

# WEEKLY REPORTS

Checklist  
3/14/2014

Elizabeth Miller/Aly Richards

- Agency of Commerce and Community Development – Lawrence Miller
- Health Care Assignment – Lawrence Miller
- Department of Labor – Annie Noonan
- Department of Financial Regulation – Susan Donegan
- Agency of Education – Rebecca Holcombe
- VT Commission on Lottery – Greg Smith

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- Boards and Commissions – Susan Spaulding (**no report this week**)
- Department of Liquor Control – Mike Hogan

**To: Governor Peter Shumlin**  
**From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development**  
**Date: March 14, 2014**  
**Re: Weekly Report**

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#### LEGISLATIVE ACTIVITY

- Lucy testified in Ways & Means about the **R & D Tax Credit**. Lucy is coordinating and working with Commissioner Peterson and others at Tax on the issue. The committee wants to put a 2 million dollar cap on the credit which would represent a cut from past activity. They are also including a disclosure requirement on the credit. The cap arose out of changes at the IRS that the committee erroneously believes could increase the potential exposure for the state to the tune of 2 million or more. Mary has brought Jeb into the discussion and has had conversations with Steve Klein and Sara Teachout.
- Fred Kenney testified in Ways and Means on technical changes to the **TIF** program. Fred has been working with the Auditor on language all can support. The Committee will be offering the changes in a stand alone committee bill. They voted the bill unanimously.
- **Made in Vermont:** Nancy received draft language from Senator Campbell that would make ACCD the sole agency responsible for rulemaking relating to promotion of Vermont products and use of the Vermont brand in product marketing, with the Attorney General's role solely an enforcement one. ACCD does not want to go "on the record" supporting this language, though we all agree we are supportive. Lucy suggested that Nancy have a quick verbal conversation with Sen. Campbell and Rebecca Ramos indicating our support but that we can't be drawn into a debate with the AG's office. Nancy should have an opportunity late this week to pass along that message.
- **H.823**
  - Vote closed in House Natural Resources and Energy Committee (9-2-0). Herbert and Canfield voting no.
  - Noelle along with Chris Cochran, met with Rep. Ellis who is reporting the bill on the floor. NRB's Ron Shems and Melanie Kehne also provided clarifying information to assist in her 'getting ready for ANY questions.'
  - Noelle worked with Jen, Chris and NRB's Ron Shems and Lou Borie in responding to JFO's fiscal note for the bill. Sent our edits and spoke with Daniel to discuss as well.
- **S.220:** Noelle listened to Sen. Mullin's overview in Senate Natural Resources. He publically thanked Lucy, Louis, Nancy, Lisa, Megan and I on working with the Committee on the edits. Sen. Snelling asked me how we felt about the Industrial Park changes and I said that Ron had been point and worked with sister Agencies on language and we all supported. They asked about the money and I said we had none, but understood the intent.
- **S.168 Condemnation:** Worked with Legislative Council and VLCT on disaster-related condemnation language. The Senate Government Operations Committee unanimously approved S.168, the municipal tool box bill, including the condemnation provision and a Class 4 roads clarification also supported by the Department.

- **S.221 Tax Expenditures:** A bill establishing the statutory purposes of the state's tax expenditures was voted out of the Senate Finance Committee. With Noelle, Dale Azaria, Arthur Hamlin and Chris Cochran language was provided to strengthen the intent provisions related to the charitable housing investment, mobile home park sale and downtown tax credits.
- **H.833 Limited Equity Homes:** The Ways and Means Committee agreed unanimously to add H.833 to the Miscellaneous Tax Bill. Supported by the Department, the language requires that an adjustment must be made (no less than 30%) in the assessed value of limited equity homes.

#### **LUCY LERICHE, DEPUTY SECRETARY**

- **IBM:** Looking for guidance in next steps around IBM. Frank Cioffi is pressing for an answer to any action we would like to take in the matter. Please advise.
- **GMCR** has submitted their VEGI application.
- Lucy will be meeting with Chris Brooks from Vermont Wood Pellets, and Chris Recchia and Ron Shems about an MOU VWP has signed to help open a new mill to be located in West Windsor. This is exciting news because they have been seriously looking at New York. We have a few hurdles to clear; most notably, they will need everything in place to be operational by October 2014. We will do what we can to make this project happen here in Vermont.

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

- **Vermont Public Television:** The Office of Creative Economy and Vermont Public Television are working toward a joint agreement where we'll produce, promote and help distribute a quarterly profile of the innovative people, places and products of Vermont.

To: Governor Peter Shumlin  
From: Annie Noonan, VDOL Commissioner  
Re: Weekly Report, weeks ending March 7 and 13, 2014

Newsworthy but not available for public comment until Monday at 10 AM, Vermont's UI rate will again drop. I don't know where that will place Vermont in national rankings, and we won't know until Monday.

VDOL is working closely with Plasan on Rapid Response. We are also doing IBM Rapid Response sessions next week on-site and have off-site sessions planned for early April. We are working well with their HR staff. Our VDOL regional manager in NEK is working with Kennametal, and I am working with the union reps from USW. No immediate news, but probable that the employer will move the work to MA or NC. Autumn Harp just laid off about 17 temporary workers, but say they will rehire in June. I met with the owners of a new hotel in Manchester VT, (they were in the statehouse and Senator Sears brought them over to introduce them to me). They will hire 100 workers, and I will be referring coordinating efforts for training money between ACCD and Labor, and they want Labor to handle their recruitment. VDOL is meeting again with MA and NH DOLs for discussion on VY. VDOL regional managers (Wendy Morse and Morgan Sailer Carlisle) have expressed significant concerns to both Rose Lucenti and me about the manner in which the resources that have been provided to BDIC are being used, specifically that the money is duplicating existing services, infrastructure, etc. They have shared this perspective with the other partners, but apparently have not been persuasive enough.

#### Legislative Update:

Worker Comp bill -- passed out of House Commerce, taken into House HS for "look" because we have proposed some requirements for compliance with Vermont medical guidelines on opiate prescriptions. Rep. Pugh has had to be tutored on why it is necessary to include it in our WC rules (because we have injured workers -- some retired or disabled -- receiving medical care in many other states, whose doctors are not required to pay attention to any Vermont medical guidelines). Vt Med Society provided some language which Commerce and VDOL find acceptable.

UI - voted out of House Commerce today unanimously. No change in one-week waiting period, but a change in Disregarded Earnings. Most of the bill contains changes requested by VDOL including self-employment assistance, STC changes, etc.

WARN - should be voted out any minute now from House Commerce, probably with unanimous support. Employers with 50 or more workers, who layoff 50 or more, will have to comply with the new state warn provisions. It has a bifurcated effective date- asking VDOL to do an education portion first, and then move to enforcement.

Workforce Development Bill - moving forward

Prevailing Wage - 6-2 out of General. Obie testified today in Institutions and was great. I was in there yesterday, with Rep Browning screeching at me.

Appropriations: Interesting email from HA, with questions about "duplication of workforce education and training" programs. They have not finalized our budget. New issue has arisen due to a change in Reach Up, and while we may receive the same money from ESD, it appears that we will not be given a RU contract, but offered an contract to do work search verification for able-bodied recipients of food stamps. I think our staff will be unhappy, but we are trying to work through details that will make the work reasonable and results achievable. VDOL and ESD have not come to an agreement yet, but we are meeting again on monday. I don't know how this will roll out to the affected employees, the union, etc.

I was written in to a bill to serve on a study committee to examine VLRB vs Arbitration for state employees. I asked Senator Baruth to take me off the committee and recommended Bob Paolini from the Vermont Bar Association, which they have apparently done.

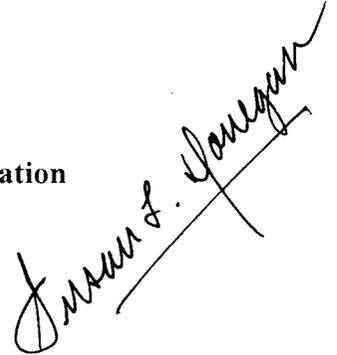
Anne M. Noonan  
Commissioner, Vermont Department of Labor  
Please excuse typographical errors - Sent from my iPad

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

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: March 14, 2014**  
**Re: Weekly Report**



**Banking Division:**

The issue concerning John Deere Co.'s license lender annual filing requirement is ongoing. DFR's General Counsel has been working with folks from John Deere including their local representative, John Holler. We have not come to an agreement yet with the company as to how it will submit required information about their officers but we continue to discuss options and hope to resolve the matter in the near future. Commissioner Susan Donegan met yesterday with John Deere's public affairs manager, Beverly Flores, at the State House to further discuss the matter and a follow-up meeting took place between her and DFR's General Counsel. The Commissioner is confident that a resolution will be reached that will meet Vermont's statutory requirement and accommodate John Deere's unique corporate structure.

**Insurance Division:**

DFR continues to tackle the difficult task of finding the best approach for responding to significant rate increase requests from insurance companies relating to long-term care policies; particularly older policies and closed blocks. The problem is an historic one based upon faulty formulae used by the industry when they first started to write these policies in the 1980s. Insurers offered artificially low rates as a competitive edge and miscalculated the "lapse rate" (prediction of how many people would give up their policies). Over the decades, rising medical costs and an increase in longevity have added to the pressures on claims payment. The insurers find themselves in a bit of a pickle now – inadequate rates, higher costs, longer lifespans and more policyholders than predicted. Some insurers have become insolvent. The remaining market has been asking states for huge increases. Three years ago, Commissioner Stephen Kimbell and Commissioner Donegan, when she was deputy of the Insurance Division, rejected all requests for rate increases (some were 300 percent) and Kimbell told the insurers that he would not approve any increases for the older policies. We now have a series of rate filings before us and the Insurance Division is in the process of conducting a full review as well as researching what other



states are considering. This is a national problem. The Commissioner still feels strongly that original rate woes of the insurers should not be put on the backs of policyholders but she also understands the potential solvency issues.

Here are the requests pending:

<u>Company</u>	<u>Average Rate Increase Requested</u>	<u>Number of VT Insureds Affected</u>
New York Life	40%	280
State Farm	40%	132
Genworth	60-130%	2,415
Continental Casualty	80%	80

No decisions have been made on any of these rate requests but the Commissioner wanted to give you a sense of the issues facing DFR. She will keep you informed before the process concludes.



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CONFIDENTIAL AND PRIVILEGED  
**MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: March 14, 2014

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This has definitely been a week in front of the fire hose.

**Legislative Issues/Contacts:**

The House Education Committee voted out the **Miscellaneous Education Bill** this morning. They briefly discussed Mill Moore of Vermont Independent Schools Association's proposal to allow students at religious schools to receive dual enrollment, and Donna Russo Savage advised them that this is a bigger constitutional issue, and is not as simple and would require further study and testimony. Therefore they did not include that language. They also did not include anything related to privatization, in anticipation of S.91 coming over from the senate.

This bill proposes to make miscellaneous amendments and technical corrections to education law, including to statutes relating to education quality standards; the residency of a child awaiting adoption in Vermont; career technical education; tuition paid by students in graduate and online programs; and educational support teams. It also repeals legislation that is no longer in effect or is addressed in other sections.

House Education continues to discuss and take testimony on governance, and we anticipate they will put forth a plan with a financial study and a design committee.

Also, S.91, the moratorium on privatization of public schools, passed out of Senate Education this morning.

House Ways and Means is working on and took testimony today on a Property Tax Rate bill. I am testifying on this this afternoon.

S.175, regarding residency of students who move during the school year, is expected to pass Senate Education this afternoon. As currently written we do support this bill.

This week, I spoke to the following committees:/legislators:

**House Education:** The committee is conflicted around issues of choice. They had expressed frustration that we had not given more. I went over to highlight what we had given them, and to ask them to prioritize, as we literally do not have the capacity to work miracles, especially in the midst of a move.

**Senate Education:** I asked Senate Education to please let the conversations we were convening between the Standards Board and the VEA play out before they just pulled the plug on accountability through licensing. I think we got a stay of execution at least until the end of the month. I will continue to work with the Standards Board to move to some better resolution.

**House Corrections and Institutions:** This was an eye opener. I was asked to explain my understanding of the relationship between the Community High School of Vermont and the AOE. This should be straightforward, as it is all laid out in statute. For example, we oversee licensure of their administrator, and we are supposed to monitor their use of federal monies. However, for reasons I do not understand, Community High School of Vermont (CHSVT) has not been required to take state tests, and has not been monitored consistently around special education and Title 1 monies. Confidentially, their deputy head has asked the AOE for a review, suggesting he thinks there are problems. When we met earlier in the month, I told them they would need to administer state tests to their students. A reality is that if they don't, it jeopardizes their access to federal funds as well as federal audits and monitoring of the AOE.

However, it became clear that the intent of the committee was to make clear their view that I should be bending over backwards to be flexible with CHSVT and that they should not have to take the tests. A reality is that if the school refuses to do this, it jeopardizes the administrator's license and the school's federal funds. We will hear more on this; the committee feels confident the school is exceptional and deserves exceptional treatment. I have no illusions about what standardized tests can and can't tell us, but I also have concerns about a school with no external audit or measure of



performance, and not just because this jeopardizes our compliance with federal rules and regulations.

This week, I also spoke with the following legislators:

**Ann Manwaring:** She is very interested in Results Based Accountability and wanted to speak with me about how we will do a better job of measuring the return on the investment of our collective tax dollars, measured in learning outcomes.

**Peter Peltz and Joey Donovan:** I met with them about two specific issues: 1) potential policy language around teacher contracts and 2) potential language around school choice. I signaled that we were not supportive of moratoriums on private schools, and shared some of the work we are trying to do around a more rigorous approval process that would head off some of the North Bennington problems.

**David Sharpe** asked us to present a proposal for how House Ways and Means could use some of the \$11 million it has to reward districts that reduce staffing by, for example, merging grades. (This may be an alternative strategy to the House Education Committee/Governance work). His logic was to offer a financial reward to districts that do the “right thing.” The problem with this logic is that effectively, this would be a one time reward of some sum, say \$20,000, to incentivize a board to save approximately \$53,000 in current dollars for every year moving forward. If they are not motivated by continuing savings associated with one less position, we are not sure why a one time grant of substantially less would make a difference.

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

Next Wednesday I will be a guest on [The Vermont Conversation](#), a weekly feature news show on WDEV Radio. I will talk about my vision for education in Vermont and discuss some of the challenges that schools and students currently face.

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

We met with **AHS (including Doug Racine and Monica Hutt)** and spoke about some possible areas for collaboration. We are going to try and meet on an ongoing basis.



I met with **Hugh Osborn and Valerie Stuart** about Hugh's 21<sup>st</sup> century pilot transformation project. He would like us to use his model statewide. In a local control state, that is not really feasible, but we will look into possible options for collaboration by them with school districts.

We are meeting tomorrow with **NEASC and Tom Lovett** of the St. Johnsbury Academy to discuss their accreditation and possible add-ons that might serve in place of other required reviews (e.g. monitoring around CTE monies).

I will be at CCSSO this weekend through Tuesday, and at NESSC at the end of next week.

### **Evolving Issues:**

#### ***Opportunity to Model a Discussion on School Governance***

Representative Toll reached out to see if I would facilitate an SU-wide forum in Danville around the future of their school. They may not realize it, but many of their challenges are related to the very issues that are driving the governance conversation. This school and district has multiple layers of dysfunction, however, this potentially offers a unique opportunity to model the kinds of conversations these small towns need to be having about their hopes for their children and their schools, and how they could collaborate to achieve them. I have reached out to VSA and VSBA to also see what role they could play.

#### ***Positions***

I met with several people from Human Resources today, and mapped out a strategy on positions. I would like to move forward on the following:

1. (New) An exempt position that they want to call "**principal assistant to the secretary**" or a deputy. This would have to be the business systems/results based accountability/analytics person. Whatever they call it, it will have to be seated in finance and working with Bill. It is probably better to call it a principal assistant. This could be paid out of the Medicaid money in our budget.
2. (New) A **special education position** that could be the Act 117 special projects coordinator and help us get in front of some of the current challenges around special education and special education funding. This could be paid for out of IDEA and falls under the following language:



Act 152, 2000 Session,

*Sec 156(c) Of the above appropriation, \$876,000.00 in federal funds shall be utilized by the department of education for a special education cost containment initiative.*

*Notwithstanding any provisions to the contrary, expenditures made from the \$876,000.00 in federal funds for this initiative shall be counted as part of the state's 60 percent share of funding under 16 V.S.A. § 2967. Fifteen permanent positions are authorized for staffing of this initiative, including two exempt positions and 13 permanent classified positions. The department shall report each January 15 to the house and senate appropriations and education committees, the house ways and means committee and the senate finance committee on the goals, benchmarks and achievements of this initiative, along with future funding requirements.*

3. (Repurposed) A person to take the lead on **teacher quality and climate**, and assist with analysis and calibration related to the Balanced Accountability model. We could repurpose the Staff Attorney for this position.

#### ***John Fischer to CCSSO Career Readiness Task Force***

John Fischer was invited to join the CCSSO Career Readiness Task Force. This invitation reflects recognition of the strong voice John has had nationally around the development of policies and programs that better prepare high school students for post-secondary career opportunities. In addition, the expertise he developed working on Act 77 and CTE issues in Vermont will be a resource to the task force. As a member of the team, John will help review best practices from around the country and the world related to:

- Innovative high school designs that emphasize career readiness
- Approaches to high school curricula that emphasize career pathways while aligning to rigorous academic standards
- Innovations in Career and Technical Education
- Partnerships between high schools and Institutions of Higher Education
- Workforce preparation and credentialing programs
- Role of standards, assessment, and accountability systems in encouraging preparation for college and careers

The work of the task force will lead to recommendations for both state and federal policy that will dramatically improve career pathways for young people and strengthen their career readiness.

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Rebecca



**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Mar 14, 2014**  
**Re: Weekly Report**

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

n/a

**Legislative Issues/Contacts:**

H575 was approved by the House H, G & MA and likely by Ways & Means. This restricts private business owners with 1<sup>st</sup> and/or 3<sup>rd</sup> class liq licenses from becoming lottery agents. The lottery's goal of adding vending machines, for which bar owners have already placed orders, is in jeopardy. I suspect it will be a challenge to defeat a bill sponsored by Rep Ancel but I am trying, and would appreciate whatever guidance and support you can offer. My gaming vendor has hired Andrew McLean to assist in stopping this bill. If it passes we will lose the opportunity to expand our agent base, and the chance to compete for some of the break open ticket revenue that we know exists. As for the level of bar owner interest, we talked with approx 45 owners last Fall – 2/3's were interested and 50% placed orders with us. We want to do a test with 25 machines now, estimating approx \$1M in annual rev, and add more if received well. The Fraternal Orgs are not restricted but are much less interested in the machines than private businesses. From what I have learned I believe the lobbyist for Elks got this whole thing started last fall.

**Press Issues/Releases/Contacts:**

n/a

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

n/a

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**Summary of Key Agency Department Activity:**

Tri-State meeting today (first since Oct due to weather). VLC mtg next week at which I will ask for their approval to order bar vending machines assuming H575 is defeated. We are making contacts with Education to explore more ways to promote Lottery with Education.

**Executive Director's Commentary:**

Any help or guidance that can be provided to defeat H 575 and H 631 would be greatly appreciated. This is new to me and I am up against some well-placed opponents (Rep Ancel and Rep Brennan).

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Brian R. Searles**  
**DATE: Friday, March 14, 2014**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR STAFF AND GOVERNOR**

**Storm Update**

The cleanup continues today after crews got some sleep last night. There was considerable icing due to a quick freeze in spots due to a combination of wind and below zero temperature readings overnight. With the sun this morning and a warming trend this afternoon the salt that was applied last night and today will begin to work on the icing conditions, interstate ramps, and secondary roads.

The storm effort was a success, in our view, but required some 16-hour shifts by our personnel. The fleet held up reasonably well with some minor mechanical problems reported but two big problems were related to cars rear-ending trucks on I-89 Wednesday night and Thursday morning. No injuries were reported and, in general, the public also responded well to this storm by keeping speeds down and not crowding the plows. No roads were closed due to snowfall and/or drifting but there were times when some Champlain Valley roads (2, 7, 125 etc.) were down to one lane for a short time due to drifting. The public response on social media and more traditional modes has been overwhelmingly positive and the press coverage was terrific.

During this storm we picked up 973 new “likes” on Facebook, for a total of 7,313 for our page this year. This is more than our entire first year and brings our total reach to 39,973. The Governor’s visit to Middlesex and message over the radio was very well received in the field.

**Highway Trust Fund**

CONEG reports that according to a high ranking USDOT official the HTF is in worse shape than we have believed up to this point. We had been operating under the assumption that we had until May before we started pulling projects off the list to advertise but now it appears that we might have to do it a little earlier. The problem is that the delay of federal reimbursements for projects might start as soon as July rather

than the fall. A balance of \$4 billion for highways and \$1 billion for transit is required at a minimum and the fund will be below those minimums in July and August respectively.

I met with Phil Scott yesterday on this issue as the Lt. Governors Association wants to advocate for a solution and he is part of a group working on a resolution for an upcoming meeting. The only three solutions that have been suggested include the President's Corporate Tax Reform proposal which yields the \$150 billion needed to fund the successor to MAP-21, a 15 cent federal gas tax increase which also yields \$150 billion and a general fund transfer to shore up the HTF, at some level much less than yield from the first two options. I suspect a GF transfer is coming soon that will keep the fund above the minimums for this construction season. If not, northern states with short construction seasons will be in big trouble this summer.

### **Other Congressional News**

Peter Welch is doing a couple of transportation roundtables on the reauthorization of the federal transportation bill (MAP-21), including the HTF issue. The first was held at UVM and Sue Minter and Planning Director Joe Segale participated. The second is next week and I will attend.

Deputy Minter will also go to DC on the 26<sup>th</sup> to testify before the U.S. Senate EPW Committee. There will be a panel of witnesses and Sen. Sanders got to fill one spot. In discussions with his office we decided that a good area of emphasis would be the resilience of infrastructure due to the weather-related emergencies of the last three years and the importance of the FHWA Emergency Relief fund. Sue's experience as Irene Recovery Officer led us to believe that she would be the best choice, and since I've testified before in that committee it would be a good experience for her. She will also address the reliance of small states on federal funds.

### **CCTA Strike on Monday**

We are very concerned about the looming strike at CCTA and its effect on passengers who rely on the service to live their daily lives. CCTA ridership, along with transit ridership generally, has been increasingly steadily in recent years and last year numbered 2,456,450 trips.

Although CCTA has a direct relationship with the Federal Transit Administration for that part of their funding, we flex a combination of Congestion Mitigation and Air Quality (CMAQ) funds, Surface Transportation Program (STP) funds and regular FHWA funds to the tune of more than \$2.6 million. In addition, we provide State Transportation Funds to match federal funds of another \$3 million. Clearly we have a huge stake in this but have to be careful about getting between CCTA management and the Teamsters and have no plans to do that.

Mayor Weinberger has taken a position of supporting Binding Arbitration. There was a fact-finding report which was sweetened by management and introduced as the last management offer but this was rejected by the union.

It is likely that the Administration will be asked for comment by the press on this and I would suggest that we simply express our concern for the people who use this service to get to their jobs, appointments, etc., and not express an opinion about the split shifts or disciplinary protocols which appear to be at the root of this potential strike.

**Question:** Should we wait to be asked or issue a statement? We do have the administrative responsibility for statewide Public Transit services and CCTA moves half the riders in the state.

### **NOTES FOR STAFF**

#### **Vermont Criminal Justice Training Council**

At the quarterly meeting of the Vermont Criminal Justice Training Council held this week, DMV Director of Enforcement and Education, Glen Button, was elected as the Chair of the Council. Glen replaces Rutland County Sheriff Stephan Benard.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** March 14, 2014

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**Vermont Department of Health (VDH)**

**Valley Vista Concern:**

Valley Vista is reporting a significant decrease in their client census that will result in a fiscal crisis for them. They are concerned about meeting their payroll for next week and have asked VDH to advance their April payment. They are also concerned that it is taking longer for Medicaid patients to get enrolled through DVHA and this is resulting in a time lag for payment. They stated that they may have to contact the Governor's Office or legislators for assistance. VDH's Business Office is reviewing their request and we have promised to let them know what we can do by Friday.

**Vermont Tobacco Control Program Mails 71,000 Medicaid Beneficiaries:**

Using the Vermont Medicaid Beneficiary list, the VDH mailed 71,000 Vermonters, ages 18 to 65, information on the many free tobacco cessation resources available. The mailing included a letter from "Rose and Sarah," the VT Quit Partners featured in our current ad campaign. The response to date is unprecedented. In the 3+ weeks since the mailing, we have received 900+ Quit Tool order forms, more than double the number received in all of 2013. These results indicate the interest in quitting tobacco among Medicaid beneficiaries and a successful collaboration and mailing.

**Department of Mental Health (DMH)**

**Green Mountain Psychiatric Care Center (GMPCC):**

The Centers for Medicare and Medicaid Services (CMS) have accepted GMPCC's Plan of Corrections (January 29<sup>th</sup> and February 28<sup>th</sup>) related to site visits for certification. We are awaiting certification soon.

**Meeting with Senator Diane Snelling:**

Commissioner Dupre, Legal Counsel Dena Monahan and Medical Director Dr. Jaskanwar Batra met with Senator Snelling on Wednesday morning to review the Mental Health System of Care. The DMH will continue these weekly meetings and its work with Senator Snelling on educating the Legislature about the new system and the different levels of care that are available for those persons with a mental illness.

Next Wednesday, DMH Chief Financial Officer Heidi Hall will join Commissioner Dupre, Dena Monahan and Dr. Batra to review the FY-15 budget and how it relates to the System of Care. Senator Snelling is DMH's contact with Senate Appropriations.

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

### DAIL joins press conference launching shared savings programs:

Commissioner Wehry joined you and others involved in health reform at a press conference on Wednesday to launch the Medicaid and Commercial ACOs. The Commissioner was struck by the omission of any reference to the social determinants of health and has recommended to Green Mountain Care Board Chair Alfred Gobeille that this oversight be addressed. A seeming absence of awareness of the key role of non-medical factors in a person's life is the key worry of DAIL's constituents in the aging and disability communities; they are becoming increasingly vocal. The Commissioner was also struck by the need for simpler messaging and will recommend to Anya Wallack that the CORE Health Care Reform team try to assist in this regard.

### H.555, the traumatic brain injury bill, in House Human Services yesterday:

This bill, which sets up a complicated triage system for persons with traumatic brain injury found incompetent to stand trial and assigns a public safety responsibility to DAIL, was amended yesterday to expand access to treatment that doesn't currently exist. It is headed to House Appropriations and Commissioner Wehry is meeting with Chair Martha Heath and Rep. Manwaring today to make sure the fiscal implications of this bill are well understood. We will urge Appropriations to complete the necessary research into the alleged problem before deciding this is the solution. In our view, this bill is well-intentioned but remains misguided.

### No movement on troubling cases under investigation in Developmental Services:

G.R., the man with a developmental disability who stabbed his home provider in what the press called a *dispute over doughnuts*, remains incarcerated pending development of an appropriate plan. His former providers no longer believe they can serve him without almost a doubling of dollars (\$185K to >300K); having begun our review of the circumstances leading to his, we are inclined to think they are ill-suited to serve him at any price. G.R. was found competent to stand trial for a similar crime last April and we anticipate he will be found competent again. We believe jail is an appropriate place for him at present but have asked the DOC social worker to address guardian's fears he will be "picked on."

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

### Inmates in the Custody of DMH

As of today, there are six patients in DOC facilities under court order to be placed into DMH Custody and removed from a correctional facility. The DOC is working with AHS to gain placement ASAP.

### DOC Population Report:

The Department's incarcerated population averaged 2,151 for the previous week. The incarcerated male population averaged 1,982 with 379 being presentenced inmates. The female population averaged 169 with 48 being presentenced inmates.

Because of the gradual increase in female inmates, the Department has plans in place should the population outgrow the Chittenden facility. This plan includes using a unit at the Northwest

State Correctional Facility in St Albans. Before this plan is put in place, notifications will be made.

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

#### **Crisis Fuel Closing:**

We expect to deplete our Crisis Fuel funds on the first day of spring, March 20<sup>th</sup>. We made it to the first day of spring last year, but in the past we attempted to fund support through April 1<sup>st</sup>. This year we will have spent \$3 million on Crisis Fuel, including the \$500,000 spent on Special Warmth, compared to \$3.6 million last year.

#### **Family Supportive Housing RFP Process:**

Family Supportive Housing (FSH) is a pilot demonstration that helps homeless families move into permanent, affordable housing through intensive case management, service coordination, and financial empowerment. Launched in July of 2013 by DCF's Office of Economic Opportunity, FSH has disbursed \$390,000 to three grantees: Committee on Temporary Shelter/Howard Center (Burlington District), Rutland County Housing Coalition (Rutland District), and Winston Prouty Center for Child Development (Brattleboro District).

DCF plans to release an RFP to two districts, and will fund one additional FSH pilot, subject to FY2015 budget appropriations. The two districts, St. Johnsbury and Hartford, were identified based on the average Family Services caseload size, number of families receiving emergency housing, and number of children living in shelters. The unsuccessful applicant will receive technical assistance and support to strengthen the application for future funding cycles.

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

#### **Vermont Health Connect (VHC) Update:**

- March 10<sup>th</sup> and 11<sup>th</sup> were the busiest days for both the VHC portal and the informational website since December 23<sup>rd</sup>.
- On March 11<sup>th</sup> and 12<sup>th</sup>, "Act Now" postcards serving as a final reminder of the March 15<sup>th</sup> deadline arrived in the mailboxes of 6,000 households across the state with CHAP/VHAP members who still needed to confirm a plan. These postcards followed notices mailed the previous week with the same message.
- Navigators are booked solid with one-on-one appointments, while also holding 50 assistance events across the state.
- Vermont Health Connect and HAEU staff are joining Navigators at three of the larger events – in Waitsfield (3/13), Hyde Park (3/15), White River Junction (3/15) – which were also promoted to all Catamount Health Premium Assistance (CHAP)/Vermont Health Access Plan (VHAP) members in the surrounding counties via postcard (following the precedent set in other parts of the state in previous weeks).
- Ads are running online as well as on TV and radio, including radio reads for in-person assistance events.
- Email reminders are being sent to all Vermonters who started an application but have yet to confirm a plan.

Brattleboro Retreat (BR) Update:

After follow up and recap from the February 27<sup>th</sup> meeting, BR expressed disagreement in next steps or actions for determining clinical appropriateness of inpatient admissions for Opioid Detoxification. DVHA followed up via email to clarify any confusion on next steps for determining medical appropriateness of inpatient admissions, and affirmed that clinical standards/evidenced based guidelines would be utilized from national sources, while allowing for case review with the Chief Medical Officer. DVHA established a meeting that would involve BR and other providers to discuss a potential triage process for beneficiaries who are waiting for treatment, and a potential pre-certification process for admissions.

340B Compliance Issue with Planned Parenthood of Northern New England (PPNNE):

This week, DVHA conducted a phone conference with PPNNE. The purpose of the call was to provide PPNNE with two alternatives to come into compliance. PPNNE has not been in compliance with a shared savings program in the 340B Drug Pricing Program for over 3 years. PPNNE owes Vermont Medicaid \$794,000.

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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:** March 14, 2014

**Secretary's Top Issues**

Over the past 5 years the number of **dairy processing plants** has increased 59% but the number of plant inspectors only increased by 33%. Urgent need for a fourth plant inspector – requested in FY 15 but declined. May need to reassign a current employee to cover duties but will make constituents unhappy due to a loss of service.

VAAFM received \$168,500 in requests for the **Local Food Market Development** grant program

- State legislature appropriates \$40,000 (annually since 2011) to support enhancement of local producer access or expansion to institutional market outlets in Vermont. VAAFM has \$45,000 available to award in 2015.

Agricultural Policy Administrator Chelsea Bardot Lewis co-chaired the **2<sup>nd</sup> Annual New England Meat Conference**, held March 7-8 in Concord, NH.

- The conference drew nearly 400 meat producers, processors, butchers, retailers, distributors and chefs, with 38 workshops, 70 speakers from across the country (and one from Germany), and 40 exhibitors in the region's only meat industry trade show.

**Water Quality** - Staff continue to work with partner organizations to develop a 3-5 year/long-term strategy for Nutrient Management Plan (NMP) and farm agronomic practices (FAP). The discussions are with partners to evaluate how the NMP and FAP programs can be coordinated with NRCS programs to assist farms financially as well as in implementing NMPs and cropland practices.

**Dairy Farms** - Staff are processing applications and information for several Medium Farm Operations (dairy) that are increasing in size and we are working to transition the farms into the LFO program. Permits are being drafted for these farms and this will be a major focus of the team for the coming months.

**Meat Safety** Compliance Enforcement Specialist Mike Mitchell answered VT Attorney General's office inquiry in regards to requirements and statutes for door to door meat sales; issued (2) two Notice of Warning letters for the production, (in their home kitchen) and sales of uninspected, misbranded meat products that were being offered for resale at a prominent health food store; received inquiries about inspection of poultry slaughter and processing operation; and received consumer complaints in regards to a door to door meat sale.

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**TO:** Gov. Peter Shumlin  
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**RE:** Weekly Memo  
**DATE:** March 14, 2014

**Status of Governor's Priorities:**

**Legislative Activities and Issues:**

**Food Safety Modernization Act** and the VT Congressional Delegation:

- Assistant State Veterinarian attended a call with Deputy Secretary Bothfeld, Secretary Ross and members of the VT congressional delegation to discuss the Pasteurized Milk Ordinance and the Preventive Controls Rule, the Animal Feed Rule, and the Intentional Adulteration Rule. Agency representatives on the call encouraged the delegation to push for the PMO to be considered an equivalent regulatory system to the Preventive Controls rules, encourage FDA to continue to exempt dairy farms from the Intentional Adulteration Rule, and communicate stakeholders concerns regarding the Animal Feed Rule. Dairy Section Chief was instrumental in providing information regarding the PMO and the Preventive Controls Rule.
- Assistant State Veterinarian worked with the Agency's internal food safety group to provide hearing questions to Jenny Nelson to provide pointed to Senator Sanders that could be posed to FDA during an upcoming committee hearing with FDA regarding the Food Safety Modernization Act.

Provided information to **Senate Agriculture Committee** on the Agency's budget. Slow process and will return next week. Main areas of concern: Working Lands Initiative increase in funding but with a decrease in 3 other General Fund programs – 2+2 program, Fair Stipends and Farm to Plate; Committee would like the Agency to spend more time on inspecting bee hives and has been supportive of the Bee Fee proposed but removed from the House version of the Fee Bill and administrative costs of the Working Lands Program.

**H. 447**

State Veterinarian, Dr. Kristin Haas, provided testimony to the Senate Committee on Agriculture on March 13th regarding a proposed Senate amendment to H.447, a bill that would more clearly define the performance of certain dental procedures on horses and companion animals as the practice of veterinary medicine. The proposed amendment states that barn owners or anyone who boards a horse for another individual who facilitates these procedures being performed by lay persons could be assessed an administrative penalty by the Agency of Agriculture. Dr. Haas testified in opposition to the amendment based on the following:

- There is already a mechanism in place for pursuing lay persons who practice veterinary medicine without a license – the Secretary of State's Office of Professional Regulations handles those complaints through the State Board of Veterinary Medicine.
- The amendment does not add any beneficial substance to the draft of H.447 that passed out of the House.
- Despite testifying in opposition to the proposed amendment, Dr. Haas testified in favor of H.447

## H.112, GE labeling in Senate Judiciary Committee – Tim Schmalz

Bill introduced to committee this morning Mike O’Grady read through (issues similar to those discussed in Senate Ag)

- Introduced the bill and the legal tests surrounding cases of commercial speech and 1st amendment issues
- Two parts of the bill - Labeling of GE containing foodstuffs, and Prohibition on use of the word ‘natural’ on GE containing foodstuffs
- Three levels of testing for regulation of commercial speech evaluated by Federal courts and commerce clause issues
  - Misleading speech (lowest threshold, speech cannot be misleading)
  - Zauderer test (applies to laws compelling speech)
  - Central-Hudson test (laws restricting speech)
- Discussion around the possibility (assurance) of litigation, whether the case was sufficiently ‘ripe’ for a suit (even if it is not in force), and the potential costs of litigation (minimum of 5 million dollars, without even addressing potential damage awards) Brief Discussion of Maine and CT laws, and their triggers, and whether VT should restore the trigger in our law .
- Committee will take up the bill again Thursday with a thorough read through from legislative counsel, who also provided a memo for the committee (available on the Senate Judiciary website).

Mike O’Grady read-through and committee discussion on the bill as submitted from Senate Ag.

- Commerce clause discussion, whether the bill will face challenges under commerce clause in Constitution (very likely)
- Outcome of challenge based on which test is applied by 2<sup>nd</sup> Circuit, and may be broken into 2 parts:
  - whether the requirement to label foods as ‘containing GMO’ or ‘may be produced in part using GMO’
  - AND the prohibition on use of the word ‘Natural’ on foods containing GMOs.
    - The second case may be more easily defended (addresses misleading speech rather than compelled labeling)
- Federal Pre-emption issues
  - FFDCA preemptions on meats, identity issues, state laws must mirror these rules (but there is no preemption on ‘natural’, until FDA takes up regulation, right now FDA only has guidance on ‘natural’).

Questions from committee (responses):

- Does FDA consider GMO in their new labelling rules? (no)
- Can VT go with a GMO-free labelling scheme (yes, but the producers will have to demonstrate their products are indeed GMO free through testing)
  - This is a **policy** matter – where does VT want the burden to lie, on GMO positive producers or GMO free producers?
- What about using the language ‘GMO-free sourcing’ or similar? (again, there has to be testing and verification in order to avoid misleading speech concern).
- Does the FDA (or other Federal Agency) have any objection to consumer right-to-know labeling (none known)
- When VT is sued (inevitable), is there a legitimate state interest, and is the science behind the GMO issue settled (the findings in H.112 state areas where a legitimate state interest exists - public health, environmental safety, consumer deception – but the science is still undecided. **Potential** effects **may** be seen as legitimate state interest. )

Discussion/thoughts

Committee supports the bill generally, and the consumer’s right to know, but uncomfortable with lawsuits and high costs

- Should VT restore trigger(s) and whether the law should include a trigger that would require a legal defense fund to be filled, through private contributions, not taxes, before going into effect. (Sears favors)
- Also, a population trigger (eg CT) is something they would like to discuss. (Sears appeared supportive of this model)
- Serious concerns from Benning and Sears around the costs of the inevitable lawsuit; questions whether VT would be compelled to defend a suit at all, or could AG office just decline to defend /admit the law is constitutionally flawed and walk away (eg Holder DOJ and State Marijuana laws).

**H. 448 Primary Agricultural Soils-** House Agriculture and Forestry Products, Stephanie Smith (monitoring)

The committee heard testimony from two Act 250 district commission chairs- Tim Taylor and Tom Little.

- Tom Little provided his development review experience under the existing law. (Examples were a South Burlington application and a Burlington application near the Burton factory)
- Mr. Little noted that the current law provides little flexibility in allowing for offsite mitigation in areas outside of designated growth centers, but there are instances where offsite mitigation might be the best way to preserve primary agricultural soils because of the character of the development around the project site.
- The new law gives a greater level of discretion to district commissions to allow for offsite mitigation or a combination of on and offsite without being overly prescriptive about the design of the project.
- The committee asked questions about what “efficient use of land” means in the proposed bill
- Rep Michelson believes that “efficient use of land” is a subjective standard and it does not provide enough direction to a developer to comply with the standard. She was particularly concerned about this language and wanted clarity.
- The committee wanted more information on the use of the offsite mitigation funds, and what was being done with onsite mitigated soils. Were these soils mapped and being farmed? Rep. Michelson suggested adding language in the bill to direct the mapping, tracking of use and marketing of onsite mitigated soils. Mr. Little commented that the purpose of the onsite mitigation also includes a long range perspective on the preservation of soils and not just the immediate use of those soils.
- Rep. Lawrence was concerned that the standards for mitigation outlined would provide different benefits to different parts of the state.

Seth Jensen from the Lamoille Regional Planning Commission representing Vermont Planners Association testified that

- VPA supports the change in the definition of primary agricultural soils.
- the removal of the language from the current 9(B) criterion that references the district commissions consideration of municipal and regional plans when determining whether on or off site mitigation is appropriate is problematic.
- Rep. Stevens commented that criterion 10 requires consideration of municipal and regional plans based on prior testimony. Mr. Jensen said that criterion 10 is directed at applicants; the reference in 9(B) is directed at both applicants and the district commission to seek compliance.

Stephanie Smith from the Agency of Agriculture Food & Markets testified that

- The definition of primary agricultural soils changed in the most recent draft. Draft 1.3 contained a version of the definition that stakeholders, the NRB and the VAAFAM had supported and the VAAFAM continues to support.
- The current language outlines that the important farmland soil units will not lose the presumption if for instance wetlands exist on the soils. There are instances where farmers are farming in class II wetlands and the definition of “wetland” in Title 10 excludes areas that grow food or crops in connection with farming activities.
- The committee asked the Agency's opinion on the latest draft specifically in relation to mitigation flexibility. The Agency recognizes the need for mitigation flexibility and understands the district commissions have difficulty applying "appropriate circumstances. The agency worked with the NRB on these issues and earlier drafts of this bill reflect this work. The agency supported draft 1.3 and testimony provided by Ron Shems on the 2/28/14. The Agency has not had time to digest this latest version of the bill.

The Committee went line by line over draft 3.1 with legislative counsel Hannah Smith.

- They received comments from the various interests groups (VNRC, Vermont Chamber of Commerce), and the Natural Resources Board and VAAFAM during the review about possible language to clarify sections or the proposed bill.
- Primarily giving “due consideration to the [Secretary’s] recommendation” within a couple of provisions. This was a “belt and suspenders” approach to addressing concerns that the Secretary of the VAAFAM’s recommendation was direction to the commission rather than a recommendation from the Agency.
- It was suggested that the bill include language that was struck addressing consideration of regional and municipal plan when the commission is making a determination about suitable mitigation. This was suggested the previous day by the Vermont Planners Association.
- Representative Lawrence asked what portions of the bill could all agree on? VAAFAM, NRB, VNRC, and the Chamber all supported on the definition of primary agricultural soils within the draft 3.1 of the bill and the mitigation ratios for designated downtowns (DD), neighborhood development areas associated with DD, Growth Centers, and New Town Centers that exist as of January 1, 2014. These mitigation ratios are currently in H. 823, which had passed the house.

- Kate McCarthy, VNRC does not support the bill in its entirety. (written comments can be found on the House Ag Website)
- Mike Zahner, Vermont Chamber of Commerce testified that it was important to provide mitigation flexibility and to allow development to occur in outside of state designated areas growth areas and in locally designated growth areas. The mitigation flexibility in the bill allows this to happen.
- The Agency testified that the goals of the bill were to provide mitigation flexibility, clarifying appropriate circumstances for the district commissions, and amending the definition of primary agricultural soils.

**H.586 Water Quality**- House Fish and Wildlife and Water Resources- Jim Leland

Jim Leland testified regarding the certification of custom manure applicators provisions of the bill, and explained how such a program would work,

- that it would be dependent on adequate resources to implement (primarily a position to manage this program as well as few others being created by the bill), and
- that of all the water quality issues we are facing this one would be a low priority.

Legislative Counsel Mike O'Grady reviewed the bill line by line with special attention to specifics related to provisions that affect Agriculture. A number of clarifying questions were asked of legislative counsel. Primarily they took notes. [I understand they will take this bill up next week as they have more time to address the bill due to an exemption from the need to make crossover].

**H. 869 VAAFMM Housekeeping Bill**- House Agriculture- Stephanie Smith

Jim Harrison for the Vermont Grocers Association testified that the small grocers appreciate the exemption that is currently in place

- Grocery store must obtain a variety of licenses and permits- and there are few exemptions for small stores.
- He compared small stores to farmers' markets and asked if they are exempt from this license requirement.

Henry Marckres testified on behalf of the VAAFMM

- The proposal is to address an administration issue. The licensing system is electronic/computerized system and the exemption process for small grocers is a paper based process that is not easily administered.; and
- the Agency want to make sure it provides service to the small grocers. Today the field agents that inspect pumps and scales are likely not reaching all the small grocers due to not knowing where they are.

**Press**

Henry Marckres, Chief, Consumer Protection, was interviewed by: Nora Doylesburg of the Valley News and Evan Popp of the Times Argus on the maple season.

Diane Bothfeld, Deputy Secretary for Dairy Policy was interviewed by VPR in regard to record setting milk prices.

**Significant Events/Meetings:**

- Over the past 5 years the number of dairy processing plants has increased 59% but the number of plant inspectors only increased by 33%. Urgent need for a fourth plant inspector to be hired soon
- State Veterinarian, Dr. Kristin Haas, attended the Mammal Scientific Advisory Group (SAG) meeting on March 12<sup>th</sup>. She represents Secretary Ross on the Endangered Species Committee, and participation in one or more of the SAGs is mandated in statute. Primary topics of discussion included the presence of Eastern Timber Wolves or hybrids in Vermont and an update on recovery of bat populations from White Nose Syndrome.
- A quarterly meeting of the FSCP Division was held this week, which provided an excellent opportunity to update field staff on the developments in the Montpelier office that impact all of them. Topics of overview included a legislative update, brief heads up about the new Agency merit policy, career ladder discussions, updates on the agency laboratory plans, and succession planning.
- Assistant State Veterinarian participated in a 50 State call hosted by FDA regarding the launching of the new Animal Feed Regulatory Program Standards which is designed to help state feed programs align with FSMA. The Standards and the Rule cover feed for both pets and livestock. Funding is available however a state must already be participating in a feed inspection contract with FDA to receive funding, which VT is not currently engaged in. Our state feed inspection program, along with many other state programs, is primarily a consumer protection program. These new Regulatory Program Standards, along with the Feed Rule itself, are geared towards HACCP type inspection. To meet the requirements set forth in the Rule and the Program Standards would require sweeping

changes, new statutory authority, funding, staffing increases, and other resources needed to run a feed inspection program. ARMS Division instrumental in providing the background for this information.

- The Animal Health Section attended a two hour training hosted by USDA Wildlife Services on feral swine, which have been increasing their range across the United States over the past 10 years, causing significant damage to the environment and farms while they rampage around. Vermont is one of the states not considered to have feral swine. Wildlife Services has received funding to implement a preventative program specific to VT and the meeting was designed to train Agency field personnel on feral swine identification, interaction, and protocols for sighting reports.
- The Animal Health Section attended a full day meeting hosted by USDA Veterinary Services that provided training on the upcoming National Animal Health Monitoring Services 2014 Dairy Survey taking place in Vermont. Agency staff will be working with USDA partners in Vermont and New Hampshire to visit farms to conduct a farm practices survey, take samples for livestock diseases, and enroll interested farms in a year-long calf study. Staff received additional training on sample collection and on-farm testing.
- Assistant State Veterinarian and Animal Health Program Coordinator met with a large animal veterinary clinic in Chittenden county to review Animal Disease Traceability Requirements and the new Vermont electronic Certificate of Veterinary Inspection. Assistant State Veterinarian met with a mixed animal clinic in the Warren area for a similar conversation. Both clinics have agreed to utilize the eCVI.
- Assistant State Veterinarian and Animal Health Administrative Assistant participated in a USDA Cooperative Agreement (CA) training webinar on performing traceability exercises for the upcoming Agreement period. Traceability exercises are a performance standard for the CA and involve tracing real animal movement between states.

### **Evolving Issues:**

- The Food Safety/Consumer Protection Division management group met this week to further define the proposed career ladder structure for the Dairy, Consumer Protection, Animal Health and Meat Inspection programs. The ongoing discussions have proven worthwhile, and the Division will have a proposal to present by the first of April that will help to inform Agency-wide discussions.
- Animal Health Section issued an NOV to a non-compliant cervid producer.
- Mike Mitchell, Meat Safety Compliance Enforcement Specialist, answered VT Attorney General's office inquiry in regards to requirements and statutes for door to door meat sales. Applicable documents compiled and forwarded to AAG Elliot Burg.
- Mike Mitchell issued (2) two Notice of Warning letters for the production, (in their home kitchen) and sales of uninspected, misbranded meat products that were being offered for resale at a prominent health food store.
- Mike Mitchell received two inquires about inspection of poultry slaughter and processing operation; one in Hinesburg, the other in Burke. Letters were sent with enclosed informational material on requirements for construction of and operating an inspected facility.
- Mike Mitchell received a consumer complaint in regards to a door to door meat sale. Salesperson was threatening and intimidating an elderly couple to purchase his meat products. They purchased \$400.00 worth. I informed them to contact AG's consumer complaint hotline.

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

### **Administration:**

Working with representatives of ANR on White House Climate Resiliency Committee to prepare ag and natural resource information.

### **Agricultural Development:**

VAAFM received \$168,500 in requests for the Local Food Market Development grant program

- State legislature appropriates \$40,000 (annually since 2011) to support enhancement of local producer access or expansion to institutional market outlets in Vermont. VAAFM has \$45,000 available to award in 2015.
- Application deadline for Local Food Market Development grant program was March 3, 2014
- VAAFM received proposals for developing Vermont's wholesale and institutional markets from 27 producers, food hubs and food-focused community groups.
- Total request was \$168,500 in grant funds with \$107,000 identified as leveraged project match.
- Request in proposals is 3.7 times the grant funds available in this program.
- Proposals will be reviewed in March and awarded to successful recipients in April.

Agricultural Policy Administrator Chelsea Bardot Lewis co-chaired the 2<sup>nd</sup> Annual New England Meat Conference, held March 7-8 in Concord, NH.

- The conference drew nearly 400 meat producers, processors, butchers, retailers, distributors and chefs, with 38 workshops, 70 speakers from across the country (and one from Germany), and 40 exhibitors in the region's only meat industry trade show.
- Friday evening's "Meat Ball" was a huge success, with a locally raised dinner, a keynote from Mike Satzow of North Country Smokehouse, and remarks by Congresswoman Ann McLane Kuster.
- Secretary Ross addressed the crowd at lunch on Friday, highlighting the importance of the Meat Industry to Vermont and New England.
- Three media outlets covered the event, including Seven Days:  
<http://www.sevendaysvt.com/vermont/eavesdropping-at-the-new-england-meat-conference/Content?oid=2332711>

**VHCB Board meeting** – two agricultural issues were discussed. Farm Viability Program receiving over \$300,000 to be provided as grants to dairy farmers who ship milk to the St. Albans Cooperative Creamery, Inc. from Commonwealth Yogurt. Grants will be targeted at infrastructure improvements. Option to Purchase at Ag Value – this requirement is now standard in all easements. Upper Valley Land Trust is requesting that VHCB act as the steward of this requirement on the farms that they hold traditional easements with due to lack of staffing capacity. VHB has agreed but has concerns regarding staff capacity.

[Vermont Clean Cities Coalition](#) is planning a workshop titled: "Cow Power: Turning Organic Waste into Vehicle Fuel for Vermont", scheduled for 4/23 at UVM. The governor is likely to be invited, if he has not already been. The Agency of Agriculture is working to influence the agenda to have a strong agricultural focus, to align with Vermont's specific conditions. The workshop organizers are also asking the Agency for funding.

The Secretary of the United States Department of Energy will be visiting Vermont on 5/16 to tour farm energy projects. Senator Sanders's office is hosting [Secretary Ernest Moniz](#), and the Agency of Agriculture is distilling possible site visits for consideration by staff in Senator Sanders's office.

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

### **Consumer Protection:**

- Henry Marckres, Chief, Consumer Protection, gave a presentation on maple syrup grading to the Agriculture Production class at Vermont Technical College on Tuesday evening. Three hours were spent on the new grading system and hands on grading and flavoring maple syrup.

### **Meat Inspection:**

- Preparations are under way for next week's on-site federal audit by USDA FSIS.
- Food Safety Specialists participated with federal inspectors in a repeat of Humane Handling training modules required by USDA FSIS Philadelphia District office as a refresher course.
- Food Safety Specialist trainee is attending 4 week Federal Inspection Methods Training course in Philadelphia. The training program will enable participation in the Co-operative Federal Cross-Utilization program providing inspection services to small plants under USDA inspection.
- All VT State Food Safety Specialists are participating in the annual Federal Security Awareness training for IT systems
- Spoke with a Pawlet resident regarding construction of a Mobile Red Meat Slaughter facility VT State Inspection
- Sharon Beef requested an additional weekly slaughter day to facilitate market expansion for sheep carcasses for the New England markets
- Wilmington Red Meat and Poultry Slaughter and Processing plant is steadily progressing towards completion. The Agency is waiting for submittal of written Humane Handling, Hazard Analysis Critical Control Point (HACCP) and Sanitary Standard Operating Procedures (SSOP) Plans for inauguration of State Inspection
- Program Chief presented an educational HACCP roundtable discussion at the New England Meat Conference held in Concord, New Hampshire
- Northfield and Randolph Center proposed State Inspected Poultry plants are progressing steadily and should be operational by this poultry season

- Adams' Turkey Farm in Westford VT indicated they will resume State Inspected operations the first week of April
- Met with Maple Wind Farm representatives concerning restart of operations and proposals for temporary facilities while new plant is under construction. Establishment hopes to restart under State Inspection by the end of may
- Small Plant inspection packages sent to several entrepreneurs looking into different facets of the meat industry
- Spoke with representatives of the Northeast Kingdom Processing LLC concerning start-up of the Lyndonville slaughter and processing facility . Establishment will offer full service slaughter and processing, including smoking and curing under Federal Inspection. There have been conversations with federal officials concerning possible cross-utilization of State Food safety Specialist.
- Sent documents to the State of Connecticut outlining the VT States "at Least Equal to" Status with the Federal Government enabling the marketing of VT State Inspected Exotic Species within that state.

### **Animal Health:**

- FDA case to Carrie Roberts Montpelier office
- ADT supplies to dealer
- Completed Pet Shop inspections in Barre
- Met with livestock dealers in Franklin County and received a status update on the Empire Livestock Auction Barn which is slated to be up and running later this summer. An a
- Began contacting farms to confirm participation in the National Animal Health Monitoring Services Dairy Study
- Initiate a tissue residue inspection of a farm in the Ferrisburg Area
- Assisted Addison County Humane Society with a complaint at the Addison County Commission Sales in Middlebury VT

### **Dairy:**

- The dairy section now is inspecting 102 dairy plants
- 9 more plants that are in start-up mode and should be on soon
- 3 more potential plants called this week
- Most of the new plants are small operations that need a lot of technical assistance to be successful and to produce safe, wholesome products
- Non-Grade A plants have had their inspection intervals cut in half
- Eric Perkins and Steven Nicholson are doing plants on top of their farm inspection duties
- We are quickly getting to place where we will have to stop working with new start-ups as we need to give priority to assuring that the plants that are operating are doing so safely.

### **Agricultural Resource Management:**

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

- Staff inspected two MFOs in Orleans County. The inspections were part of regular ongoing joint inspections with ANR's water quality/CAFO coordinator.
- Staff are continuing to work with partner organizations to develop a 3-5 year/long-term strategy for NMP and agronomic practices on farms. The discussions are with partners to evaluate how the NMP and FAP programs can be coordinated with NRCS programs to assist farms financially as well as in implementing NMPs and cropland practices.
- A VAAFM letter was sent to all farms (approximately 370) that have applied to the FAP program since it started in FY2007, encouraging them to sign up with NRCS for winter cover cropping. The demand for winter cover cropping through the FAP program has surpassed the yearly budget. Moving forward, the FAP program will only offer winter cover cropping to farms that are denied funding through the NRCS EQIP.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Permits are being drafted for these farms and this will be a major focus of the team for the coming months.
- Staff are also working on compiling information related to several LFOs that require permit amendments.
- Staff visited one LFO to meet with the farm owner and the farms Technical Service Provider to discuss the farm's permit amendment.
- Staff are processing LFO annual reports for compliance with individual LFO permits. There are currently 19 LFOs in Vermont.
- Staff are working on existing Capital Equipment Assistance Program (CEAP) grants.

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

- Working/planning with watershed group partners to make stream exclusion project move forward via Agency BMP program
- Assisting NMP planner by making maps to help him promote the conversion of corn critical source areas to hay
- Communicating with Stream Alt engineer to obtain guidance and approval for stream culvert replacement via EQIP project
- Communicating with NRCS engineer for assistance with 2 water system designs for CREP projects
- Communicating with FSA CREP staff on strategy to increase program Soil Rental Rates, updating CREP “calculators” with currently low Soil Rental Rates
- Working with and providing input to NRCS cover cropping specifications
- Working with a farm to clear up money owed to the State for CREP contract acreage reduction
- Assisting NRCS with culvert sizing for an EQIP contract and provided documentation for NRCS state office check, where CREP will also be implemented

### **Secretary’s Comments:**

#### **LEGISLATURE**

- H 869, VAAFMM House Keeping bill, House Ways and Means and Agriculture – spoke with both Committee Chairs regarding the importance of moving this bill and arranged for Agency Testimony on behalf of the fee component of the bill in W+Ms. Bill is under temporary further review by House Ag.
- H448, Prime Agriculture soil bill, House Ag Committee: Testified briefly on bill and communicated with Ron Shems so NRB and VAAFMM are on the same page. Bill is likely to be passed out of House Ag Friday afternoon.
- S119, Conservation Easement bill: Gil Livingston spoke to Sec Ross in the hall about his concerns he has relating to the Governor’s concerns over the bill. Mr. Livingston was trying to figure out how to help the Governor understand the importance of the bill and how the bill might be altered to still enable it or portions of it to be passed. Sec Ross shared these concerns with Louis Porter.
- House Ag Committee bill, re. Emergency powers and food safety authority for VAAFMM: spoke with Speaker and Chair Partridge to obtain an extension for House Ag Committee (granted by the Speaker) to consider a bill that would grant VAAFMM clear and expanded authority relating to managing emergency situations on farms that may put at risk public health and grants regulatory authority over raw agriculture products for food safety reasons on farms in Vermont. Provided initial testimony to the Committee on Friday afternoon.
- Senate Appropriations, Budget Presentation: Sec Ross presented the VAAFMM budget to the Committee. He emphasized the leader role of Vermont relative to the farm and food areas and its specific #1 in the country status on a range of issues and trends of activity where VT is leading the region or nation. The discussion was wide ranging with a particular emphasis on water quality.
- International Trade Committee, State House: At the request of Chair Senator Lyons, Sec Ross made opening remarks to the Committee emphasizing the dependence upon food, farm and forest exports to the VT economy and the working landscape.

#### **MEETINGS**

- Green Mountain Dairy Quarterly Meeting, Capital Plaza: spoke to organization leadership including chair Robert Foster, Executive Director Jane Clifford and other board members about the status of agriculture in VT. Time was focused on the Farm Bill and water quality. Senator Starr preceded Sec Ross and made a specific request that VAAFMM take a leadership position on the Current Use Bill. Sec Ross indicated that the Administration is very supportive of current use and wants to make sure no harm is done to the program as part of the process of amending the law and is otherwise neutral at this stage in the game.
- Dairy Reception, Cedar Creek Room: Attended reception relating to dairy in VT and spoke to many attendees.
- Taste of VT, Capital Plaza: stopped by to visit with vendors at the event hosted by the VT Chamber of Commerce.
- Renewable Energy for State Building, phone conference: joined COS Miller in discussion of a proposal to have all energy utilized by the state of Vermont provided by renewable power. Reviewed some opportunities and issues for VT agriculture.

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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: March 14, 2014**  
**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Municipal Day:** We have filled all available slots for attendance by municipal officials for our March 31 Municipal Day event. DEC will join with F&W, FPR, VTrans and ACCD in providing a series of informative workshops for local government staff to be hosted at the National Life building. National Life is being extremely helpful and accommodating. We are concerned about parking for the day and have arranged a shuttle to and from the labor lot. If it goes well we will make this an annual event.

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**EVERYTHING ELSE:**

**Legislative Issues/Testimony:**

It was a busy week at the legislature with crossover. Louis is fully up to speed, with the exception of mark-up of the big bill. They are looking for more information on the ANR PILOT increase and why the VISION increase was so large for FPR in addition to a number of more minor questions. They are also looking at sweeping the \$250k balance in the NRB special fund.

**Press Issues/Releases:**

**F&W to Host Public Meeting on Proposed Amendment to Posting Guidelines:** Fish & Wildlife will be holding a public meeting on March 19 in Montpelier on a proposed amended rule that provides an additional option for landowners to allow hunting, fishing or trapping by permission only.

**Governor Shumlin Appoints New Members to F&W Board:** Governor Peter Shumlin has appointed two new members to the Vermont Fish and Wildlife Board. Cheryl E. Frank Sullivan of Underhill has been appointed to represent Chittenden County, replacing Edward Gallo, whose term has expired. Johanna Laggis of East Hardwick has been appointed to represent Caledonia County, replacing Craig Lantagne of Lyndonville, whose term has expired.

**VPR did a piece on the Bats:** Although Vermont's populations of cave-dwelling bat species continue to drastically shrink in number every year, the rate of decline may be slowing down. Biologists are working to determine if some individuals that remain are naturally resistant to the syndrome that has killed millions of bats to date.

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

**Business Transformation Initiative (BTI):** Innovation and Planning is working to implement the plans developed during our last round of Lean events. In addition, we have selected the next three Lean projects and have scheduled the week of May 12-16 to do value stream mapping. The three projects are: Department-wide Grant and Contract Management; the Stormwater Program's internal business process; and Drinking Water Source Permitting Program. We continue to develop and refine the preparation process for the next Lean week event.

**Essex Network Issues:** The Essex office continues to struggle with inconsistent network response times. We learned that our new iTop/DII data backups have been running over the network during the work day instead of off hours. That, coupled with the small and slow circuit to the Essex complex is at least a part of the problem. DII is reluctant to change to an off-hours backup schedule. We're looking into the cost for a circuit upgrade as well as pushing to an off-hours schedule. This is extremely inefficient for staff and does not make sense as DII indicated that moving to iTop should have no impact on our level of service.

**2014 EPA Priorities and Commitments List:** EPA has sent an acceptance letter for our proposed modifications to the Federal Fiscal Year 2014 list of grant obligations. They approved a series of changes we requested to alter our obligations under the Performance Partnership Grant Agreement to reflect areas where EPA has reduced the level of grant funding. The process used to make these changes was a pilot project unique to the New England Region that allowed the states to proactively suggest changes for EPA's consideration. This was a success for Vermont and we will advocate for EPA to continue this more collaborative process.

**Storage Space:** Efforts continue with BGS to pursue the National Life Annex building as being a possible long term storage solution for the Agency. We have a range of storage needs including records, equipment, boats and vehicles. BGS continues to work on refining fit-up costs and is in conversation with the potential landlord.

**Assistance to Agency of Transportation:** FPR staff met with VTrans to advance the cooperative project between FPR and VTrans to manage vegetation within Vermont interstate corridors. An understanding was reached about the general scope of the project, how the

planning would begin and how the effort would be implemented. FPR agreed to begin with a pilot project the entire length of VTrans District 2, which is roughly the southern 50 miles of the I-91 corridor.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Barre City Wastewater Treatment Facility:** Air Quality & Climate staff recently learned that the Barre City Wastewater Treatment Facility is no longer capturing and combusting the methane emissions from the anaerobic digester. We are concerned with the uncontrolled venting of methane, a greenhouse gas, and the potential resulting odors and will be working with City to address this issue.

**International Paper Mill:** New York State is issuing an amended Clean Air Act permit for the International Paper Mill in Ticonderoga. The proposed modifications include changes to monitoring and reporting certain pollutants, and updates pollution control requirements and standards. We do not have any concerns and do not intend to provide any comments.

**IBM scrap wafer recycling exemption request:** IBM generates scrap silicon wafers that are hazardous waste because they contain lead. Previously, IBM sent the wafers to the solar industry for use in the manufacture of solar panels. Since this recycling option is no longer available, IBM has been researching other recycling/disposal options for the wafers that comply with the various federal/state regulations that IBM is subject to and has determined that there are no hazardous waste disposal facilities that meet all the various regulatory requirements. The hazardous waste program is currently working with IBM to identify ways to facilitate recycling of scrap wafers.

**Manchester Journal Building:** Waste Management staff responded to a report that more than 200 gallons of #2 fuel oil were missing from the tank that heats the building where the Manchester Journal is published. The tank was taken out of service immediately and a temporary heating oil tank was brought in to provide continued heat for the building. The owner of the building has been cooperative and he hired an environmental consultant to investigate. The consultant found 7 inches of fuel oil floating on top of the groundwater in the immediate vicinity of the tank. The building owner and the consultant are working closely with us to excavate the tank and assess the degree and extent of contamination.

**VT Gas Addison Natural Gas, Construction Stormwater Permit:** The draft permit is ready to be re-noticed (re-noticed due to PSB-ordered project changes), pending final drafting of associated permits including the 401 Water Quality Certification and Stream Alteration Permit. The applicant has inquired about the ability to pursue exploratory work prior to issuance of the final permit. Watershed Management has asked for a more detailed description of proposed work prior to making a determination.

**TransCanada Projects on Connecticut River:** FERC released its final study determination for the aquatic studies for TransCanada hydroelectric projects on the Lower Connecticut River. FERC approved all 16 studies filed by TransCanada and an additional hydroacoustic study at the Vernon development that was requested by the Agency. The schedule for the 15 of the studies was amended because of the potential affect by the closure of Vermont Yankee. The 17 previously approved studies are scheduled to get under way this year.

### **Fish and Wildlife**

**Fallow deer at Santa's Land:** Warden Kelly Price assisted the Windham County Sheriff's Department with autopsies of numerous fallow deer found dead at the facility to determine cause of death. The Sheriff's department is investigating to determine if animal cruelty charges are warranted.

**Kingdom Community Wind, Lowell:** Staff reviewed post-construction monitoring plan and invasive species monitoring plan. 71 occurrences of reed canary grass (a non-native invasive species) have become established on the Lowell Mountain summit since construction and so far GMP has not controlled this species as it is a "watch list" species, not a "noxious weed" under VT's quarantine rule. Invasive species have been one of the big concerns about ridgeline development.

**President's Task Force Recommendations:** Staff provided recommendations and comments pertaining to the Agency's climate resiliency recommendations for the President's Task Force. Staff was asked to assist in compiling recommendations that address natural resource challenges in the area of riparian, wetland, river/stream corridors, wildlife and aquatic organism connectivity, species decline, forest fragmentation, and invasive species.

**Extension Request for Mitigation Funding:** Staff along with Vermont Emergency Management (VEM), the VT Attorney General's office, and the Administration have submitted a time extension request for mitigation funding under the SRIA. Currently, the new SRIA deadline to receive and accept a fixed estimate is May 19, 2014. The State has requested a 6 month extension from the original Feb 19, 2012 deadline with the caveat that if FEMA requires additional time that it be granted. A number of items must be completed by FEMA before a fixed estimate can be received (hydraulics & hydrology study, historic preservation review, etc.). The State's justification for this time extension is that delays in receiving the fixed estimate prior to the Feb 19, 2014 deadline were in no way the State's inability or unwillingness to provide prompt, accurate information to FEMA. A formal decision letter from FEMA regarding the time extension will be sent upon internal FEMA deliberation.

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

**Commissioner's Office:** Commissioner Snyder will participate in a conference call with members of the National Association of State Foresters (NASF) to discuss next week's White House Rural Council meeting on wood products, which he will be attending.

**State Lands Administration Meetings:** Forestry and Lands Division staff met late last week with landowner Patrick Dupuis and representatives from Fountains Forestry to discuss the possibility of sugaring on State lands in Mendon and Killington that are subject to timber rights currently held by Mr. Dupuis. The State and Mr. Dupuis currently disagree on whether the timber rights include the right to sugar. We are considering various arrangements that would potentially allow for sugaring to occur on these lands in exchange for certain timber right concessions.

**Forest Legacy:** Staff were notified this week that the President's FFY'15 budget proposal has ranked the Dowsville Forest legacy project (2085 acre fee-simple addition to Camel's Hump State Park in Duxbury) as number 7 out of 44 Forest Legacy applications that are competing for FFY'15 Forest Legacy funding. While Congress still must act on the President's budget proposal, there is a good chance this project will receive \$2.5 million in Forest Legacy funding due to its high ranking. Other Vermont Forest Legacy projects were ranked 22 (Groton Forest Legacy Initiative) and 34 (Windham Region Working Forest). Over \$2 million in Forest Legacy funding was previously approved in FFY'13 for completing the Northern Greens connector project. We are currently pursuing several Forest Legacy easements for this grant. Additionally, more than \$1 million in Forest Legacy funding was approved in FFY'14 for acquisition of the Molly's Falls Pond property.

**State Park Service Fee Increases:** State Park rule changes to increase a variety of service fees were approved this week by the Interagency Committee on Administrative Rules. The largest increase is \$2 per night for all camping options. The increase keeps state park camping prices in line with other nearby states, and can generate an additional \$250,000 per year to offset costs of operation and maintenance. Other fee increases could generate an additional \$50,000.

**Response Training:** Parks Division maintenance staff have been participating in Hazardous Material Spill Response training conducted by DEC. The program is presented in the context of broader discussion and reinforcement of our mission, values and brand related to wise natural resource stewardship.

**Land and Water Conservation Fund:** The National Park Service received the updated SCORP (State Comprehensive Outdoor Recreation Plan) for Vermont, and the plan meets the requirements of the LWCF Act. Following review and approval of the updated SCORP, an official approval letter will be prepared by NPS. Once FPR receives that letter, Vermont will again be eligible to receive LWCF funds.

**Woods Walks:** Planning continues for the Walks in the Woods events which will kick off Ash Awareness week on Sunday, April 27. The goal is to have one walk in each county to highlight the benefits and characteristics of forest ash trees; currently 8 counties are covered. FPR staff, foresters from the Green Mountain National Forest, and volunteers will be leading these walks.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: March 14, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**VY:** As of today, we appear to have agreement with Entergy on the Trust Agreement for the site restoration trust. This will be transmitted to the Board on Monday and was one of the documents they were interested in seeing as they deliberate. The other is the Parent Guarantee, and there we have disagreement with Entergy over their boiler-plate parent guarantee they wish to provide. The Board is not expecting this by Monday, but it would be helpful to get it resolved, and we will continue to work to do so. The ball is in Entergy's court to reply to our most-recent draft comments. Entergy's standard guarantee is still much better than the letter guarantee that was used in the sale docket, so I am sure if we get a little closer and try to address the AGO comments on it, the Board would find whatever we agree upon to be acceptable. Mike Twomey and I are completing work on the revised VSNAP language, and that can move forward if we find a vehicle at the legislature, and I will follow up with him regarding the public outreach contract we are proposing with ANR, DOH and ACCD that we discussed with Liz and Sarah this week.

**Regional Infrastructure:** The states are continuing to discuss options and schedules for regional infrastructure. We are also working to reach agreement on cost allocation formula that reflects Vermont's long-term contracts and fairly reflects limited hedged LMP benefits. We will be sending a regional letter asking for information and interest to the pipeline companies potentially serving Southern NE. The region has also agreed to a proposed ISO FCM demand curve which they will be sending to FERC. On a more local issue: we can live with the amendment Sen. Hartwell is making today to H.702 regarding regional transmission, but it indicates a sensitivity at the statehouse we need to watch. Kerrick Johnson and I are going to meet with leadership in the next week or so to brief them on the regional work in general.

**1366 and IBM:** We are working to complete an agreement to levelize IBM's costs for the next three years and expecting we can pass that on to 1366. We are working with GMP and IBM constructively, and I am hopeful an agreement can be reached between IBM and AARP (- Yes, AARP is involved as follows: IBM has been opposing the extended Economic Assistance Program AARP wants); If IBM agrees to the EAP, I believe I can get AARP agreeing to the 0% rate freeze for three years. I have half of that agreed to at the moment, working on the other half, hopefully in time for filing info as part of the rate case (see below) due on the 21<sup>st</sup>. Both IBM and AARP are intervenors in the rate case.

**GMP Rate Case:** We are meeting regularly with GMP and have an additional meeting with staff on Monday to discuss the rate case and upcoming filings. I am also meeting and talking with GMP management regularly. We will be working to simplify the process as much as possible, but we will need to move through the process in its entirety, and there are areas that GMP has not done a great job (or even a good one) which is not helping – and I believe they'd admit this. Bottom line – I am engaged and managing this, but it is not going to result in an MOU in the near term, though one is possible down the road.

#### **Legislature:**

- **Net Metering:** Senate passed the bill on voice vote today! (Yea Darren!). The 5MW pilot projects amendment was included. We have an RPS study to do and report on, and a modified Hartwell amendment on regional infrastructure costs also was included. Galbraith amendment to retire RECs failed. History this week: it moved to third reading on 3/13, and the Senate rejected by an overwhelming vote an amendment to move to wholesale rates for net metering which would kill the program. Senate Finance took testimony from Darren and others on 3/13 on remaining amendments for floor. It approved 7-0 the DPS, GMP, and IBM backed amendment to add a 5 megawatt pilot for any utility that wants to pursue one. It also increased the size of landfill projects authorized for municipal net metering to 5 megawatts (if utility agrees to the project). Neither of those pilot authorities would count against the overall net metering cap. The Committee negatively reported a Galbraith amendment related to REC sales from larger renewable projects, and positively reported a DPS study on an RPS which the Department is willing to undertake as an alternative to the Galbraith amendment.

Finally, Hartwell's amendment (with edits from the Department) related to regional advocacy and protecting ratepayers in cost allocation from transmission projects was discussed yesterday afternoon.

The bill now heads to the House where they are likely to concur.

- **Efficiency:** The Senate Finance Committee efficiency bill proposed by Efficiency Vermont is not moving, however a pared down version is being worked on in Senate Natural Resources as a substitute for S. 202. The Department needs to review language, but supports concept of PSB examining the benefits of using ratepayer funds for some limited thermal work, related to the electric grid (i.e. heat pumps).
- **S. 238:** Darren is testifying in Senate Finance on 3/14 on S. 238. The Committee is considering focusing on harmonizing property tax valuations for the gas pipeline, and using any additional revenue from this effort (projected to be \$1.2 million annually by Senator Bray) to fund CEDF. Some portion of CEDF funds would be dedicated to communities that host pipeline infrastructure. We support the long-term CEDF funding, but are working to coordinate with Tax and the 5<sup>th</sup> floor on whether the revenue side here makes sense or not. Our testimony will focus more on CEDF.
- **H.97:** Chris met with Tony and Mike Hebert to discuss the relief of smaller users (like ROV) from the LLRW fees (not the obligations of the compact). Entergy did not agree and as a result the bill has been pulled for this session. We are completing our work on the VSNAP legislation and looking for another vehicle (and perhaps an extension to the cross-over deadline) in order to do this this session.
- **ANR Fees:** We are a little annoyed that after negotiating what we could live with for ANR fees on 248 petitions, ANR chose to testify that they still want the higher amount (cap) on projects, want a higher proportion of the fees collected than what we agreed to with the Board, us and them, and still indicated they'd need 3 positions. We had been prepared to support the fee in the net metering bill, but they testified in favor of the fee per above in S.201 (SNRE "siting"). As a result of pursuing it there, Senator Ashe refused to consider it as a committee amendment to H.702, and since S.201 is not going anywhere, the issue may be moot for now. I would be concerned if this proposal reappears in the big bill or other bills we care about. They should be asked to go back to our agreement and remain silent on positions in legislation.

### **Legislative Testimony:**

**March 11:** Anne Margolis covered S.201 hearing in Senate Natural Resources

**March 12:** Andy Perchlik covered solar capacity tax hearing (Misc Tax Bill) in Ways and Means

**March 13:** Brian Cotterill covered hearings on S.191, S.202, S.302 in Senate Natural Resources; Darren testified in Senate Finance during committee discussion of H.702

**March 14:** Darren and Asa Hopkins testify on Sec. 6 of H.736 in House Natural Resources; Darren testifies on S.238 in Senate Finance

**Significant Meetings/Events this week and next:**

**March 10:** Chris and Darren met with members of Vermont Leading by Example Initiative and attended Cabinet meeting; Darren and Asa attended a meeting of the Charlie Ross UVM legislative policy class in the Rubenstein School to discuss energy planning in the legislative and executive branch contexts

**March 11:** Chris met with Mary Powell at GMP and Janet Bombardier at IBM; Chris, Darren and staff met with GMP staff at PSD to discuss IBM; Chris attended VY Decommissioning meeting at Pavilion; Darren met with Senator Ashe;

**March 12:** Chris and Jim Porter participated on RUS/Vtel call with USDA and David Weinstein of Senator Sanders' office; Chris had conference call with WilmerHale on VY Site Restoration Trust

**March 13:** Chris met with Reps Klein, Ellis and Hebert on H.97; Chris and Asa discussed Solutions Project with Liz; Chris attended meeting on Renewable Thermal Heating Initiative meeting at Pavilion; Chris had conference call with WilmerHale

**March 14:** Chris attended NESCOE regional energy meeting in Westborough, MA; Chris participated on State Building/Renewable Energy conference call; Darren and Asa held conference call with NextEra

**March 17:** Chris, Darren and staff met with Mary Powell and staff to discuss GMP rate case

**March 18:** PSD and GMP meeting to held to discuss state energy goals and GMP products/services; Chris attends ENVY monthly meeting at SEOC in Waterbury

**Media:** 3/13 - Darren discussed Net Metering with John Herrick of VTDigger;

**Everything Else:**

***PERD***

Held energy storage project pre-kickoff call with DOE, Sandia, CESA, and GMP. GMP is looking forward to receiving a CPG sometime in mid-May, though ANR has just recently informed GMP they will not proceed with application review until life-cycle greenhouse gas emissions are addressed (this is a first for a solar project). GMP is still hoping to be online before the end of the year, and has bids from Dynapower. They will start to involve DOE and Sandia in design discussions, and will send them Dynapower's proposal. There will likely be a project kickoff meeting in mid- to late April. In the meantime, we drafted a project summary for handy reference by DOE and Sandia.

***Engineering***

**Vermont Yankee Fire Protection System Water Leak Update**

The original valves that were leaking have been replaced, but when these new valves were tested, they also leaked. VY eliminated these valves and will make permanent the isolation

valves that were installed to isolate the leaking valves from the rest of the system. This work has been completed, and the fire protection system is now fully back in service using the CT River intake structure.

#### Nuclear Engineer Position

Five candidates have been selected for telephone interviews over the next week or two.

#### Information Status of January Canadian Gas Pipeline Rupture

TransCanada Corporation has not released any information related to the recent rupture of the Emerson lateral, other than the pipe diameter and event location. The Gas Engineer contacted TCPL, the National Energy Board of Canada, and the Transportation Safety Board of Canada again during this report period, to attain any additional information; however none is available at this time.

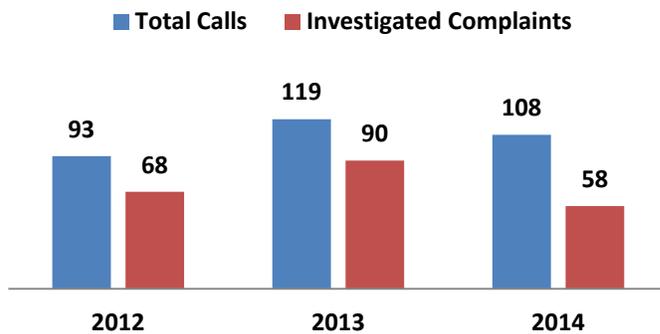
#### FERC Order Directs Development of Physical Security Standards

The Federal Energy Regulatory Commission (FERC) took action on March 7, 2014 to provide for the resilience of the transmission grid by directing the North American Electric Reliability Corporation (NERC) to develop reliability standards requiring owners and operators of the Bulk-Power System (in VT, this is VELCO) to address risks due to physical security threats and vulnerabilities. FERC states “Because the grid is so critical to all aspects of our society and economy, protecting its reliability and resilience is a core responsibility of everyone who works in the electric industry.” The reliability standards directed by this order require owners and operators of the Bulk-Power System to take at least three steps to protect physical security. First, owners and operators must perform a risk assessment of their system to identify facilities that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation, or cascading failures of the Bulk-Power System. Second, owners and operators of critical facilities must evaluate potential threats and vulnerabilities to those facilities. Finally, owners and operators must develop and implement a security plan to address potential threats and vulnerabilities. NERC has 90 days to submit the proposed standards.

#### **CAPI**

*Call data is from Sunday to Saturday, March 2-8, 2014.*

## Calls to CAPI Same 7 days each year



### POST CPG WIND COMPLAINTS - NONE

CAPI provided comments in support of the Department's overall comments submitted on March 3 in response to the Board's order of January 29, regarding Docket 8167 (scoping order regarding energy generation sound standards). The Board had requested comments regarding the 12 issues to be addressed as part of the investigation. Also, CAPI received a copy of a filing with the Board by a consumer who contends that Sheffield Wind has consistently exceeded its inside sound standards at his location (which is one of the quarterly monitoring sites Sheffield Wind uses). The consumer provided a report from an independent contractor that supports the consumer's claim; he is asking the Board for relief from the turbine noise under the terms of Sheffield Wind's CPG.

### OTHER DIVISION ACTIVITY

Wireless ETCs and Lifeline: CAPI talked to representatives at TracFone and Budget PrePay last week about current procedures to qualify consumers for Lifeline discounts and the current requirements of the state. A conference call is planned with TracFone. CAPI put Budget PrePay in touch with DCF and we will follow up on the progress next week. We hope to finalize a process with QLink this week.

FairPoint: CAPI had its second monthly meeting with Sandy Wennerstrand to discuss concerns with the company. We identified a list of concerns to address over time. Sandy chose two to get the initial focus: overbilling and communication with customers when FairPoint misses their service order appointment.

VGS Addison Expansion: CAPI participated in internal discussions about our role in the project, specifically our interaction with concerned residents. CAPI also attended a public meeting in Monkton last week where residents expressed their concerns and asked questions about easements and eminent domain.

## ***Public Advocacy***

Barton Solar – Docket 8148 – Intervenors (Menards) and the petitioners continued sparring in an exchange relating to the Menards’ motion to stay the docket pending the outcome of the Board’s sound investigation. The Menards have raised issues of slander and defamation of character. The Board denied the Menards’ motion stating the Menards did not show any compelling reason to stay the schedule and that doing so would prejudice the interests of the other parties. The Menards did not file testimony by the March 7<sup>th</sup> deadline and have contacted the Department requesting advice about filing testimony after the deadline. The Department provided process information to the Menards. Meanwhile, the petitioner has contacted the Department with a request to advance the schedule since the Menards have not filed testimony. Additionally, the petitioner has informed the Board that an agreement has been reached with the Agency of Natural Resources. Discovery is due to be served on non-petitioning parties by March 14<sup>th</sup>.

Rutland Renewable Energy, LLC City Solar Garden Project – Docket 8182 – ANR issued its first set of information requests upon the petitioner. In a response to GMP’s motion to intervene, the petitioner did not object generally, but reserved its right to challenge the scope of the PSB’s jurisdiction to review PPA pricing under Section 248. The second round of discovery is due to be served on the petitioner by March 14<sup>th</sup>.

Addison Expansion—Docket 7970—The Board denied the Palmers’ Motion to Amend the Judgment, granted the PSD’s Motion to revise the “orderly development” standard set out in the Order to accurately reflect the statutory language, and granted New Haven’s Motion to clarify the record and CPG with respect to the noise monitoring protocol to be conducted at the gate stations. VGS has filed a response to Ms. Lyons Motion to Intervene and for a Hearing; it does not oppose her intervention, but does seek to limit the scope. VGS is supportive of a Hearing to settle all of the Old Stage Road re-route issues. The Department continues to monitor Vermont Gas’s progress with landowners who have not negotiated easements and consequently are moving toward condemnation proceedings. At the request of certain Addison County legislators, the Commissioner and staff attended a landowner meeting in Monkton to discuss the various issues surrounding the condemnation process. Department staff will meet with some of the Right of Way agents next week to discuss improvements to the process.

Addison Expansion Phase 2—Docket 8180- The Board extended the intervention deadline after receiving several landowner complaints—new deadline is March 21. In the last week, Motions to Intervene were filed by International Paper, landowners Doris and Roger Dutton, AAFM, the Rutland Economic Development Corporation, Solar Haven Farm (landowner), City of Rutland, IBM, the Addison County Regional Planning Commission, the Northeast Organic Farming Association and Rising Tide. As previously reported, the Board has admitted several intervenors already in the process of issuing other procedural orders (15 days had elapsed since their filing with no objections filed), but the new deadline for opposing interventions is March 28. On March 12, VPIRG as well as two individuals filed Motions to Intervene in the FERC proceeding—we are reviewing.

VEC Replacement of Existing Madonna Substation – Docket 8171 – The Department has raised no concerns with the Project, and has entered into a MOU with the Petitioner and ANR which includes a number of conditions proposed by ANR. The MOU and consensus PFD are being filed with the Board on March 12<sup>th</sup>.

Regulation of Voice Over Internet Protocol – Docket 7316 – The Department’s direct brief is due on March 14<sup>th</sup>. A complete first draft has been shared with our expert witness.

Sovernet Eligible Telecommunications Carrier Designation – Docket 7619 – The Department filed comments on March 5<sup>th</sup> recommending that the Board grant Sovernet’s request for redesignation of its ETC status.

New England Power Searsburg Switching Station and Y-25 Transmission Line 248(j) – Docket 8138 – The company filed a letter on February 6<sup>th</sup> describing a number of minor changes to its approved plans that the company believes do not require an amendment to its CPG. The Department filed comments on March 7<sup>th</sup> agreeing that the proposed changes are minor and do not raise the potential for significant impact under the Section 248 criteria.

New England Power Wilder Switchyard Project – no docket – On February 7<sup>th</sup>, NEP submitted an informational filing identifying a number of replacements it is planning to undertake at its Wilder Switchyard that it believes do not constitute material changes that require a CPG. The Department has reviewed the filing and agrees the proposed work constitutes replacement of existing facilities and does not require a CPG. The Department filed its recommendation with the Board on March 7<sup>th</sup>.

ERWR Whitcomb Farm Solar LLC 2.2 MW Solar Facility – Docket 8076 – The Board issued an order on March 7<sup>th</sup> approving Petitioners’ request for an amendment to its CPG.

Charter Hill Solar Project – Docket 8212 – A prehearing conference was held on March 12<sup>th</sup>. The Department identified its concern that the proposed PPA price does not satisfy the requirements of Section 248(b)(4) because the price is higher than the standard offer bids the Board accepted in dockets 7873 and 7874. The parties will be discussing a schedule and filing a proposal with the Board on March 19<sup>th</sup>.

GMP Stafford Hill Solar in Rutland – Docket 8098 –GMP provided a revised response to one question contained in the PSD’s first set of discovery. Discovery responses to the PSD’s third set of discovery requests are due by March 13<sup>th</sup>.

GMP Rate Case and Alternative Regulation Filing – Docket Nos. 8190 & 8191 – The Department and GMP are moving through multiple rounds of discovery. Department staff and GMP are informally working through an issue held over from the merger proceeding, namely whether any changes to the recovery of incentive compensation costs should be made to the Base O&M

platform. Ideally this will be worked out next week prior to Department testimony, which is due on March 21.

Swanton Depreciation Review – Docket No. 8024 – After the last rate case the Department recommended that Swanton look more closely at its depreciation rates to see if they are accurate. Subsequent discussions revealed deficiencies in Swanton’s depreciation accounting and the Department recommended a more formal review. The Board asked for a cost estimate of such a review. The Department filed a letter on March 12 indicating that while it initially estimated about \$12-15k for the review, Swanton and the Department are working to solicit bids and define the scope of a study, so a better sense of cost will be forthcoming soon. Swanton informed the Department that it has just received bids in the \$20-45k range. However, further discussion on the scope of the review is needed.

Separately, Swanton asked (and the Department agreed) to extend the deadline for it to file a rate design case given Swanton’s pending plans to submit a couple section 108 filings, as well as its plan to potentially file another rate case.

Willoughby – 8117 – The PSD continues to be involved in the customer discussion regarding purchasing the water system from Mr. Collette. The Department’s next status report is due by March 27<sup>th</sup>.

NextSun Solar – Park Street – Docket 8194 – The hearing officer issued a prehearing conference memorandum and scheduling order setting April 17th for the site visit and public hearing. Additionally, the hearing officer issued his first set of information requests upon the petitioner.

NextSun Solar – Main Street – Docket 8195 – The hearing officer issued a prehearing conference memorandum and scheduling order setting April 17th for the site visit and public hearing. Additionally, the hearing officer issued his first set of information requests upon the petitioner.

SBA/VTel 248a Application (Richmond) – Docket 8162 – The Department submitted an independent aesthetics review concluding that the Project did not pose an undue adverse impact on the aesthetics of the area. This filing was made after submission of an expert report indicating that Project application aesthetic analysis was too deficient to allow for the Department to draw any conclusions. The Board nonetheless demanded that the Department conduct an independent analysis resulting in either support or rejection of the application. The Department no longer has any outstanding issues with respect to this application. The Board, however, has scheduled a prehearing conference to be held on March 20, 2014. It is unclear what will be discussed at the conference.

GMP and CVPS Smart Meter Plans – Dockets 7704 and 7612- DPS met with representatives from GMP to discuss progress of the AMI implementation. GMP’s main current focus is a cutover to a single platform for several different systems such as the customer service call center and outage management, that are a result of the merger but have implications for AMI.

While the Board set 3/15/14 as the deadline for submission of a new Measurement & Verification template to track GMP AMI progress, savings and benefits, the Department, with GMP's support, will ask the Board to extend that deadline until 4/30.

FairPoint – CANNE Wire Center Reclassification - Docket 7958 – 3/12 was the deadline for filing comments on the proposal for decision. FairPoint and PSD did not have comments, but CANNE, representing CLECs (Competitive Local Exchange Carriers in New England) did. CANNE urged the Board to reject the Hearing Officer's determination on the definition of "wire center premises" as too narrow; that narrow definition was supported by the Department and FairPoint during the proceeding. In addition CANNE asked the Board to award them their costs and attorney's fees, due to several erroneous assertions by FairPoint, which were acknowledged as incorrect and retracted by FairPoint over the course of the proceeding. The Department is not likely to take a position on the appropriateness of awarding costs and attorney's fees under these circumstances.

National Life 500kW Net Metering Project - Docket 8110 – The Board issued National Life a Certificate of Public Good for this 500 kW group net metering solar project with no unexpected or additional conditions.

Demand Resource Plan Proceeding - EEU 2013-01 – The Department filed a response to a Board memorandum asking questions about whether additional modeling was necessary for interested participants to make budget recommendations. We proposed a modeling re-run that we believe will be somewhat less costly than that proposed by VEIC and also proposed a revision to the schedule to accommodate the filing of this additional information.

Petition to Amend Rule 3.706 (Pole Attachments) by Comcast - The Board granted a motion to extend the comment deadline on the petition until 3/21. The PSD will be filing comments at that time.

GMP/VELCO 248 Petition for Georgia Interconnection Project—Docket 8205- A Public Hearing is scheduled for March 17. PSD's first round of discovery on petitioners is due March 21. A protective agreement was filed with the Board, together with a motion for approval.

GMP AARP Low Income Program—Docket 7535—GMP and AARP have provided an initial draft proposal regarding the refund of the "over-collected" funds to the PSD and IBM for review. It includes a second, unanticipated arrearage forgiveness window to enhance participation. The filing deadline for the proposal is March 28. IBM has advised that it will most probably oppose any additional funding and request that all amounts over the \$ One Million cushion be refunded. The Department is still considering the proposal.

NG Advantage-Declaratory Ruling re: Board Jurisdiction—Docket 7866--As required by the MOU negotiated among PSD, VGS and NG Advantage, NG Advantage filed its first annual report this week with the Department and the Board. Engineering and PA staff are reviewing.

## ***Finance and Economics***

### Electric

GMP--Docket 7535 Reduced Rates for Low Income Consumers of Green Mountain Power  
As per Board order, dated September 6, 2012, GMP proposes a compliance Plan to credit ratepayers for surplus Electric Assistance Plan (EAP) collections (\$2,383,995), including the retention of a \$1 million reserve balance. Finance & Economics supported the GMP proposal to return excess EAP funds to its customers without delay. Following a February workshop the PSB requested the parties to address an alternate proposal by AARP to use 'excess' EAP funds to finance a 2<sup>nd</sup> round of low income arrearage forgiveness and a marketing outreach program by March 28, 2013. Based on our analysis so far, GMP will still be over-collecting going forward even if it refunds all but the \$1 million reserve so there should be sufficient funds available to do what AARP proposes while at the same time refunding everything about \$1 million. However, staff is continuing to evaluate the AARP proposal.

NYPA—we received notice from the New York Power Authority there will be no reduction in firm hydro energy sales to our muni's and coops for the period of April 1 through April 30, 2014.

### Energy Efficiency Utilities

VEIC EVT – VEIC has provided a draft proposed cost-recovery process for extraordinary, one-time distribution utility (DU) expenses for development of AMI data transfer to the EEU. VEIC has proposal that the recovery of these expensive would be made from the current Energy Efficiency Fund with the EEF being made whole through an increase in the EEC for 2015. Staff's opinion is that these expenses should come from invoices directly to EVT.

### Other

Proposed Revision of Board Rule 3.706 (Pole Attachments) - Finance & Economics has been enlisted to participate in potential revisions to the methodology used to conduct utility pole attachment rental calculations.

## ***Telecommunications***

Broadband and Wireless analysis – Stone Environmental has prepared a number of reports, including broadband availability as of 12/31/12 and 6/30/13, as well as wireless availability as of 2010 and 2013. None of this work has been published, on either the broadbandvt.org or PSD website. The fees for this work have been billed to a federal grant from the NTIA, and the grant administrator has indicated that the data should all be released to the NTIA and released locally as well.

Broadband availability analysis – The NTIA grant funding broadband availability analysis provides funding through the analysis as of 6/03/14, to be submitted in October 2014. The Broadband Mapping Initiative has inquiries from parties, including legislators, about plans for continuing the analysis after that date.

FCC Rural Broadband Experiments – The FCC has indicated that it will consider requests for grants to bring broadband service to areas that are projected to be eligible for CAF Phase II, so long as the requested support does not exceed that projected under Phase II. Eligible areas are those census blocks that lack 4/1 broadband from a competitor. In Vermont there are 30,000 locations and about 5,000 road miles in the eligible census blocks. The current FCC projected support for these areas is \$9M per year. The VTA has submitted an expression of interest indicating that it intends to request grant support to serve many of these areas. Any support that FairPoint is offered under CAF Phase II will be reduced by the any amount that is awarded under this program.

Telecom Survey Contract – Telecom staff reviewed RFP responses for the Telecommunications Plan Survey. Division staff believes it is best to pursue a contract with Castleton State College's Castleton Polling Institute (CPI). Division staff prepared a draft contract and will hopefully have it in place before the tentative April 1, 2014 start date.

#### 248a Applications

*Verizon in South Hero* – Verizon submitted a de minimis application for a project in South Hero. The construction drawings lacked detail about the replacement of an equipment shelter. Division staff reached out to Verizon's counsel and clarified the dimensions and surface area. The Department plans to support this project.

*VTel in Castleton* – VTel submitted an application for a project of limited size and scope in Castleton. VTel plans to co-locate communications equipment on an existing 244' AGL tower. The tower does not meet the definition of limited size and scope because the existing tower exceeds 200 feet AGL and will exceed 200 feet AGL after the project's completion. Although this was probably an unintended consequence of the drafters' intent, the law requires a rejection in this instance. Department staff discussed the issue with VTel's counsel, and VTel plans to refile its petition as a standard petition.

### ***Regional Policy***

#### Northeast International Committee on Energy

- NICE held an in-person meeting on March 11 to discuss: the status of the 2013 Workplan; the development of the 2014 Workplan; and the potential modification of the NEPOOL Generator Information System to allow the ability to track attributes of Canadian generation.
- Parties noted that the 2013 Workplan focused primarily on monitoring the efforts of NESCOE's gas-electric and gas-hydro studies. In addition, the 2013 Workplan directed states and provinces to look into developing a system to track attributes of Canadian exports to New England and increased discussion on regional biomass issues.
  - NEPOOL and Hydro Quebec participated in the meeting on March 11 and there was general agreement that the NEPOOL GIS system could be modified to track imports from Canada. It is expected that Massachusetts and Connecticut, which have the most interest in this issue, are going to push this forward in NEPOOL.

- Only Vermont, Massachusetts, and Nova Scotia have expressed interest in moving forward on the biomass issue; however, Nova Scotia is mostly interested in increasing exports, Massachusetts is interested in exploring new technologies associated with biomass, and Vermont has expressed interest in developing regional biomass procurement standards. It was suggested that the biomass issue should be further explored outside the NICE process.
- At the March 11 meeting there was preliminary agreement that the 2014 Workplan should focus on the development of a Regional Energy Map that would document the energy transactions (with a focus on resources used for electricity and heating) within and among the states and provinces. The purpose of the document would be to identify areas where trade ties could be strengthened. This concept will be further developed and proposed for a final determination within the next two weeks.

#### Regional Infrastructure Initiative

- On March 6, NESCOE staff and DPS staff met with the NEPOOL officers and discussed the initiative. NEPOOL Officers expressed a strong desire that states work with NEPOOL in developing any proposal that will be submitted to FERC for approval, rather than finalizing a proposal and submitting it to NEPOOL for a rubber stamp. In addition, the generator representatives at the meeting expressed concern that states were attempting to push down market prices rather than let the market work. Staff pointed out that the market was not working and that something had to be done to address the reliability caused by gas pipeline constraints.
- On March 7 NESCOE made a presentation to the NEPOOL Participants Committee regarding the initiative. There were several expressions of support and also some concern, with the most pointed criticism coming from Conservation Law Foundation.
- Also on March 7, states met in person.
  - Vermont raised the issue that FERC was very skeptical of the concept of using an electric tariff to support the construction of a gas pipeline. Maine and Connecticut stated that, although other options should be explored, we should continue moving forward on the existing path and further that sufficient political pressure would likely be able to sway FERC.
  - Rhode Island suggested that state regulation may help address some of the reluctance of gas generators to purchase firm capacity. Massachusetts stated that it would not pursue any legislation related to gas capacity as it did not believe that it would be able to pass any legislation that increased the use of natural gas.
  - There is still some discussion regarding the amount of natural gas capacity that would be purchased through the initiative. Massachusetts would like to stick with the 0.6 BCF/day, while Maine and Connecticut would like to see significantly more capacity purchased.

#### Sloped Demand Curve

- NESCOE and the states are continuing to talk with NEPOOL stakeholders, primarily those in the public power and transmission sectors, to reach a compromise on the slope of the

demand curve, cost of new entry, and a renewables exemption. ISO-NE continues to push for a more conservative slope that will ensure greater capacity, but at higher prices. There is general agreement that the cost of new entry should be determined by a combined cycle unit, which is not the cheapest unit, but which is the most realistic. NEPOOL stakeholders, with the exception of the generators, are mostly at the point that they will not oppose the renewables exemption. There is a push by the public power sector and some utilities to include a self-supply exemption, although it appears that is unlikely to garner sufficient support at this time.

#### New Reliability Standard Proposal

- On March 7 FERC ordered the North American Electric Reliability Corporation to develop new reliability standards to address physical security at critical facilities.
- The standards must include a three-step process:
  - Identification of which facilities are critical facilities. A “Critical Facility” is “one that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation or cascading failures on the Bulk-Power System.”
  - Evaluate potential threats and vulnerabilities to these facilities.
  - Develop and implement a security plan to provide an adequate level of protection against the potential threats.



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**State of Vermont**  
**Department of Public Safety**  
**Criminal Justice Services**  
103 South Main Street  
Waterbury, Vermont 05671-2101  
[www.dps.state.vt.us](http://www.dps.state.vt.us)

**To:** The Honorable Peter Shumlin  
**From:** Keith Flynn, Commissioner of Public Safety  
**cc:**  
**Date:** March 14, 2014  
**Subject:** Weekly Report

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### **Emergency Management/Homeland Security**

A significant weather event impacted the region mid-week resulting in the State Emergency Operations Center opening to a Partial Activation on 3/12/14. Primary concerns were power outages, necessary sheltering should power be impacted, travel impacts and possible collapse of weakened structures.

Submitted 6-month time extension request to expend HMGP funds from DR4120 (beyond June 13, 2014) and DR4140 (beyond Aug. 2, 2014) so that we can develop and submit high-quality HMGP applications.

### **Fire Safety**

The division received \$19,200,000.00 in new construction valuation collecting \$109,000.00 in permit fee revenue.

### **Vermont State Police**

A Troop

Troopers were called to a residence in Highgate for a report of a domestic assault. The offender struck the victim several times with a stick, and when the victim attempted to call 911, the offender smashed the phone. Upon arrival of Troopers, the offender was combative, and while being handcuffed, he twisted the wrist of a Trooper. The offender was ultimately taken into custody and charged with Aggravated Domestic Assault, Interference w/ Access to Emergency Vehicles, Resisting Arrest, Assault on L.E., & Unlawful Mischief.

Arrest made on inmate transporting MJ, tobacco, buprenorphine, and suboxone into the NWRCF



## B Troop

Completed the affidavit in the Mary Pat O'Hagan homicide case. Richard Fletcher & Keith Baird cited in for Monday. Michael Norrie is also being extradited for the charges.

1 Skier death at Jay peak. Awaiting autopsy results.

2 drug cases from Newport Corrections.

## C Troop

Two lost skiers (both 12 years old) in Killington. Located and fine.

## D Troop

MV Stop on Western Ave in Bratt. Female seized, warrant applied for and granted. Located 100 bags of heroin and couple 8 balls of cocaine.

Elderly female found unconscious outside her vehicle in a snowbank. Female had hypothermia, did survive.

Prison assault case, Victim interview and case closed due to an uncooperative victim

Ride-a-long w/WCAX for Canine of the Year Award

## **Criminal Justice Services**

Deputy Commissioner Aumand traveled to Washington, D.C. this week and participated in Senate and House Judiciary staff briefings regarding the use of criminal history record information for civil background purposes. These sessions were put on by SEARCH, the national consortium for justice information and statistics. Paco Aumand represented Vermont on a panel along with representatives from Idaho and Florida.

Deputy Commissioner Aumand also testified before House Government Operations with regard to the neutral position Public Safety is taking concerning H. 637 the move of liquor control investigators to DPS.





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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: March 14, 2014**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- Serious work in SIC on H. 864 – capital adjustment bill. 2) Mini Davis Bacon proceeding well.

**Testimony:**

*Senate Institutions:*

- H864 –Weeks School/Vergennes. Testified along with Sen Ayer, Rep. Lanpher, City Manager Mel Hawley and Becky Wasserman of Leg Council on highest/best use of Vergennes holdings.

**Press/Media Notes:**

- Alexei Rubenstein from Channel 3 News called to inquire about the WSOC demolition/recycling.
- Carla Occaso of the Montpelier Bridge also called to inquire about the 120 State Street Move. Guy Norwood followed up and provided her with an update on the education move (½ of education moved last week, and the rest of education this week) - consolidating all of education into one building. Also mentioned that AHS was moved the previous week on March 1. Positive conversation.

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

- Heat Plant: Met with City Manager Bill Fraser, Assistant City Manager Jesse Hollar, Mayor Hollar and BGS staff re: contracted obligation of the City
- Follow up meeting with Don Wells of DEW Corporation, Bill Laferriere and Emily Montgomery to finalize White River Junction lease.
- Exit 4 Randolph & Exit 7 Berlin Meeting with Secretary Spaulding and Brian Searles and BGS staff to discuss visitor's center
- Meeting with Bill Fraser, along with Wanda Minoli, Deb Ferrell and Ed vonTurkovich to discuss the Carr Lot/Welcome Center on Friday, March 14<sup>th</sup>

### **Evolving Issues:**

- St. Albans/Mylan – Phone conversation with Scott Fabean, Dominic Cloud, Kiersten Bourgeois, and Emily Montgomery to discuss Mylan \$5.5 million payment – 4/15/2014 new deadline
- 120 State Street – Met with Michael Clasen, Wanda Minoli, Bob Rea, Bill Laferriere and Julie O'Tool Gutgsell. Asking appropriation to study maximum utilization of Capitol Complex space.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

House Appropriations is “marking-up” the FY 2015 budget bill and plans to move the bill out of committee by next Friday, March 21, 2014. Budget Analysts are covering the mark-up process and our office is communicating developments and concerns to the appropriate Secretaries and Commissioners.

## **HEALTH CARE REFORM**

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

**SIM Grant:** The Vermont Health Care Innovation Project (VHCIP) announced the launch of the Commercial and Medicaid Shared Savings ACO Programs this week. This announcement was made at a press conference on 3/12 and received significant media coverage. The announcement coincided with the recent signing of contracts and agreements for these programs. VHCIP also launched its new website: <http://healthcareinnovation.vermont.gov/>. VHCIP is finalizing decisions about its sub-grant program to Vermont's providers, information about the program is found here: [http://healthcareinnovation.vermont.gov/VHCIP\\_Grant\\_Program](http://healthcareinnovation.vermont.gov/VHCIP_Grant_Program). Grant Program Awards will be announced on March 25<sup>th</sup>.

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

March 10:

VT innovation waiver call with CMS/CMMI – Monthly meeting set up with CMS/CIIO to discuss the ACA Sec. 1332 waiver process

Single payer operations planning – Met with key Ops staff to review the master timeline, brainstorm dependencies between projects, and discuss next steps and teams.

March 11:

HCA funding meeting

HSE lessons learned interview with Berry Dunn

Robin attended the AARP Health Care Forum with the Governor

March 13:

Green Mountain Care Board expected to vote on the HIT/HIE proposed consent policy change

### **Evolving Issues:**

CGI contract negotiation

Single payer & Financing planning

### **HUMAN RESOURCES**

No report.

### **INFORMATION AND INNOVATION**

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

Healthcare: Integrated Eligibility (IE) RFP - The IE RFP is ready for approval. While DII is fine with the bulk of the RFP, the timing proposed for vendor questions, responses, and intent to award are so short as to almost guarantee failure. To manage risk for the state we need to allow vendors the time to give thoughtful proposals for a very complicated project. If we proceed with a rushed process, they believe they will get few vendor responses, those responses will not have adequately planned or resourced their proposals, and costs will be considerably higher. DII plans to withhold their approval until these concerns have been discussed and mitigated to an acceptable level, and have already begun the effort to bring people together to have those discussions. They have asked BGS (Deb Damore) for feedback as to what they consider minimum times for vendor response. Either way, this should be resolved by early next week.

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

House Healthcare: Commissioner Boes testified on the security incident at the CGI Phoenix data center. Since the incident was on a computer not part of providing the VHC service, there was no risk to VHC or any Vermonter's data. DII thinks the testimony went quite well and those committee members without a predisposition were very supportive.

House Gov Ops: Dave Brotzman, Kate Duffy and DII all testified on H.516, the bill to bring VCGI into DII. DII felt it did not go well and the committee was not very supportive. Even so, DII believes, and feels they are in the majority, that VCGI provides a needed service and that doing nothing would degrade that service substantially. Therefore, there was a discussion of alternatives. The only alternative presented was to increase VCGI's appropriation by close to \$300K. However, with the tight budget we are facing for FY15, I don't know if the administration would support this increase, so did not commit to it either way. They did ask that DHR and DII follow up with AOA and be ready to testify on positions Friday morning.

While DII believes Dave Brotzman's estimate of \$300k is appropriate to make VCGI sustainable, we could postpone the need for this decision by 1-2 years by increasing the appropriation \$175k. To bring VCGI into DII, both DHR and DII testified that there aren't enough positions in the pool to do this without creating "new" positions. These new positions are not part of the current submission which seemed to be the primary cause for concern from within the committee.

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

GMCB: Commissioner Boes and Deputy Commissioner Thompson visited with GMCB to educate them on process for IT projects and give them additional insights into the best ways to make IT projects successful.

HSE Lessons Learned: Commissioner Boes spent considerable time with Barry Dunn talking about what worked well, what worked poorly and the general issues around release 1 of VHC. While not part of my conversation, other significant VHC players from DII also had opportunities to talk with Barry Dunn.

### **Evolving Issues**

DII is working with Sarah London on a public records request from Randy Brock.

Web: The Socrata Open Data site is still being developed. Federation, a type of data sharing, is being worked out with the city of Burlington, which has also just finished standing up a Socrata site. This has been delayed temporarily due to a technical problem discovered by Socrata preventing the sites from communicating. As soon as this is corrected we can proceed.

The Office of Child Support online payment service will launch this week.

## **LIBRARIES**

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

Fiber Broadband, Libraries, the FCC and the VTA: Marty Reid is looking closely at new FCC funding opportunities, with special attention to proposed changes in the federal e-rate discount program for libraries, fiber grant programs for rural/underserved populations, and emphasis of FCC Chairman Wheeler on broadband funds for schools and libraries.

See: <http://www.fcc.gov/document/fcc-boost-investment-broadband-schools-libraries-2b>

Marty is also keeping Chris Campbell and Christa Shute up to date on these issues and the Department's interest in expanding fiber broadband to public libraries. Currently they are working with VTA to see how they might work together to expand their direct e-rate support for libraries (in addition to the consortial application they file on behalf of the 43 FiberConnect libraries).

***To that end, I want to voice my support of the VTA and the work that they have done in the past and continue to do.*** We find them to be a vital partner in our broadband program (VT FiberConnect) and also for our efforts to develop a statewide strategy for digital literacy/skills training for Vermonters. We have been working with Caro Thompson (VTA) on the formation of a Digital Skills Roundtable which just had its second meeting and includes reps from AOE, ACCD, Community Action, the disabled community, Adult Education, Small Business Development Center, and others.

I understand that the Administration (and legislature) is discussing the possibility of disbanding the VTA, ***and I want to strongly urge you to continue the work of the VTA.*** *Broadband* continues to be a high priority topic for us (and libraries) and VTA has been a very good working partner. We do not have the infrastructure or sufficient expertise in our department to tackle these kinds of issues and initiatives without the leadership and collaboration of the VTA.

Jeb: I am available to talk about VTA issues in more detail.

#### 145 Libraries Meet State Minimum Standards for FY2013: (revision from earlier report)

Each year Vermont's 183 public libraries have the opportunity to complete an application in order to meet the *Minimum Standards for Vermont Public Libraries* for the immediate past fiscal year. Libraries choose one of the two sets of standards (basic level: 1986 and higher level: 1998) which emphasize four areas: public service, public access, interlibrary cooperation and community involvement. This year 145 libraries met the requirements for Vermont's Minimum Standards; 35 of these libraries met the more stringent 1998 Standards.

#### **Project Updates/Partnerships:**

VTLIB Website: After a long delay, we are (finally) starting the process for a VTLIB website re-design, using the new state template. We have a library school graduate student intern working with us this semester and she is interested in learning more about websites, so we will put her to work building a test website with the new design and integrating content from our current website. Though she won't finish the work, she has provided the push we needed to get this project off the ground and I hope we will have a new site up by the end of 2014.

#### **Other:**

VTLIB March Newsletter:

<http://archive.constantcontact.com/fs138/1102928001760/archive/1116787979551.html>

*Note this from my remarks in newsletter:*

“This year marks the 120th anniversary of Act 37 of 1894 which was passed by the Vermont Legislature and which established the Board of Library Commissioners, the predecessor to today's Vermont Board of Libraries and the Department of Libraries. Over the years this body became known as the Free Public

Library Commission and later the Free Public Library Service and in 1970 joined the Vermont State Library to form what we now know as the Vermont Department of Libraries.”

## TAXES

### Legislative Update:

#### Ed Finance:

- *W&M Draft as of Thurs. Aft, Changing Rapidly*
- *Base Case:* This year’s rates were 1.44 (non-res), .94 (res), 1.8%, \$9141 base ed amt. By statute (the revised Dec. letter) the rates would be \$1.51, 1.01, 1.84% and \$9382 base amount.
- *W&M Bill:* \$1.52, .98, 1.94% and \$9382.
- *Other Provisions:* Extend slope for claiming partial income sensitivity to about \$125,000 income, cap income sensitivity at \$6000, take away equalized pupil breaks for fast growing and declining districts, take away small schools grant over 3 years except where geographic necessity, a not well developed “soft cap” on per pupil increases tied to inflation, a decrease in allocable rent for renter’s rebate with call for study to redesign, use of ½ of GF surplus to rebase GF transfer until undo 2010 change.
- *Discussion:* The committee was determined to address slope – their rationale is that this group of homeowners has been hit hardest. Since it is a zero sum game, they fund the relief by increasing the rate on the current income sensitized payers, not lowering the rate more for property payers generally and in fact increasing the rate on non-residents. The rate increase is 2x as high on non-resident side (by pennies, not percentage) – they have charts showing this gets the proportion between payers back to what it was in 2009. The problem the committee may have is that slope is awful hard to understand, while the “expansion of income sensitivity” and “hurting Vermont business” resonates easily. The per pupil soft cap was initially proposed by Patti Komline, but not clear it accomplishes purpose as they redesigned it. The equalized pupil and small school grant provisions will be controversial, and it will be interesting if the committee can resist writing in exemptions. Committee already talking about scaling back the GF transfer language to rebase over longer period.
- *Large Scale Finance Reform:* At beginning of week, the committee was gung ho to dive into Condon’s plan for a small statewide property tax and larger income tax – with Rep. Sharpe expressing his enthusiasm to start withholding the additional income tax in January to address the transitional timing issues. As much as folks hate property tax bills, not clear they would be jazzed about lower paychecks! The Chair and Rep. Masland continue to question sustainability of relying more heavily on volatile income tax.

#### Miscellaneous Tax Bill:

- *Research & Development Credit:* The IRS last fall proposed a new regulation for R&D credits, basically capitulating to taxpayers who had been claiming expanded credits as early as 2009. JFO and W&M used this reg as a pretext to float a proposal to cap the Vermont credit, and force

disclosures from companies claiming the credits. While it is true that some other states do limit their credits, and publish info on companies who claim them, the Commissioner pushed back to JFO that no revenue loss could be attributed to the IRS action, and the timing on pulling back on R&D in VT was particularly poor given the aggressive courting of companies by our neighbors, and the fluid situation of some of our large employers. Not clear where W&M is headed, according to Cathy Davis, Green Mtn Coffee is prepared to testify.

- *Solar Generation Tax:* The Committee largely adopted the compromise that puts the exemption at 50kW; above that \$4 per kW statewide rate, muni rate applied against agreed valuation model. Still might be kinks to work out in Senate.
- *Covenant Restricted Housing:* The Committee largely adopted a compromise that limits valuation to up to 79% of fmv.
- *Amazon Affiliate Legislation:* Rep. Wilson backed off on his idea to advance the date of our affiliate legislation after speaking with Amazon, who assured him that they would pull out of Vermont. It must be noted that if affiliate legislation passes in a few more states where it is pending, the trigger will be met for our bill to go into effect. In the meantime, the US House Judiciary Committee held a hearing to consider whether the House will take some action on remote internet sales – some foil to Marketplace Fairness which the Senate had passed. Some Republican rhetoric about this being a new tax.
- *Compost Sales Tax Exemption and Wood Product Manufacturer's Credit:* Steve Klein insisted to the Commissioner that the Administration must fund these if it supports them. The Commissioner reiterated that they are not our proposals, were not in our budget.

#### Senate Finance:

- *Tax Expenditures:* The committee finished the arduous task of attributing a purpose to all of the current tax breaks, and in the process proposed eliminating a grand total of three. The first would eliminate a \$10,000 cap on any purchaser's sales or use tax liability for telecommunication services (negligible revenue, rarely claimed). The second would eliminate the meals tax exemption for meals purchased by a health care corporation or served by a credit union (again negligible). The third would eliminate the property tax exemption for fraternities (not other fraternal organizations).

#### Operation:

VTax Project: Chainbridge has installed the sales tax microsimulation model, which Tax and JFO staff can now use. In the meantime, our RSI Data Warehouse experienced its best month yet, with enhanced revenue coming from fraud review, discrepancy review and collection through offsets and unclaimed property. At about the half way point, the warehouse is now trending above its \$16M five year projections. With the net proceeds that will flow to the Department's computer modernization fund, we are well positioned to pay the first FAST invoice on VTax in cash, earning over \$400,000 in discounts.

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**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: March 14, 2014**  
**Re: Weekly Report**

**Status of Governor's Priorities:** Senate Appropriations testimony yesterday went very well. Committee asked some questions as to our tax structure and how it differed with New Hampshire. I mentioned to them a study I did a few years ago that recommended looking at some alternatives to the current tax. Maybe next year they might want to look at it.

**Legislative Issues/Contacts/Updates:**

- S299: would allow for licensees to serve flights of various products for comparison purposes. Current law does not allow that. The bill was passed out of Senate and is in House General. **No additional House Testimony Scheduled this week.**
- S260: Allows for licensees that have had their applications approved on the local level but don't have the state's approval (DLC) due to other requirements to have a wholesale dealer deliver product to them to sample and prepare menus for actual opening of the business. Senate passed the bill this week and in House General. Testified this past Tuesday and all went well. The committee was very receptive to the intent of the bill in that it will help businesses be prepared and ready to go once fully licensed. **No additional House Testimony Scheduled this week.**
- H671: This bill moves our Liquor Investigators under Public Safety. Board Chair testified yesterday. I don't see this bill having any movement for now. I think it needs more testimony as a move like this is very complicated as to regulatory issues and Board interaction.

**Press Issues/Releases/Contacts:** Nothing now.

**Significant Events/Meetings:** Next Board Meeting 03/19/2014 - Enforcement Hearings.

**Evolving Issues:**

- ERP/POS Project Contract signed this week. Kick off meeting in April.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Still asking questions and gathering data.

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**Summary of Key Department Activity:**

- March sales look good and all the new snow will help the state's economy as people visit ski areas, snowmobile, and other activities. People buying higher priced items indicates to me that there is more discretionary money being spent and consumer confidence is up.

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