Substituting 10 CFR 50.75(h) regulations for Condition 3.J would limit the 30 day notification requirement to only the initial withdrawal from the DTF. Combined with License Exemptions recently granted by the NRC, this would eliminate all pre-withdrawal notifications and permit DTF use for Spent Fuel Management and potentially other VY site clean-up activities. The State contends that when combined, the granted Exemptions and the LAR undermined a key requirement placed on VY's 2002 sale to Entergy. As anticipated, NRC Staff and Entergy each argued that the State's contentions were well outside the LAR's scope and should be summarily rejected. The State also filed a new contention a day prior to the Oral Arguments on the recently granted License Exemptions. While the ASLB noted the new contention's existence, it was not discussed in any detail during Oral Arguments. Entergy and NRC Staff have until July 31 to respond to the new contention; the State will have until August 7 to rebut their responses. The ASLB is expected to rule on whether the petition / hearing request can proceed within 45 days of the Oral Arguments.

#### Vermont Gas Systems Addison Natural Gas Project (ANGP) "Mainline" Construction

VGS has made an agreement with Michels Corporation to complete the most-northerly 11 miles of the ANGP (by open-trench methods) in Colchester, Essex and Williston VT. The final contract for this has not been completed. A comprehensive set of construction specifications, installation procedures and project requirements have not been completed. VGS representatives plan to update the Department Commissioner, PA and Engineering on construction schedules later this week.

#### Vermont Gas Systems ANGP project, HDD construction

Engineer's Construction Inc., continued to make provisions to pull the 12" diameter pipeline segment installed under Route 2A (in Essex near the north terminus of Route 289) further through the bored hole. The current leading pipeline segment-length, which was pulled completely through the bored hole during installation and exposed, sustained damage to its corrosion protective coatings. Similar results have been observed at two other sites of the ANGP where pipe installations by horizontal directional drilling have been attempted. The Gas Engineer reiterated concern to VGS that the company has not established adequate construction methods and inspection techniques to reliably ensure appropriate condition of all pipe installed by HDD, including segments which will not be visually assessed. This concern is amplified because the design of ANGP Phase I includes approximately 16 additional HDD installations.

#### Vermont Gas Systems Welding Program and Quality Assurance Plan

The Gas Engineer offered VGS a preliminary assessment of the company's revised written welding program which was recently provided to address probable violations of gas pipeline safety regulations. The Gas Engineer informed VGS of program areas which appear to require further clarification, including scope of the document, document organization, references to other

documents related to welding and several specific processes included in the document. VGS also plans to review its revised quality assurance plan with the Gas Engineer in the near future (tentatively next week).

#### Operator Qualification for Propane Pipeline Technicians

The Gas Engineer inspected the Operator Qualification program plans and records of AmeriGas, in South Barre during this report period. Records related to several Operations and Maintenance procedures, required by PSB Rules and federal gas pipeline safety regulations, were also reviewed with representatives of the company. No immediate safety concerns were observed.

#### PSB Interconnection Rule Revision and Act 99 Generation Interconnection Working Groups

Engineering and Planning met with the whole PSB Working Group revising the rules for generation interconnection as required by Act 99. The meeting focused on whether the group concurred with language changes proposed by GMP. Many of the proposed changes were found to be acceptable and some needed to be further reviewed. Another revised document will be put forth in a week or so for the Working Group's review.

#### State DOE Distributed Generation Grant - Update

Engineering took part in a Webex hosted by GMP which focused on GMP's progress on preparing its CYME (a division of Cooper Power Systems) data base model for building a solar capacity location map to provide basic siting information to solar developers as to where they might site a project. GMP demonstrated the map and the information it will contain such as the number of phases, conductor size thermal capacity, and loads on the line all highlighted on a Google base map. A question was raised about the publically shown data and whether there was any security risk and GMP response was they have no concerns at the distribution level.

#### GMP Vegetation Management Program

Engineering participated in a meeting between PSD and GMP regarding GMP's vegetation management program. GMP is currently on an average 7+ year tree trimming cycle for distribution lines, but is proposing to move toward a five-year cycle (for both ROW trimming and removal of danger trees outside the trimmed ROW) to increase reliability. GMP is proposing to immediately move towards the five-year cycle, but then after two years to check in with PSD to confirm that this is still the optimal path.

### ***Regional Policy***

#### Forward Capacity Market Changes

On June 30, FERC issued an Order regarding changes to the Forward Capacity Market, including:

- Approving an increase in the Dynamic De-List Bid Threshold from \$3.94/kW-month to \$5.50/kW-month. A Dynamic De-List Bid is submitted during the Forward Capacity Auction and represents the lowest price that the resource will accept before withdrawing from the auction; the Dynamic De-List Bid Threshold is the price below which the Internal Market Monitor will not automatically review the bid. The increase is based

upon an analysis by the Internal Market Monitor of previously approved de-list bids from oil and dual-fuel generators in the most recent Forward Capacity Auction (oil and dual-fuel generators were determined to be the most likely marginal unit for purposes of the auction. This essentially acknowledges that Forward Capacity Market costs are increasing, due in part to the Pay for Performance program, which imposes penalties on resources that do not perform during certain system events. Market Rules require that the Internal Market Monitor recalculate the Dynamic De-List Bid Threshold as cost and market conditions change, and at a minimum, no less than every three years.

- Approving New Import Capacity Resource Mitigation Rules. These rules treat New Import Capacity Resources associated with new transmission investment (including an Elective Transmission Upgrade such as the TDI-NE proposal) in a manner consistent with new resources and impose buyer-side market power mitigation mechanisms on such resources. A merchant transmission proposal such as the TDI-NE line would be subject to the Minimum Offer Price Rule, and its bid in the Forward Capacity Auction could be mitigated by the Internal Market Monitor to the extent that the IMM considers out-of-market contracts to be subsidies. This would result in the IMM mitigating, or increasing, the bid submitted by the merchant transmission company, and may result in the project not clearing in the Forward Capacity Auction.
  - TDI-NE submitted a proposal to FERC that would create an exemption for resources that are funded solely by private investment, rather than ratepayer dollars. FERC rejected TDI-NE's proposal as beyond the scope of the proceeding as TDI-NE did not raise the issue during the NEPOOL stakeholder process. FERC invited TDI-NE to pursue the proposal through the stakeholder process.

### Regional System Plan

- ISO-NE released a draft of the 2015 Regional System Plan, which identifies the region's electricity needs through 2024, and actions for meeting these needs. The RSP includes forecasts of peak demand, energy efficiency, and distributed generation; resource adequacy; transmission system performance and needed infrastructure; and fuel-certainty risks to system reliability.
- Comments on the 200 page draft RSP are due July 23, with the public release of the RSP on September 10.

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

#### Electric

GMP: Docket 8500 Investigation into Proposed Changes to GMP's Low Income Electric Assistance Program (EAP). In March of this year GMP reported that it held over \$6 million in excess EAP funds. On April 30, 2015 GMP filed a proposal to reduce collections going forward and to refund the excess collections to customers. At a workshop there was no opposition from

the parties including AARP on the GMP proposal. GMP posted a schedule with a proposed MOU by July 24 and a PFD by August 24, 2015 in time for October 1, 2015 bill credits.

GMP: Tariff 8566--2016 Base Rate Filing: GMP submitted its initial FY 2016 Base Rate filing and corresponding spreadsheets as scheduled on June 1, 2015. The filing is proposing a 1.26% or \$7 million rate increase. Staff and our consultants are continuing our review the filing. Additionally we are holding weekly teleconference calls to discuss any evolving concerns or issues. To date, concerns have emerged about tax expense and power supply that require further discussion and review.

GMP: Petition for Approval to Issue First Mortgage Bonds in an Amount of up to \$60,000,000 pursuant to 30 V.S.A. § 108. Petition was filed on June 11, 2015. Staff is reviewing the filing and this week sent a request for additional information. The Fin and Econ recommendation has been pushed out from July 2 to July 9 due to the relatively late information request. The Department recommendation is due on July 10.

Hardwick Electric Department has filed a Section 108 petition for approval to finance a bucket truck for \$215K at 2% for 5 years. The new truck will replace an existing model that is at the end of its useful life. Staff completed its review and forwarded our recommendation to PA that approval should be granted.

PSB: Rule 4.100 - On February 26, 2015, the PSB issued a memo that requested that interested parties file "comments that identify issues and propose changes to procedures in Rule 4.100". Staff has prepared comments that generally support implementing a new approach to the avoided cost based pricing of power from all new QFs, based on the market value of the energy and capacity that each project actually provides. The Department filed comments on June 26, 2015, reply comments are due today.

VEC: Docket 8522-a §248 Petition requesting approval to purchase of up to 10 MW of capacity from NextEra Energy. The petition seeks approval of an amendment to an existing PPA between VEC and NextEra Energy which the PSB approved in D 7815 on March 9, 2012. Under the amendment VEC will purchase up to 10 MW of capacity produced by the Seabrook, NH generating facility. Discovery on VEC is due by July 23, a technical hearing is scheduled for August 17, and a proposed PFD is scheduled to be issued by August 24, 2015.

#### Natural Gas

VGS 2016 Annual Base Rate Adjustment – VGS filed the 2016 base rate adjustment based on the pending renewal of its proposed Alt Reg Plan for an overall rate decrease to firm customers of \$756k or .9%. The change resulted from an increase in base rates of \$1.7 million or 3.8%, which was offset by a reduction of \$2.5 million or 6.3% in firm gas costs. Fin and Econ is reviewing the filing and is currently preparing the 1<sup>st</sup> round of discovery. A Department recommendation is due on or before August 31, 2015.

VGS - Docket 8472 Petition for §248 approval to construct (Phase VII Looping) and install approximately 3.0 miles of 16" transmission line extending through Georgia, Vermont at a cost of \$10.8 million that will address expected customer growth through 2019. Fin and Econ



forwarded discovery concerning project cost estimates, asking for a financing plan and demand forecasts. The Department is scheduled to file a recommendation by July 10, 2015. A PSB technical hearing is scheduled for July 14, 2015.

VGS – Tariff 8572-Quarterly purchased gas rate adjustment: the Company filed its quarterly tariffs reflecting an overall firm rate decrease of .26 percent. The rate decrease is attributed to a .57 percent decline in the wholesale cost of gas. The updated tariffs are effective with bills rendered on and after August 5, 2015. The filing is under review and a Department recommendation is due July 20, 2015.

#### Annual Reports and Gross Revenue Taxes

Gross Revenue Taxes (GRT): This week new collections total \$625 bringing collections for Fiscal Year to Date to \$8,663,864 compared with projected receipts of \$8,708,117 resulting in a difference of \$44,253 or 0.5%.

#### EEU

Vermont Gas – Calculation of Gas Efficiency Charge: Staff has begun to work on drafting a procedure and rule for the calculation of a gas efficiency charge. A filing is due to the PSB on July 30, 2015

VEIC--Docket 8486-petition for approval of collateral and security arrangements for RUS loans. Staff continues to work with VEIC to support its filing. This week staff attended a meeting scheduled by Finance and Management, the Treasurer's office and BGS to discuss the financial implications to the state. Assignments were made to various attendees to develop answers to the numerous questions raised at the meeting. Additionally, this week VEIC filed a proposal for decision in the case.

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

TDI New England Clean Power Link Project – Docket 8400- PSD worked diligently to draft MOU edits, make decisions on negotiation points and to sort out issues with respect to obtaining dark fiber that is available as part of the project. PSD worked with AOT to precisely identify the requirements of both agencies with respect to the fiber. PSD added ANR edits to MOU draft, primarily concerning the structure of the two Lake Champlain related funds. Generally parties are on track to conclude MOU drafting and negotiations by the 7/17 target date. Revised MOU was supplied to TDI by COB 7/8.

VY EPZ License Amendment Request – NRC 50-271-LA-2 – Entergy and NRC Staff filed responses in opposition to the State's June 17 appeal to the NRC of the ASLB order denying the State a hearing. The NRC Commissioners have the discretion to take or reject the appeal.

VY 30-Day Notice License Amendment Request – NRC 50-271-LA-3 – The State filed an additional contention with the ASLB as a result of the NRC staff granting an Entergy exemption request allowing the use of NDT funds for spent fuel costs and lifting of the 30-day notice requirement for NDT disbursements.

The ASLB held an oral argument on admissibility of the contentions presented in the State's April 20 petition. The ASLB appeared to be receptive to the State's position that Entergy had sequenced its license amendment request and related exemption request in such a way to impermissibly avoid triggering hearing rights to the State. The ASLB also inquired about the role of the Master Trust Agreement as it relates to proper use of decommissioning trust funds. The ASLB will issue an order within 45 days of the oral argument.

FairPoint Service Quality Investigation – Docket 8390 – FairPoint issued discovery requests related to the Department's rebuttal testimony, and specifically the Department's recommendations to the Board aimed at alleviating service quality issues and 911 system reliability. Department responses are due to FairPoint by July 15.

VGS Addison Expansion—Docket 7970 - Post-hearing briefs in Remand II were submitted on July 8. The Addison County Regional Planning Commission held a special meeting on July 1 to reconsider its support of Phase I. The meeting was scheduled due to a petition from the requisite number of delegates. The vote was 23-9 to affirm support for Phase I. ACRPC formally notified the Board of the vote.

VGS has previewed for ANR and the Department a second request for a non-substantial change determination. It involves relocation of a mainline valve. The valve was close to the road in an industrial park; it is proposed to move it further away from the road and into the park. Engineering and our aesthetics consultant are reviewing. VGS hopes to submit to the Board on July 9 and will request a ruling by September 1 to meet construction schedule needs. The commissioner and staff are meeting with the VGS project team on July 9 to discuss the upcoming construction season.

VGS Looping Phase VII - Docket 8472 -We received additional supplemental discovery responses and staff is reviewing. Staff anticipates that the responses will be satisfactory and will not alter our support of the project. A draft MOU among ANR, the Department and VGS has been circulated for review. No decision has been made as to whether or not the Department will be a party. The technical hearing has been rescheduled for July 14 following the Board's failure to provide notice of the originally scheduled hearing date.

Investigation into proposed changes to GMP Electric Assistance Program—Docket 8500- Prehearing conference was held on July 1. The Board advised the parties what it was looking for in the docket - an evidentiary record to support the proposal which has been made. As requested by the Board, GMP drafted a proposed schedule and has circulated it to the parties. We are reviewing. The schedule is due to the Board by July 10.

VEC Purchase of 10MW of Capacity from NextEra Seabrook, LLC – Docket 8522 – The Department filed comments regarding VEC's Motion for Confidential Treatment of certain commercially sensitive information on July 2, 2015. The Department recommended that the confidentiality period be limited to two years. The Department secured VEC's agreement to this limited confidentiality period.

Fournier & Sons, Inc. 36 kW net-metered solar PV system – CPG #NM-8021 – The Department,

in consultation with VEC, provided comments to the Board on July 2, 2015, concerning how the Board should address new net metering petitions in VEC's service territory now that VEC has reached its 2015 net metering cap. The Department recommended that they continue processing CPG applications until the 2016 net metering cap is reached; that statutory parties be given a 45-day period to review and comment on all such applications; that construction not commence until January 1, 2016; that the CPG not be deemed abandoned until December 31, 2016; and that a letter from VEC confirming no adverse impacts on system stability and reliability be obtained if interconnection will occur one year or more from the date the CPG was issued. The Department hopes that this approach would avoid a sudden and unmanageable influx of applications in January 2016.

Stowe Rate Design – Docket 8463 – The Department filed a letter with the Board on July 7, 2015 stating that Stowe's proposed rate design is just and reasonable as filed. Given this determination, the Department stated that it believed that neither a stipulation nor a litigation schedule is necessary and suggested that the parties work together to file a joint proposal for decision no later than the end of July 2015, with a technical hearing to be held in August 2015. The Department also noted that it was continuing to work with Stowe to resolve outstanding issues regarding confidential treatment of prefiled testimony and exhibits filed under seal. The Department believes that the scope and duration of confidential treatment should be more limited. The Department expects this issue to be resolved by the time the parties file a joint proposal for decision, and if it is not will request the Board to resolve the outstanding issues.

VEC Substation Expansion and Rebuild in East Berkshire – Docket 8450 – VEC filed its MOU with ANR and PSD. A technical hearing is tentatively scheduled for July 13.

Woodstock Aqueduct Company – Docket 8462 – The PSB approved the rate increase, tariff change and rule changes (including a PSD rule change that clarifies when a disconnection fee can be charged) to become effective July 1, 2015.

New England Power d/b/a National Grid Harriman Switchyard Section 248 Petition – Docket 8493 – NEP replied to the Department's discovery requests on July 7. We are reviewing the responses to determine if the Department has additional questions or concerns.

VEC Petition for Declaratory Ruling – no docket – VEC filed a petition in early May requesting a declaratory ruling that a member-proposed bylaw amendment precluding individuals who hold public elective office to occupy a seat on the VEC Board of Directors is inconsistent with Chapter 81 of Title 30 and is vague, arbitrary, unreasonable and oppressive. The Department is reviewing VEC's claims based on previous precedent, but is inclined to support the company's position. The Board has not yet acted on this petition; VEC's lawyer has asked the clerk's office to set a prehearing.

GMP Section 108 Petition – no docket – GMP filed a petition on June 11, 2015 requesting approval to issue \$60 million in long-term debt securities to finance capital investments, to redeem existing short-term debt and long-term debt, and for other utility purposes. The Department's comments are due on July 11.

GMP Section 248(j) Petition to upgrade the Wallingford Substation – Docket 8536 – Comments are due to the Board on July 30. In addition, the Board has requested that GMP respond to a number of questions by July 20.

VGS Alternative Regulation – Base Rate Filing – No Docket – On June 30, VGS made its annual base rates filing, which reflects an overall decrease of 0.9%. The Department has begun its two-month review of the filing. The Department will hold the first of several check-in meetings with VGS on July 9, at which issues such as an upcoming section 108 filing, untariffed services, and a successor alt-reg plan/Phase I rate path will be discussed.

GMP Alternative Regulation – No Docket – On July 1, GMP filed scheduled updates to its 2016 base rates filing. The original filing (all in) resulted in a 1.91% increase. The revised filing (again, all in) now results in a 2.34% increase. At the most recent July 2 check-in meeting, we discussed GMP's proposal to revise its vegetative management program. This meeting stemmed from a requirement secured by the Department in the Actual O&M rate case for GMP to come more in line with standard vegetative management practices, which GMP has lagged behind in. They are currently on a 7-year planned/7.9-year actual trim cycle and are proposing to undertake a 2-year danger tree removal program, after which time it will determine whether to move to a 5-year cycle. Staff is evaluating the program and the manner in which GMP seeks to fund it (i.e., by capitalizing costs). GMP also teed up a peculiar issue with respect to the manner in which its ROE will be set this year. There are a couple options presently with a spread of approx. 10 basis points. The Department is developing recommendations this week.

GMP Rate Design – Docket No. 8525 – A prehearing was held on July 8, during which a schedule was adopted for the proceeding. Representatives from Omya and GlobalFoundries were present.

### ***Telecommunications***

Comcast Interactive Program Guide – Representatives of the access management organizations indicate that their primary desire for the Comcast CPG renewal is having Comcast comply with its current CPG obligation to place PEG content on the interactive program guide. Comcast claims that this would be prohibitively expensive. It explains that this is because the program guide is deployed on a head-end basis, and there are multiple PEG channels within a single head-end. PSD staff created a map that depicts head-end territories vs. AMO territories so that this can be examined in more detail.

Duncan Cable line extension tariff – Duncan cable has not revised its line extension tariff to comply with the PSB rule change from 2010. PSD staff has provided Duncan with examples of compliant tariffs, and has expressed that the PSD cannot support the CPG renewal until the tariff is revised to comply. Duncan does not want to issue a complaint tariff.

VUSF Transition – The draft contract for the new Vermont Universal Service Fund administrator, Solix, Inc., has stalled in the state's contracting process. Staff believes, however, that a contract can be sent to Solix this week. Solix has already begun the fund transition. It has

established a lockbox and has put a process in place to account for payments to the fund. The current fund, Rolka Loube, has suggested a transition date in the middle of the month (July 10). This date presents some issues as many carriers automatically remit payment on July 15. It would not give the new administrator sufficient time to notify carriers of the change. The Department has recommended that Rolka finish the month of July and transition to Solix on August 1. The VUSF currently has a balance of \$2,311,132.08.

CoverageCo – CoverageCo’s contractor has begun work on the resiliency project. Crews are operating in Norton, Roxbury and Rochester. This project will help provide cell service among Vermont’s hardest to reach roadways. The VTA/DPS has several hundred thousand dollars worth of invoices that it will be expected to pay CoverageCo. Given that CoverageCo has begun work, it may be acceptable for the Department to release some of the funds.

VTEL Dark Fiber Lease – VTEL would like to purchase fiber on the OCFC. This could have the potential to bring in several hundred dollars a month to the Connectivity Fund, which is where profits from fiber sales should go.

ECFiber Grant Agreement – ECFiber has requested a change to the terms of the grant agreement that would enable them to seek reimbursements during the course of construction. They want reimbursement for the purchase of materials and the cost of pole licenses. Staff recommends declining this request, as the terms of the RFP were clear that this was reimbursement grant. However, disbursements during the course of construction could be arranged if ECFiber would agree to obtain a performance and construction bond. The bond would protect the state from a default in the event that ECFiber fails to perform. It was Staff’s belief at the time the RFP was drafted, that any company, ECFiber included, would be able to obtain credit, if there was a grant agreement in place.

Duncan Cable CPG Renewal (Docket 8438) – Division staff have received responses to discovery requests from Duncan Cable. DPS staff are reviewing the discovery responses and preparing testimony, which must be filed by July 17.

FairPoint Petition for VETC Designation (Docket 8542) – The Board has scheduled a prehearing conference on this docket for July 17, 2015. Division staff will work with CAPI staff to evaluate FairPoint's request. As the VETC designation is dependent, in part, on compliance with service quality requirements, it is possible that the Department will oppose the petition. The Department also received notice from Comcast that it intends to intervene in the docket and oppose the designation.

FairPoint Lifeline Credits – CAPI staff have requested that Telecom Division staff review a FairPoint policy regarding Lifeline credits. FairPoint has not been applying lifeline credits for customers that have term contracts (i.e. one year) that include discounts from promotions or bundles. CAPI staff raised this issue with FCC employees, who informed CAPI that FairPoint's practice does not appear to violate federal regulations. However, the FCC staff also noted that the Department can seek a formal determination from the FCC. Telecom Division staff will research the issue and determine whether FairPoint's policy violates any applicable laws or regulations and whether further action should be taken.

IM Telecom d/b/a Infiniti Mobile CMRS CPG (No. 994-CM) – Division staff filed a letter with the Board recommending that it issue a CPG to IM Telecom, LLC d/b/a Infiniti Mobile to provide resold wireless telecommunications services in Vermont.

Update on Pending VTel Wireless Facility (§ 248a) Petitions –

- Pownal: VTel filed its application on April 6, 2015. The Department filed a letter recommending that the Board approve the project without hearings or investigation on April 27. The Board issued a memo on May 1 stating that the application could not be further processed because VTel had not provided sufficient information regarding impacts on historic sites and wetlands. VTel submitted supplemental information on May 18, 2015, and the Department sent a second recommendation letter on June 3. The Board issued an order approving the project and issued a CPG on July 1, 2015.
- Burke: VTel filed its application on March 12, 2015. The Department filed a letter recommending that the Board approve the Project on April 3, 2015. The Burke Selectboard also recommended that the Board approve the project, but several adjoining landowners (most of whom are second-home owners) filed comments with the Board opposing the application on aesthetics grounds. None of the neighbors filed motions to intervene. The Board requested that the Department and VTel file response to comments received from the adjoining landowners, which the Department submitted on April 24, 2015. The Department reiterated its recommendation that the Board approve the application without further hearings or investigations. The Board then issued a second memorandum on May 6 stating that the application could not be further processed because VTel did not provide adequate information regarding impacts on historic sites and threatened or endangered species. VTel submitted supplemental information on May 15, 2015, and the Department filed a third recommendation letter on June 3. The Board then issued another memorandum on June 17 requesting that the Department and VTel respond to comments received from an adjoining landowner. The Department submitted a response to the landowner's comments and again recommended that the project be approved without further hearing or investigation on June 26. This application is ready for a final order from the Board.
- Rochester: VTel filed its application on April 7, 2015. The Department filed a letter on April 28 recommending that the Board approve the application without further hearings or investigation. An adjoining landowner, however, filed a motion to intervene on aesthetic grounds. On May 1, the Board then issued a memorandum stating that the application could not be further processed because VTel did not submit sufficient information with regard to historic sites and some environmental impacts. VTel submitted supplemental application materials on June 2. The Board then issued a second memorandum on June 17 requesting comments from the Department in response to the neighbors' motion to intervene and a set of comments from the Rochester Planning Commission. The planning commission noted that it supported the project in principle, but recommended that the Board deny the application unless VTel could revise its plans to comply with the Town's setback requirements. On June 26, the Department filed



comments stating that it did not oppose the neighbors' motion to intervene. The Department also requested that the Board not issue a final order until VTel submitted additional information stating why it was not able to comply with the setback requirement (the Board is required to give due consideration to recommendations from local planning commissions). VTel simultaneously filed comments explaining why it was unable to comply with the setback requirements and provided an opposition to the neighbors motion to intervene. The Department submitted additional comments on July 8, stating that VTel had supplied sufficient information to address the setback issue. The Board has not yet ruled on the neighbors' motion to intervene, but it is possible that this docket will proceed to a hearing.

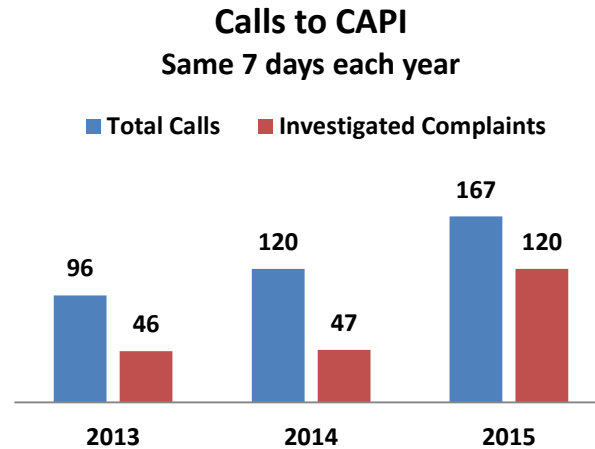
- Cabot: VTel filed its application on April 17, 2015. The Department retained aesthetic and RF experts to review the project after receiving a request from the Cabot Selectboard. On May 1, the Board issued a memorandum that the application could not be processed because it did not contain sufficient information regarding impact on historic sites and wetlands. VTel submitted supplemental information on June 3. The Department submitted comments and testimony from its experts on June 24. The Department's RF expert found that collocation at an existing site likely is not a viable option for this project. The Department's aesthetic expert, however, found that the Project will create an undue adverse impact on aesthetics because the tower is located approximately 30 feet from a rural road and VTel has not taken any actions to mitigate the visual impact of the tower from the road. The Town of Cabot has also filed a motion to intervene and submitted its own expert testimony. Its RF expert found that there is insufficient information in the application to make a determination on collocation. Its aesthetic expert has also found that there will be an undue adverse impact on aesthetics due to the lack of mitigation. Both the Town and the Department have requested a hearing based on the experts' findings. I had a call with VTel this morning, and they informed me that they intend to revise their plans to incorporate vegetative screening as a mitigation measure. This application will likely proceed to hearing later this summer.
- Calais: VTel filed its application on May 15, 2015. This application has been strongly opposed by members of the public and the Calais Selectboard. The Department also retained RF and aesthetic experts to review this application. The Department submitted comments and testimony on June 5 from its experts. The aesthetic expert found that there will not be an undue adverse impact. However, the RF expert found that the application contained insufficient information to make a determination on collocation. The Department has requested that VTel provide additional information on signal propagation and coverage goals for the project. The Town has moved to intervene and submitted prefiled testimony from RF and aesthetic experts. The Town's experts stated there will be an undue adverse impact on aesthetics and that it appears that collocation at an existing site could be feasible. The Department has also received motions to intervene from over 20 adjoining landowners and neighbors – all in opposition to the project. The Department is currently working with the Town and VTel's attorneys to develop a proposed discovery and docket schedule. The parties anticipate that technical hearings will be held on the application in late September.

Other Wireless Telecommunications Facilities (248a) Petitions — Division staff filed recommendation letters with the Board for the following projects:

- T-Mobile application for *de minimis* modifications to an 84 foot tower in Dorset;

## ***CAPI***

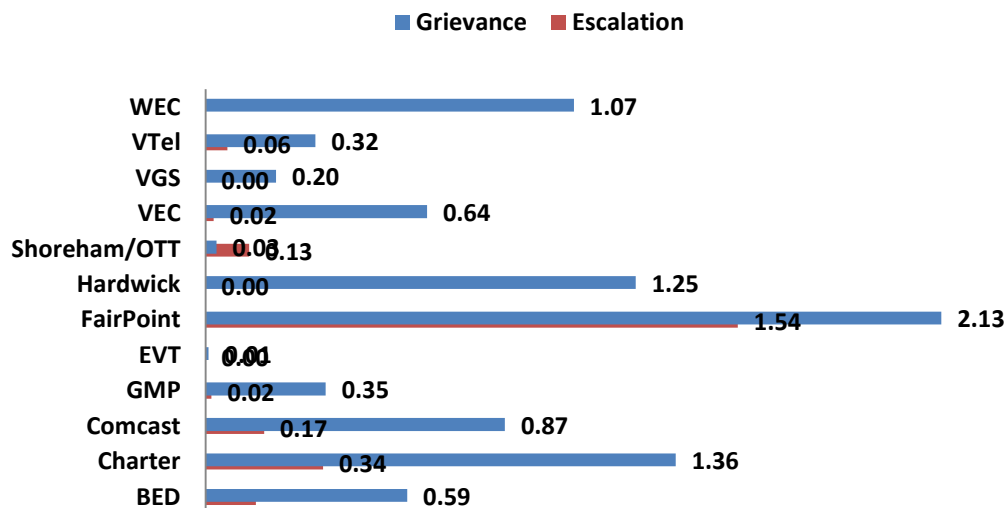
### **CALL DATA**



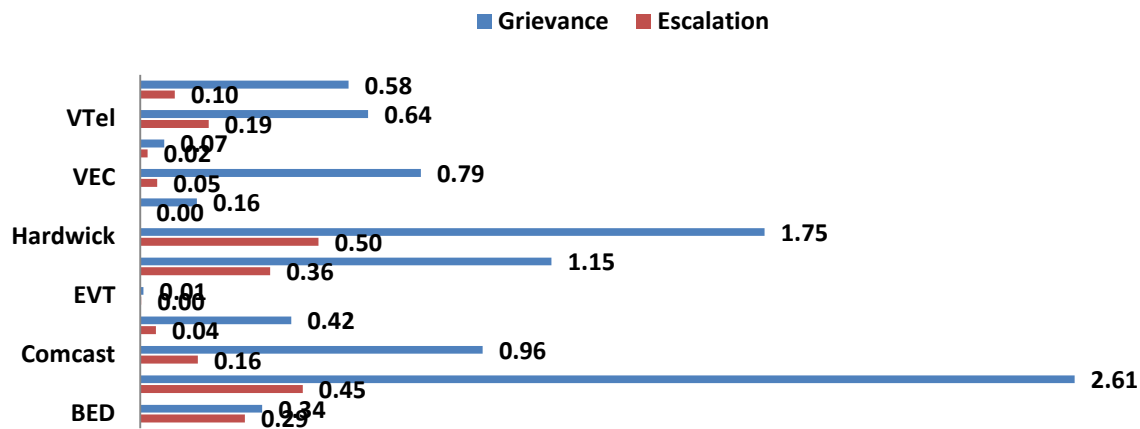
### **Complaints Investigated, by Company**

per 1000 customers

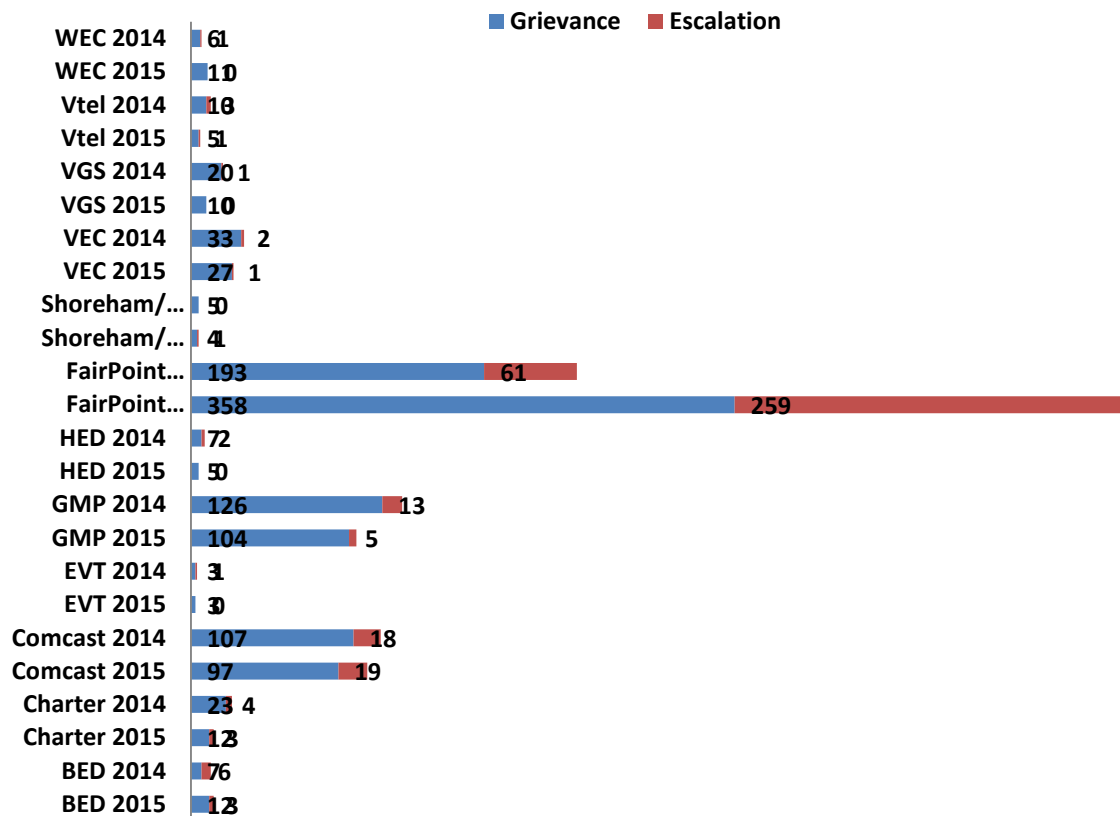
January 1 - present, 2015



**Complaints Investigated, by Company,  
per 1000 Customers  
January 1 - present, 2014**



**Number of Complaints Investigated, by Company  
YTD 2014 and 2015**



### **CONSUMER COMPLAINTS**

Complaint topics included, but were not limited to:

- 4 responses to the Comcast Quality of Service notification; 3 complaints about high cost for service, 1 regarding a refund the consumer did not receive
- 3 Electric disconnections
- 1 consumer inquiry about the process to submit input for a legislative report prepared by the department
- 1 question from a utility regarding whether to accept a medical note to cancel a disconnection for an account holder's house sitter

### **OTHER DIVISION ACTIVITY**

Comcast CPG renewal, docket 8301: CAPI met with Telecom to discuss potential survey questions for the statistically valid survey to be used for the upcoming Community Needs Assessment.

FairPoint Service Quality Investigation, docket 8390: CAPI submitted rebuttal testimony to the Public Service Board. The focus of the testimony is bill credits and disconnections.

Training: CAPI staff participated in Excel training with other PSD staff



**State of Vermont**  
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**Office of the Secretary**  
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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Justin Johnson**

**DATE: July 10, 2015**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**WSOC:**

- Budget: A detailed look at the budget indicates that we are tracking well. Our major risks areas include historic core roof and masonry repair.

**Property Management:**

- Lamoille Court Move – MOU finalization effort in progress, meeting Judiciary Staff to make sure we are all in sync and meeting the intent of the Capital Bill language from the session.
- GMP Solar Lease at Windsor, working to finalize, last minute GMP changes causing some heartburn.
- Vtrans strategy addressed to shrink footprint at National Life and expand in Berlin lab space.
- Vtrans looking to pick up the DPS site in St. Johnsbury as soon as the DPS consolidation with Bradford concludes.

**Space, Moves and CAD:**

- Agriculture looking for space in Montpelier and Chittenden County. Interested in 110 State Street and space request for Chittenden County received and being addressed.

**Facilities Operations:**

- **Montpelier Heat Plant** – Rates set for the next fiscal year, waiting for the City of Montpelier to accept final proposal. Overall savings to the City from last year.

**Capitol District Long Range Plan:**

- BGS Team is finalizing a draft for review and comments to Black River Design to address office space and asset management July 31 deliverable date.

**Public Safety Building - Waterbury:**

- BGS and vendor have met and identified source of leak into EOC. Repairs underway.

**Government Business Services Division:**

- **Fleet management Rate Reduction:** All 20% adjustments are in system for the July billing. Staff is working on renewing existing leases that are due with reduction of annual mileage. There were challenges with calculating the service rates. FMS is using the rate most beneficial to leasing department.
- **National Life Parking:** July 18 “Do Good Fest”, FMS has been asked to move all State vehicles from National Life Campus, NLG is hosting a “Do Good Fest”, this event requires overtime for several Fleet staff; overtime will occur Friday evening close of business and return of vehicles before offices open Monday. NLG appreciates our efforts and understands it may not be 100% removal of all State vehicles.
- **Electric Vehicles/Charging Stations:** In collaboration with VEIC, Fleet has finalized the specifications for charging stations, RFP underway.
- **Print Shop/Postal Center:** Terry Lamos continues to work with AHS to identify level of service that will be provided in Waterbury during move process and where resources will come from for services.
- **Vermont Information Center:** Visitor traffic - 4th of July Holiday Weekend VICD Staff hosted 66,428 visitors over the four day weekend. In comparison to 2014 we saw an increase of 5,000 visitors.

**Security:** 109 Pavilion Building: All systems connected to the Fire Alarm system were tested and approved this week. Security enhancements at the pavilion Building have been completed, since the new procedures began approximately (2) weeks ago, the Guards have not reported any issues and we have not received complaints about the change in protocol.

**Significant Meetings/Events:** Lamoille County Courthouse Groundbreaking Ceremony July 14, 2014

**FINANCE AND MANAGEMENT**

**NOTHING TO REPORT.**

**HEALTH CARE REFORM****All Payer Model**

The All Payer Model project seems to be shaking loose with the work accelerating across the Board. Michael Costa and Ena Backus of the GMCB sent our federal partners a timeline for the rest of the summer that provides a roadmap to submitting a draft agreement to CMMI by mid-September. State staff and contractors made substantial progress on financial benchmarks. We will send the federal government our aggregate historical data on 7/10. Additionally, Michael and Ena will pitch the first draft of a specific deal to the project's executive leadership (Al, Robin, and Lawrence) to consider at a meeting on 7/15. The goal would be to send it to the feds

soon thereafter. Additionally, AOA staff continues to push the GMCB staff hard to engage in regulatory and operational planning that is needed to refine the model.

Additionally, Al Gobielle had a discussion with CMS leadership that indicates that the feds are still very interested in this deal. Michael's experience in discussions with federal staff reflects this interest. Simply, the onus is on Vermont to pitch a deal. AOA will continue to push the GMCB to accelerate the pace of the project.

### **SIM/VHCIP**

We are still in conversations with CMMI about approval for Year 2 contracts. Unfortunately, their written request, and our subsequent response, did not accurately reflect the information they actually want. Specifically, the program staff and the budget staff at the federal level do not need the same information and provide competing directions. We are working to set up an in-person meeting with them to allow us to make progress faster. Because this remains unresolved, we are at risk of not meeting 2015 milestones as we cannot pay contractors for work.

Despite the financial challenges, the project is making progress in several key areas (due in large part to the State staff people who are working tirelessly). Most significantly, we have obtained project-wide consensus on our Year 2 and Year 3 goals. The SIM team is now working on realigning resources to meet those new goals. We also submitted our final self-evaluation plan to CMMI last week.

### **Welch Staff Visit**

Isaac Loeb of Rep. Welch's office met with Lawrence and Michael Costa on 6/30 for a check-in on health care issues. State of Vermont staff updated Isaac on Vermont Health Connect, the All Payer Model work and its connection with the Medicaid waiver renewal, the SIM project, and the State's Excise Tax on High Cost Employer Sponsored Health Care (Cadillac Tax) work. Isaac mostly listened. The only insight we gained was confirmation that prospects for repeal of the Cadillac Tax are unclear. Specifically, he said that most people in Congress were waiting to see the resolution of *King v. Burwell* before considering substantial ACA changes. Now resolved, the default position is that republicans would work with democrats to repeal the tax if the lost revenue can be replaced with cuts to programs. Democrats are not excited by this prospect. Michael Costa's editorial comment is that even if Congress repeals the tax, or substantially modifies it to take the bite out of it, it may come far too late to matter. For example, the tax takes effect 1/1/18. Repeal in December of 2017 may not be much help since decisions on benefits and bargaining occur long before the start date of an insurance plan year.

### **Green Mountain Care Board Nominating Committee**

The GMCB Nominating Committee met 7/1. They came together since Betty Rambur's term will expire 9/30. The Committee took three actions. (1) The committee elected Kevin Kelley, President/CEO of Community Health Services of Lamoille Valley, Chair. (2) The committee voted to recommend to the Governor that he reappoint Rambur to a full term on the Board contingent on the submission of various background materials. Betty Rambur submitted those materials on 7/9, and staff expects the committee to send a formal recommendation to the Governor prior to the end of the month. (3) The committee directed staff to draft rules to govern the nomination and reappointment process, as the underlying GMCB statute allows for the creation of rules. AOA staff will draft rules for the Committee to review with the expectation that the rule drafting process will continue into the fall.

### **Excise Tax/Cadillac Tax**

#### *Public Employee Benefit Study, July 2*

Michael Costa led a kick off meeting on the excise tax/Cadillac Tax study with representatives from VSEA, NEA, Trooper's Association, AFSCME, AFT, state AFL-CIO, VLCT, VEHI, the School Board Association, JFO, DFR, and the Treasurer's Office. It is a challenging subject matter and a challenging group; however, initial feedback from stakeholders is that we had a constructive meeting. The group has some general agreement that the study should provide everyone, management, labor, and legislators, with a common level of understanding about the tax, its impact, and the impact of various solutions. The group's next meeting will be the week of July 20, and the goal is to review a draft slide deck that would serve eventually as the cornerstone of our effort to educate people



about the tax in a uniform way. Also, we will get feedback from the group on several issues to help mold the assumptions that will inform the work of our project actuaries.

Three additional notes and observations: (1) Jeb Spaulding asked if the state colleges could join this discussion. Accordingly, we are adding management and labor from the VSC system. Staff will make the same offer to UVM unless someone objects. (2) Labor is pushing for inclusion of other independent public sector unions. This mostly includes myriad police and fire unions. Here, the issue becomes how to be inclusive while still running a manageable group. Michael's initial thought is to keep the group at its present size but schedule several public hearings this fall once we have materials and data. Robin and Michael can consult with Justin as the issue evolves. (3) The real rub with the tax is that it requires health care spending to grow at or below inflation, something that has essentially never happened in America. By example, proposed sustainable health care spending targets in the All Payer Model project typically run 1% - 2% higher than inflation. Michael was heartened that everyone at the table seems to get from the outset that just living within the box of the tax is not realistic. Accordingly, there seems to be a real opportunity for consensus based action reshaping public sector benefits if we can determine the best path forward.

#### *VSEA, July 7*

VSEA held a meeting with the heads of its various bargaining groups on 7/7 to discuss the excise tax/Cadillac tax. Michael attended at VSEA's request to discuss the study. The point of the meeting was to help get members up to speed on the tax.

#### *Excise tax project meeting, July 8*

State of Vermont staff met with actuaries from Wakely Consulting to clarify the scope of work and enable Wakely to make a data request. The project's timeline is tight, but there are no red flags thus far.

### **Universal Primary Care Study**

The state received bids June 26 from OnPoint Health Data (subcontracting the actuarial analysis to Mercer) and Wakely Consulting. The bid review team conducted interviews with OnPoint (July 1) and Wakely (July 6) and believe both bidders possess the capability, expertise, Vermont specific experience, and understanding of the issues to do the work.

The bid review team favored OnPoint. Their bid has the added value of doing a similar analysis in Massachusetts for Medicaid and OnPoint has extensive experience working with Vermont specific primary care data analytics through its work with the Blueprint for Health. (And, to be frank, Craig Jones put in a hard sell for them.) The issue with the OnPoint bid is that they are doubtful they can complete the full scope of work within the \$100,000 appropriation, and we are concerned about their ability to manage the cost of their highly priced sub-contractor actuaries. The bid review team directed Marisa and Michael to discuss our concerns with OnPoint to see if they would agree to a fixed price contract. We had that conversation, and OnPoint will provide an updated fixed price version of project objectives and approach Tuesday. In the event that our concerns with OnPoint cannot be resolved to our satisfaction, we intend to pursue contract negotiations with Wakely Consulting. The bid review team expressed no significant concerns with Wakely's scope and approach, and they offered a \$100,000 fixed price bid. The goal is still to select a vendor, get a contract in place, and have a kick-off meeting next week. That is an aggressive timeframe, but the project timeline has some modest flexibility to deal with the loss of one week.

Once we have a vendor in place, the first task of the project is to take the definition of primary care from the statute and translate it into a set of codes and provider types that can be used for the actuarial analysis. Marisa and Michael worked with Craig Jones of the Blueprint and Richard Slusky of the GMCB to develop a draft code set, and we directed contractor Steve Kappel to analyze the primary care code sets to determine whether the code set reflects the bulk of primary care provider revenue. Moreover, this analysis will allow us to see if we are accurate with our defined codes or if we are missing any chunk of what primary care providers do or where primary care occurs. We will then present this preliminary work to the vendor as a starting point to save time and money.

## **HUMAN RESOURCES**

### **Policy/Legislative Update**

Putting together a draft of the RFP for the classification/compensation study mandated by the legislature. Plan is to have this out by the end of the month.

### **Communications Update**

Working with JFO on compiling data on legislative salaries/ expenses for VPR

Reworking our website and social media presence, to include enhanced use of social media platforms for recruiting purposes.

### **Significant Events/Meetings**

Exempt ABI preparation is nearly complete. As an interesting aside, nearly  $\frac{3}{4}$  of all Judicial exempts (mostly judges) voluntarily agreed to no pay increase. Governor and Lieutenant Governor took no increase, while Attorney General, Treasurer and Auditor followed executive branch plan and took \$1664 increase.

Tying up final pieces for employees subject to RIF. Several employees found other opportunities within state government and some retired. Will have final information next week.

Federal Government has issued proposed rules making changes to the Fair Labor Standards Act (FLSA) which will impact overtime calculation for state employees. Proposed rules were issued this week and we are analyzing impact.

Undertaking a systematic review of our personnel policies, many of which date to the 1990s. Policies 5.4 (personnel records), 4.11 (ban the box plus guidance memo), 4.0 (temp hires plus sample MOU), and EEO policies 3.0, 3.1 and 3.3 ( General EEO statement, sexual harassment, and discrimination) will be launched to the union this week for comment. Working on the communication plans for the field and appointing authorities for ban the box and temp hires which will implement ACA.

As expected, received demand to bargain from VSEA along with a seven page request for data. This is not uncommon for the bargaining cycle.

Met with ESI (express scripts) to discuss audit findings which indicate ESI may owe the state +\$900,000. ESI disputes the claim and auditing methodology but has agreed to modify (going forward) the contract term they are relying on to support their position. We have requested further data from them in support of their position and will be moving forward with a contract amendment.

## INFORMATION AND INNOVATION

### Status of Governor's Priorities:

#### *Healthcare*

- Healthcare/Hosting Move - Security:
  - NuHarbor closed out 8 moderate findings bringing the current Plan of Action and Milestones (POAM) down to 1 High and 65 Moderate items.
  - Janus rolling report has identified 2 High and 8 Moderates. The 2 Highs have been assigned to Optum.
  - 4 new Highs have been closed and 1 Moderate has been closed.
  - PCI certification
    - High Level sizing of PCI compliance is complete including Benaissance input. Priced at \$209.5K using pay pages as recommended by DII Security.
- GAO Audit:

There will be a closeout meeting with GAO. It was postponed from June 30<sup>th</sup> to July 16<sup>th</sup>. At that time we will discuss the date when the report will be shared with Vermont before it is released to Congress.

**Significant Events/Meetings:** Richard met with Stephen Whitaker to hear some of Stephens's concerns and ideas around fiber use throughout the state. Specific concerns included how best to take advantage of existing infrastructure for the benefit of citizens including the underserved. Stephen asked Richard to consider pushing an agenda with the Administration and was critical of the Public Service Department's planning in this area. Richard explained DII's mission and resource capability and also suggested points of contact in other states for Stephen to consult.

## LIBRARIES

### NOTHING TO REPORT

## TAXES

### Legislative Update

#### Amazon Tax Trigger

We met with Bill Griffin, who opined that the trigger has not been met – there are bills that have passed in 15 states, however 2 are not effective until October 1. We will meet again then to assess. The Commissioner informed key legislators. We decided not to publish anything at this time, in part because the only likely effect would be the premature cancellation of any remaining click through contracts that Vermont businesses hold. Once the AG makes the official determination, we will give vendors notice of the date certain that we will enforce the law – this is consistent with the Streamlined agreement.

It should be noted that Griffin was extremely concerned that the law would actually be challenged, and that the AG's office needed to budget for it. We explained this is possible, but highly unlikely given vendor behavior in other states to date (the only plausible scenario would be if some entity wanted to make VT the platform to try to get the US Supreme Court to revisit the Quill decision that underlies the archaic sales tax rules that Marketplace Fairness tries to address). We also explained that there was

likely no way to do an audit project on this issue; we likely would only discover if we audited a Vermont business that for some reason did not have its click through contract with a remote vendor severed.

### **Soda Tax**

As reported, we worked with the Grocers' Association on outreach, developing a fact sheet and presenting a live webinar twice (remains available online). We also included information in our recent newsletters and in an email specifically to vendors using our online sales tax payment system. We still are getting a number of questions, although one large complaint is relatively straightforward – the stores may need to get a resale certificate on file with their distributors. The Commissioner did an interview with Jack Thurston, emphasizing that although the definition of soft drink is complex on the margins where there is understandable confusion, we did do outreach drawing on the experience of numerous other states using this Streamlined definition.

### **Garnishment/Bank Levy**

Department staff has met with Legal Aid, and is finalizing a contract for them to be the independent advocate as provided by the bill. Staff also has met with the Bankers' Association to go over process, and no major roadblocks were identified. Finally, staff has met with a vendor that will process levies, which we will investigate further. Our goal is to pilot a first round of garnishment and levies in the September timeframe. It should be noted that legislators asked us to use the same type of cautious rollout as we did with the Top 100 initiative.

### **Operations**

#### **Homestead Declarations and Property Tax Adjustments**

The number of homestead declarations (164,000) continues to lag from last year, so we are following up on leads from local listers. Property tax adjustment letters (126,000) went out this week.

### **Call Center**

Starting today, we extended our policy of not taking general taxpayer inquiries on Wednesdays to our corporate and business sections – we have had almost no pushback when we instituted this for personal income during the tax season, and productivity has soared.

### **VTax Project**

The Department Project Manager was promoted, leaving a vacancy (FAST provides its own project manager). After interviewing internally, we decided to elevate the current business tax and IT implementation coordinators to be co-leads on the project. There were several considerations – both staffers are well-respected superstars already on the project, the Deputy is poised to play even more of an oversight role, and this plan frees a position for a training coordinator – a priority need identified at our recent retreat.

### **Data Warehouse Project**

In 2011, before VTax, we entered into a five year benefits based contract with RSI to build us a data warehouse. The project was estimated to generate about \$16M in enhanced revenue – RSI is paid on a declining percentage without a cap, with its cut of the \$16M estimated at \$4M (the rest of the revenue is split between the Department modernization fund and general fund). The project already has hit its final estimate. RSI has become difficult to deal with for a number of reasons (its project manager tragically died, it lost out on the VTax bid and FAST is developing its own data warehouse capacities for VT, it claims a cut of new initiatives including the Top 100 and garnishment/levy which is not clear under the contract). We are exploring the possibility of coming to an amicable agreement to end the benefits portion of the contract early.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Marcia Gardner on behalf of James Giffin, Interim Commissioner**  
**Date: July 9, 2015**  
**Re: Weekly Report**

**Vermont Department of Liquor Control**

Legislative Issues/Contacts/Updates: **None**

Press Issues/Releases/Contacts: **None**

Significant Events/Meetings: A Board Meeting will be held Tuesday, August 4, 2015 in Montpelier for Enforcement Hearings/Business.

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Summary of Key Department Activity:

*Canaan Agency:* The agency has informed us of their intention to close. The agents feel that the costs of operating a liquor store are too high compared to the commissions they receive. Recently, their insurance company informed them they would have to retain liquor liability insurance (similar to what a bar or restaurant would be required to have) because of the motel that is connected to the store. Liquor liability insurance is quite expensive and would cut deeply into any profits they make as a liquor agent. Canaan is the lowest volume of any of our Agent stores (approximately \$60k/yr) and is located there as a convenience. The next closest store in Vermont would be Island Pond. The Department will discuss with the board if they want to try to find another Agent for the location and if keeping a store in this area is feasible.

*Credit Cards:* A number of our stores have experienced problems processing credit cards. Cards require numerous swipes before the card is accepted (we are currently still working with a dial-up system which will be replaced when our new register system is in place – see the update below). Sometimes the card won't process at all and the clerk has to manually type in the number, along with other information such as a zip code for the card holder, made particularly difficult when there are language barriers. We do not believe this is a hardware (card swipe mechanism) issue and strongly suspect software updates or changes from the bank/processor company. We have been working with TD bank to pinpoint the problems that seem sporadic and not experienced by all stores. We are researching our credit card sales records to see if we can find points in time that correspond to the problems, which might give us insight into what the causes are.

*Point of Sale (POS) system update:* Our June 25 report stated that our prime contractor announced that a significant subcontractor on the project had left. In a phone conversation today with our IT Manager Linda Vincent, the prime contractor STG informed us that they have found a replacement company that is available right away. STG has worked with this subcontractor (Socius) before and is confident in their capabilities. Also, STG has recently partnered with retail applications company LS Retail and is suggesting that we use them as our retail interface. LS Nav (the product from LS Retail) does seem to offer features that the

previously proposed software did not and seems to be a good fit for our needs. We are considering the offer and researching any contractual implications before making a commitment. But, overall this seems to be positive news, even though the role out of the system will be later than initially planned.

Commissioner's Commentary: I will reach out to Senator Starr, Senator, Rodgers, and Representative Lefebvre to let them know of the pending closing of the Canaan store.

Sent from my iPad