

# WEEKLY REPORTS

Checklist  
4/18/2014

Elizabeth Miller/Aly Richards

- Agency of Commerce and Community Development – Patricia Moulton
- Health Care Reform – 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:** April 18, 2014  
**Re:** Weekly Report

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## LEGISLATIVE ACTIVITY

- **S.220:** Lucy continues to monitor progress on this bill which the Committee intends to vote out by early next week. The **Governor's Vermont Enterprise Investment Fund** was well received. The Committee made some modifications to the language, which were reviewed by ACCD staff who offered suggested changes. **Made in Vermont:** Lucy and Nancy testified about the "Vermont Products Program." This section came from Senator Campbell and directs ACCD to study possible expansion of Made in Vermont to include recognition of products designed or engineered in the state, in addition to products actually manufactured here. It also directs ACCD to recommend whether enforcement of Vermont-origin marketing claims should be moved from the Attorney General's office to ACCD jurisdiction. The House committee was concerned that the study was overly prescriptive as well as premature, as Made in Vermont has not launched yet. They struck the entire section but decided on Thursday afternoon to put a revised version back in. Lucy is also working with the committee to revise the eligibility requirements for the **Vermont Training Program** from twice minimum wage minus up to 30% for health benefits to a guarantee of livable wage as established by the JFO analysis instead. Michael Marcotte expressed his intention in Committee on Thursday to introduce an amendment to do a study on why the eviction process takes so long in Vermont. This could be a real lightning rod for this bill. Lucy is watching.
- **Budget:** Senate Appropriations has put restoration of funding to Governor's recommended levels for RDC/RPC's on their wish list.
- **Landlord Education:** Jen testified on the administration's position (neutral) on H.239 in Senate Appropriations. As it has evolved, the bill directs the Department to conduct a landlord education program with \$32,000 in one time funding. The Committee was more than skeptical and disinclined to consider the bill outside the annual budget process as the House had done. It put it on its list of items to be considered for inclusion in the FY15 budget. The Vermont Affordable Housing Coalition, Vermont Tenants, Inc. and the Vermont Apartment Owners' Association continue to work in support of the bill.
- **H.809:** Still in Senate Natural Resources and Energy Committee. Looks like mark up and vote will be tomorrow.
- **H.823:** Also still in Senate Natural Resources and Energy Committee. Markup and vote scheduled for Friday, but think it might be next week.
- **H.860:** Noelle testified in House Ag and Forestry on this bill which request that ACCD, AoAg and Forest Parks and Rec work together to create a strategic agriculture and forest product enterprise land use evaluation. Explained that DHCD is working with Ag on follow up to the Ag working group that was part of the Act 59 work that CP+R lead last summer. This won't pass this year, but speculate it will be part of an ongoing discussion.
- **Renter Rebate Study:** The Senate Finance Committee began work on the Property Tax Rate Bill (H.889). The Vermont Low Income Advocacy Council requested an amendment to the Renter Rebate Study section

making improving the existing program a more explicit option. Committee deliberations will likely continue into next week.

- **Reports:** Legislation passed last year repeals statutory requirements for a large number of legislative reports, including one that the Department submit a statewide Housing Budget and Investment Report to the General Assembly on an annual basis. Because there was very little interest in the report and it took a significant amount of staff time, DHCD stopped doing it in 2009. As passed by the House, H.877 would reinstate the requirement. It is now in the Senate Rules Committee. Jen appeared before the House General, Housing and Military Affairs Committee to explain why the Department believes the staff time required to prepare the report would be better directed elsewhere. She asked for the committee's support in removing the report requirement if the bill moves in the Senate unless it felt the report was truly valuable and would be used. It's not clear that it will as one particularly dogged advocate (Guess!) is arguing that while most of the information is available elsewhere, some of the charts are unique.
- Lisa Gosselin participated in tour of Chittenden County businesses on 4/11 with Senate Economic Development Committee. Visited Hazelett which saw significant growth last year and is now at 160 people and finds working with Vermont Training Program and Vermont Tech to be a productive source of skilled workers but is concerned that finding new younger employees is increasingly difficult. Also visited Burlington Generator maker-space and Revision Eyewear, which is also growing and considering expanding into military apparel. Lunch was sponsored by Lake Champlain Regional Chamber. Business representatives there were very concerned about the steady stream of what is being viewed as "anti-business" messages coming from "Montpelier" in general and legislature in particular. Mike Keller of Gallagher Flynn is particularly concerned and says this is the worst business climate he has seen in 35 years and he is at the point of advising businesses that they should look out of state. This was echoed by builder Mike Plageman and realtor Yves Bradley of Pomerleau. The cascade of things they need to "fight" in the legislature (WARN act, minimum wage, toxins, taxes, estate taxes) is contributing to a weariness with the state. Plageman is also concerned about the independent contractor issue and Senator Baruth said he might include this in S. 220.
- House Commerce conducted a tour of Franklin County on 4/15 attended by Lisa Gosselin. Vermont Precision Tools has expanded and is now making medical instruments and is considering additional expansion. They are participating in VMEC's Exportech and may be interested in Medica. Monica Greene, the owner, also expressed an interest in Kennametal's "excellent" workforce and even stated she would consider expansion in Lyndonville if possible. Commerce also met with Marilyn Savoy and other members of the WIB. Savoy spoke very highly of Vermont Training Program and of critical need for that and WET funds to do the work they need to do. Visited Northwest Technical Center, received a tour of downtown and ended up at St. Albans Coop. Coop has seen 20% growth in revenues due to increase in demand over past year. St. Albans is concerned about the GMO bill.

## LUCY LERICHE, DEPUTY SECRETARY

- **Governor's Enterprise Investment Fund Press Conference:** Good press on this important economic development initiative. A special thanks to Fred Kenney, Kiersten, and Ken Jones for all your good work.
- **Working Lands Enterprise Board:** The new WLEB awardees have been chosen! A press conference celebration will be scheduled shortly after the legislature adjourns.
- **VY Economic Development Grant Process:** Lucy pulled together a great ACCD team to begin work on creating the structure for awarding these VY settlement dollars.

## DEPARTMENT OF ECONOMIC DEVELOPMENT

### Lisa Gosselin, Commissioner

- Met with Rob Foregger, a co-founder of Everbank and Personal Capital is looking at expanding his current business, a virtual 401-k business advisory portal, NEXT Capital to Vermont with a financial call center to be based in the Waterbury/Stowe area. Foregger is concerned about ability to recruit financial services talent. Lisa will connect him with other like businesses.
- Spoke with Ric Cabot of Cabot Hosiery who is anticipating significant growth for the Darn Tough brand. They are currently hiring 20 people and are in search of an interim HR manager to help successfully interview prospects identified at recent job fair. Expansion may go as much as 100 new employees and, potentially a new manufacturing space in the next year.

### BUSINESS SUPPORT ♦ Ken Horseman, Senior Economic Development Specialist

- **Mobile Medical - St. Johnsbury:** Employment is steady and business is strong with several recent new contracts. They have recently begun lean process work with VMEC and have a variety of future training needs. The foreign trade zone newly established in the NEK is also of interest.
- **Weidmann - St. Johnsbury:** The German-made system is among the best in the world, and there is only one operation in North America in Canada that comes close to the capability in St. Johnsbury. Full time employment is at 310 with 14 vacancies which they are finding difficult to fill.
- **Classic Designs by Burak (d/b/a Tablelegs.com) - St. Johnsbury:** Business is very tight although employment remains steady. Sales of their kits have slowed, and they have begun to make their own raw stock to lower costs. The department will assist in connecting them with prospects to potentially purchase their new line of finished products. They voiced serious concerns with Vermont's healthcare reform which they report has tripled company and employee out-of-pocket costs. Despite the ownership's passion for Vermont, he is seriously considering relocation as the only way to keep them in business. They operate on 3% margin on total sales of \$3M and expressed concern with the slowly increasing cost of doing business in Vermont.

### FINANCIAL SERVICES ♦ Dan Towle, Director

- **Risk & Insurance Magazine Editorial Contributor:** Dan has been selected by the Publisher & Editor-in-Chief of Risk & Insurance to be an Editorial Contributor as part of their 'Risk Insider Program'. This program is described by Risk & Insurance Magazine as: "Risk Insiders are an unrivaled group of leading executives focused on the topic of Risk. They share their insights and opinions..." R&I Magazine is the leading monthly trade publication for the insurance industry. This is a both an honor and a great opportunity for Vermont to have an editorial platform to address issues facing the captive insurance industry and Vermont.

## DEPARTMENT OF TOURISM & MARKETING

### Steve Cook, Deputy Commissioner

- **Made in Vermont Marketplace:** Deputy Commissioner Cook attended the kickoff of the [Made in Vermont Marketplace](#) on Friday April 11<sup>th</sup>. The event was well attended. Booth space was sold out at the event. Below are some details from the event planner regarding the marketplace:
  - 72 exhibitors
  - 77 booths
  - Attendance over 4,000 people
  - Friday's attendance at around 250
  - Saturday at about 2,200
  - Sunday at close to 2,000

**COMMUNICATIONS ♦ Jen Butson, Director of Communications**

Post Details



**Vermont Tourism**  
April 11 at 8:26am · 🌐

"Dig Into Vermont's Edible Landscape" tour selected by National Geographic Traveler Magazine as one of its 50 Tours of a Lifetime.



**Cultural Crossroads - Vermont**  
A tour to Vermont, USA  
CULTURALCROSSROADS.COM | BY CULTURAL CROSSROADS, CARRIE MCDUGALL...

Like · Comment · Share · 👍 66 💬 1 ➦ 24

**1,640** People Reached

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**113** Likes, Comments & Shares

<b>FROM YOUR PAGE AND POSTS</b>		
<b>66</b>	<b>1</b>	<b>24</b>
Likes	Comments	Shares
<b>FROM LIKES, COMMENTS &amp; SHARES</b>		
<b>19</b>	<b>3</b>	<b>0</b>
Likes	Comments	Shares
<b>TOTAL</b>		
<b>85</b>	<b>4</b>	<b>24</b>
Likes	Comments	Shares

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**54** Post Clicks

<b>0</b>	<b>20</b>	<b>34</b>
Photo Views	Link Clicks	Other Clicks ⓘ

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**NEGATIVE FEEDBACK**

<b>0</b> Hide Post	<b>0</b> Hide All Posts
<b>0</b> Report as Spam	<b>0</b> Unlike Page

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

- **Despite Weather Cancellations, BTV Deplanements Up in March:** Flight cancellations during the coldest and stormiest March in recent memory did not undermine a net 5.6 percent increase in arrivals at [Burlington International Airport](#).

**CHIEF MARKETING OFFICE ♦ Nancy Brooks, Chief Marketing Officer/Heather Pelham, Marketing Specialist**

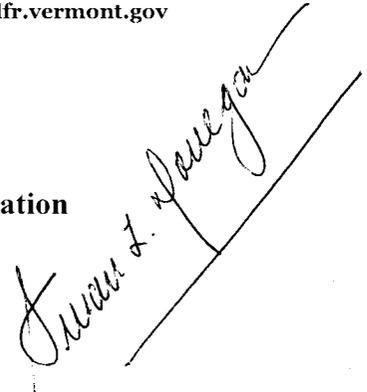
- **State Web Template:** Nancy and Heather continue work with DII and VIC on the next-generation state website template. After a very productive discussion this week about revisions and additional features, we look forward to a presentation from the VIC designers next week.

**State of Vermont**  
**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: April 18, 2014**  
**Re: Weekly Report**



**Insurance Division:**

Commissioner Susan Donegan and 44 members of the National Association of Insurance Commissioners (NAIC) met for over an hour on Thursday with President Barack Obama, Vice-President Joe Biden, HHS Secretary Kathleen Sebelius and senior members of the administration, including Senior Advisor to the President Valerie Jewett, Centers for Medicare & Medicaid Services Administrator Marilyn Tavenner, and CCIIO Acting Director Mandy Cohen. The meeting was called by the White House to discuss 2015 enrollment issues under the Affordable Care Act (ACA) particularly the end of open enrollment in 2014 and preparation for 2015. The meeting also gave state regulators the opportunity to discuss ongoing challenges they experience in their markets and coordinate with the Department of Health and Human Services (HHS) and the administration to find solutions. State regulators expressed concern about the possible lack of insurance regulatory expertise due to the departure of Secretary Sebelius' and recommended that the appointment of a permanent director of the Center for Consumer Information and Insurance Oversight (CCIIO) be done quickly. They suggested that the new director rely on the expertise of state insurance regulators as decisions are made. The President also addressed possible premium rate hikes for the 2015 health insurance plans and was scheduled to meet later in the day Thursday with representatives from the health insurance industry for more discussion. He reminded the commissioners that the ACA has empowered the states to deal with premium rates and hoped that they would continue to exercise that authority to ensure a sound (solvent) insurance market that will give consumers a decent deal. Other topics focused on the federal exchange aspects including website issues and network adequacy. The President ended the session by reminding the commissioners that everyone in the room was a public servant and that the collective public service goal, regardless of party affiliation or politics, is to make sure all Americans have access to health care through insurance. After the President left the room, Secretary Sebelius noted that the President spent over an hour with the commissioners ("not a drive by meeting") which indicates the degree of seriousness he places on health care reform and why it is a top priority in his domestic agenda. Lastly, Commissioner Donegan was asked by the President to "say hi to Pete for me."



**Captives Division:**

Captives insurance license number 2014 was issued this week to American Industrial Acquisition Corp., which is headquartered in New York City. AIAC is a group of 50 manufacturing sites with more than 8,000 employees in 16 countries and total annual revenues topping \$1.2 billion. Included in AIAC's holdings is Champlain Cable Corp. of Colchester.



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

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: April 18, 2014

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Any typos and edits are mine.

**Legislative Issues/Contacts:**

**Aaron Brodeur** testified in **Senate Finance** about the **school district audits**. I had told Sen. Ashe earlier that he should invite Aaron in, because of his interests in the audits. It was Aaron who led the push to have Burlington do a separate audit for the school district. My purpose was threefold:

1. To establish Aaron's authority and credibility on audits, which are of particular interest to Ashe.
2. To give Aaron an opportunity to argue for the importance of annual audits (given the current amendment which removes this requirement), as well as the need for financial policies that provide for improved internal controls, ensure some consistency, provide local boards a basis of accountability with their financial staff and allow the boards the flexibility to develop policies that fit their individual needs.
3. To help Ashe understand our audit process. Aaron explained the requirements under current law and their importance to sound financial management. He addressed trends seen in audit findings and AOE's review/follow-up process. Aaron said that although the findings were informative and important we tend to gain a lot more useful information from the notes to the financial statements, and shared several examples of issues he discovered from the notes that impacted the education tax rates. Some of these relate to governance.

Senator Ashe asked if AOE maintains a log of issues we find during the audit review process. Aaron said we had started this process with the FY11 audits but given the number the Agency has to review and the fact that there are only two people doing the reviews on a part-time basis it has been hard to maintain.

## **S. 91 is now on ice.**

You already know the story, but I did receive requests from Rep. Champion regarding my suggestion that North Bennington was experiencing financial stress. In a meeting on special ed rate setting, the principal of the North Bennington school expressed this. In addition, their lawyer said she is working for free because the school can't afford to pay her. I also have heard from Sean-Marie Oller that Shaftsbury has hired a lawyer to see if it can pull back the Shaftsbury District 1 kids who currently attend school in North Bennington. This is consistent with the article below:

[http://www.benningtonbanner.com/localnews/ci\\_25566940/report-explores-effect-taxes-if-shaftsbury-takes-id](http://www.benningtonbanner.com/localnews/ci_25566940/report-explores-effect-taxes-if-shaftsbury-takes-id)

As much as I detest flipping, this is not a battle worth fighting. It detracts from and potentially derails the conversation on governance. We need to keep focused on how we provide high quality public options, and hope the 1% of towns place enough value on civil society to stay in the conversation. House Ed was apparently shocked by what happened to S.91 on the floor. Peter Peltz told Vaughn the attack was "planned very carefully." Peltz said the leadership pulled it because the argument was starting to go around that they needed the moratorium because of the expected reaction to H. 883.

## **Retiree Health Insurance**

Vaughn has been toiling to back up Beth Pearce and show support for her package as a package. Steve Dale and Joel Cook appear to be working to undercut the fee for new hires and take the amount off the top of the Ed Fund. Need to make sure fees are prorated by FTEs.

**H.883:** We have talked about this a lot already, but a few more pieces.

*Educational purpose:*

We are honing some educational messages related to governance. Steve Dale will be sharing some of them with Tim Ashe this morning (Friday).

*Doing the work:*

I increasingly believe we should think about a team approach to supporting the governance transition work, rather than assigning individual positions to different entities. This has several advantages:

1. it makes clear that the work is to support the governance work, and less likely to get sucked into bureaucratic maw
2. it emphasizes the interdependent nature of this work
3. it keeps transitional costs separate, so that when governance is done, it is easier to see which positions and costs can be phased out.

We probably have space for them, and would need to work closely with them, but the team would support and serve the SBE, the Design Team, the Districts and would work



closely with the Agency. It would need to include some legal, research, business and systems design capabilities, as well as support for clerical tasks. Steve Klein and Bill are meeting to discuss needs. We should not underestimate the work involved.

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

#### **Green Ribbon Awards**

On Tuesday, April 22 at 2:30, USDOE is out to announce that three VT schools will be recognized as Green Ribbon Schools for their efforts to reducing environmental impact and costs, improving health, and provide environmental education. The three VT recipients are:

- Camels Hump Middle School in Shelburne, VT
- Champlain Valley Union High School in Hinesburg, VT
- Lake Region Union High School in Orleans, VT

Susan Allen has a copy of the US DOE press release (embargoed until Tuesday). We will collaborate on a local press release.

#### **AOE House Keeping**

You already have the details on VIA and Burlington, which were our biggies this week.

#### **The State Board of Education on Governance**

The State Board voted to support the following principles related to governance. It was a small step for SBKind, but a huge leap for governance.

#### **Belief Statements:**

- Define appropriate roles for Board, Community councils, superintendents, principals
- Commitment to equity (Educational finance and educational) opportunities
- Implement Ed Quality Review process/analyzing and giving every school high quality data & feedback and provide cross-district feedback
- Address issues of representation and balancing interests of small and large districts
- Clear goals and clarity about who gets student to those goals
- Analyzability (Pk-12)
- Building & maintain school level consistent (protocol based) database dealing with school finance and equity
- Begin by clarifying all functions (legal, design, financial modeling, analytical, clerical, research) that need to be done, costs associated with them, and who will do that work
- Identify functions that benefit from centralization (ed. opportunities, e.g., arts, summer; Sp. Ed.; transportation; chart of accounts; finance systems; H.R.; pay equity) and those that local/ground level/personal/personalized decisions



**Procedural questions (Points SBE thinks need clarification)**

- Final Approval Process of Design Team (educational and financial)
  - Proper expertise representation needed on design team
  - Makeup and size of design team
- Model the tax process (-5%)
- Voting proportionality
- Clarify waiver of rules/laws
- Capacity to address work of/for Design Team; Clarity of function/role
- Private Schools
- Career/Technical Centers

**Motion:** Motion: Oller moved, seconded by Huling, that the State Board of Education adopt the belief statements and procedural questions as discussed at the 4/15/14 meeting and ask/request the Board chair to transmit/pass/convey the information to the Legislature on behalf of the Board. Unanimous.

**Balanced Accountability Model.**

We are rolling out our proposal for a new accountability model for feedback from the field. Ken Page of VPA is helping us to host sessions around the state, and within 4 days, we had 112 principals signed up to participate. We look forward to getting feedback from the field that we can use to improve the plan.

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Have a great weekend, all.

Rebecca



**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Apr 18, 2014**  
**Re: Weekly Report**

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

n/a

**Legislative Issues/Contacts:**

Final approval of language for bill H631 – bonus payments to agents. The Senate version is the most acceptable if something must be passed. It will be a session bill which converts this to our rules where it began. The financial impact to lottery profits is negligible based on recent history of prizes claimed, and requires little extra work/expense on our part.

**Press Issues/Releases/Contacts:**

n/a.

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

The Exec. Dire of Vt Council on Problem Gambling is retiring in June. She brought forward a proposal for Vt Assoc for Mental Health & Addiction Recovery (VAMHAR) to continue the operation which increases the annual cost by 73% (\$260K instead of \$150K). Our FY15 budget had the \$150K grant included. The VLC does not support this increase without knowing why and what is the benefit. No clear improvements or explanations have been brought forward yet. We are also concerned that letting VCPG stop or slow down is not an acceptable answer. I have contacted Dept of Health for any accountability reporting or data that may exist to support the request. VCPG's most recent data is from 1995 and they say that addiction counselors have been unwilling or reluctant to provide patient counts.

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**Summary of Key Agency Department Activity:**

VLC meeting on April 16<sup>th</sup> – discussion of VCPG matter.

**Executive Director's Commentary:**

The Lottery is named in a suit from 2012 due to our gaming vendor terminating the employment of one of their field staff – Shannon McLamb. At this point we are facing the decision of a nuisance settlement, and are getting guidance from our AAG and Risk Mgmt. The VLC authorized me to negotiate up to \$5,000 if it comes to that. An arbitration date is set for May 21<sup>st</sup>, and we expect Intralot to be the lead in any settlement offer, with us playing a lesser role.

**Executive Privilege**

**TO: Governor Peter Shumlin**

**FROM: Secretary Brian R. Searles**

**DATE: Friday, April 18, 2014**

**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**Winter Maintenance Costs**

Here's hoping that this is the last of these updates for a while. Expenses for winter activities are currently at \$28.3 million (Avg. is \$20.6) and salt use is at 130,800 tons (Avg. is 87,500) and both are records. We have had 97 winter storms (three or more districts deployed) this year and 98 is the record.

We are working on a plan to address the above normal damage to road surfaces over the last six months and will be planning an event with you in the near future to lay that plan out once all the pieces are in place.

**This Week's Storm Update**

Thanks for your comments concerning the efforts of crews dealing with flooded and snow covered roads over the past week. In addition to the problems we dealt with there was significant damage to town infrastructure and we have assigned our district techs to help with the assessment of damage totals for the purposes of entering the FEMA world once again. It may happen, because we have early estimates of damage to rail infrastructure along the Connecticut River (Washington County Railroad – Bradford and Lyndonville Subdivisions) of about \$600,000. We are working closely with the town of Johnson, where a temporary bridge is being deployed over a large washout on a town road.

As of this writing, only three closures remain including U.S. Rt. 5 in Newbury, where water is receding; the Maidstone Highway where water has receded but considerable damage remains; and Route 73 between Brandon and Sudbury where there is still 6-8 inches of water in some places, and which is likely to remain closed for the weekend. Crews will be working to restore these roads over the next couple of days.

### **I-89 Interchange at Rt. 116, So. Burlington (Proposed as Exit 12B)**

This proposed interchange which had considerable momentum about 10 years ago suffered a setback when the Greco-led City Council in South Burlington pulled its support. When combined with the recession, drop in business at the Burlington Airport, and a tamping down of development pressure at that location the project was relegated to the back burner here at VTrans. That could change in the near future.

I was recently approached by a group led by new City Council Chair Pam McKenzie who expressed the renewed interest of the City of South Burlington and the business community. This was followed this week by a call from Jeff Davis wondering if this project was dead or if he could discuss it with a “very interesting” prospective buyer for the Hill Farm which is located at the northeast quadrant of the proposed interchange. He described this prospective buyer as a company that could generate “hundreds of jobs”.

I told him that we still support the project and would certainly work hard to make it happen if it was a linchpin to high quality economic development at that location given that the airport business is coming back and other interchanges in that region are congested. However, I was clear that funding hurdles had only worsened and that further political and environmental issues could be anticipated. He suggested renewing the discussion of a public/private partnership for this project which a few years ago took the form of the private sector contributing to the state match. I took the liberty of saying that if it helped with his negotiations, he could certainly point to my support of this project.

### **Presidential Task Force**

Deputy Minter has been busy with the Presidential Task Force process, developing recommendations within two of the Subgroups (Transportation and the Disaster Management cycle) and working with your staff to organize the CEQ/White House Task Force staff visit to Vermont in early May. Minter also presented on VTrans’ Irene response to a Women’s Transportation Seminar (WTS) luncheon in Boston, where you were praised by Vermont participants for your success in swift Irene recovery.

### **Construction Season Ahead**

The first asphalt plant opened this week, and we are readying the forces to do extensive pothole, spring leveling and expanded (innovative) surface treatments, which we will describe at the T-Bill signing (possibly May 1<sup>st</sup>). Because the legislature supported our language authorizing us to move \$\$s for spring paving, we want them to be a part of the announcement. Our construction season is also gearing up. This year we have, for the first time, brought the key leaders from the Operations and Program Development divisions together in advance of the season. Given that these two divisions used to be in their own “silos”, this marks a great change and improvement in teamwork and communication across the Agency, which should pay dividends this season and beyond. We are also planning to present the construction program to legislators, with staff and big maps available for members to stop by and learn more detail on what is coming to their district this year. This is all part of our effort to improve both our public communication and customer service, and overall transparency.

## **NOTES FOR STAFF**

### **Middlebury Sand Hill Bridge to Close Rt. 125**

A number of projects have been included in the Accelerated Bridge Program for this construction season and the first to get underway will be the very difficult Sand Hill Bridge at the intersection of North Branch Road and Rt. 125 in East Middlebury. This bridge will be closed at 7:00 AM on Saturday, April 19 and will remain closed until June 2<sup>nd</sup>. Rt. 125 will be closed from North Branch Rd. on the west side of the bridge to Upper Plains Rd. on the east side of the bridge. As the crane is assembled next week on Wednesday, there will be up to one-hour delays on the North Branch Road. This approach is recommending a detour over state Rt. 73 and signage and other publicity will make that known, however, local residents will likely use town roads which we cannot officially recommend. This approach will save money and time and will allow the bridge to be open for the summer tourist season.

### **Problems on I-91 Design-Build Bridge Project**

This \$60 million project, the largest in the state's history, involves the demolition of four bridges and the replacement of them with two. The dismantling of one bridge suffered a setback when a cable stay broke on one bridge compromising the bridge next to it that is currently in use. This was a serious situation which resulted in the closing of the interstate for 26 hours from Exit 1 to Exit 3. As a result, there were some traffic problems on adjacent roads in Brattleboro but the Vermont State Police with the assistance of VTrans and other law enforcement agencies were able to handle them while the bridge was stabilized.

The contractor, PCL Construction, in conjunction with VTrans, has launched a full-scale investigation into the cause of the unanticipated bridge movement and a full after-action report will be generated.

### **NAFTA-NEXT**

Discussions are underway concerning the future of NAFTA as it turns 20 years old. I will attend and present at a conference next week called NAFTA-NEXT on the transportation impacts of NAFTA in an attempt to draw more attention to those impacts and link them to the discussion of transportation funding. The discussions of the renewal of the NAFTA successor agreement and the reauthorization of federal highway legislation are happening on different tracks, of course, but should be linked as truck traffic alone has tripled as a result of NAFTA and represents nearly 60% of freight movement between and among the NAFTA partners.

### **Legislative Update**

We are very pleased to be seeing the finish line with our efforts in the legislature. The T-Bill has avoided a conference committee and should be coming to your review and signature shortly. Senator Mazza got H.740 Transportation Improvement District Bill ("proportional share") out of rules committee, it was reported out of his committee on Friday and he is helping to move it through the Senate quickly. We have strong

developer and environmental support for this bill. Hopefully it will come to you for signature and can be part of your economic growth agenda success for the legislature.

**Paving**

Night paving begins on I-89 NB between Richmond and Colchester on Monday, April 21. Work will be confined to the hours of 7 PM and 6 AM to avoid peak traffic.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** April 18, 2014

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**Vermont Department of Health (VDH)**

**New Board of Medical Practice Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain:**

The Board's new policy will be emailed to all licensees today and is posted on the VDH website.

**Vermont Anti-Tobacco Youth Groups Find Widespread Support for Smoke-Free Cars:**

In survey results just released as part of the Free My Ride campaign, anti-tobacco youth groups found widespread support for smoke-free cars. Vermont Kids Against Tobacco (VKAT) and Our Voices Xposed (OVX) surveyed over 1,100 Vermont adults and showed that:

- 95% of respondents believed that smoking should not be allowed in vehicles when children are present.
- 95% were concerned that youth in Vermont are exposed to secondhand smoke in vehicles.
- 98% agreed that secondhand smoke hurts babies and young children even more than adults.

The Free My Ride survey findings align with newly released data from 2012 Vermont Adult Tobacco Survey, which found that 99% of non-smokers with children do not allow smoking in their car. However, the survey also found that 15% of smokers with children still allow smoking in their car.

**Department of Mental Health (DMH)**

**Vermont Psychiatric Care Hospital (VPCH):**

Hospital construction is on schedule. The hiring of the first round of employees is on schedule and training will begin soon.

**Pathways to Housing:**

A public hearing for the Specialized Services Agency (SSA) status was held on Monday. Fifty or more people showed up. It was a lively discussion. Police Chiefs from Barre and Montpelier spoke against giving Pathways an SSA designation. In addition, Designated Agency's spokespersons were also against the designation. Reasons seem to stem around communication and collaboration issues. Many advocates were in favor and support of the designation.

The Adult State Standing Committee met on Monday and had Pathways come in to present their reasons for wanting an SSA Status. Pathways' CEO and Board Chair presented their case. The Adult State Standing Committee voted as follows in support of the application:

3-yes

1-no

1-abstention

Commissioner Dupre is looking into giving Pathways to Housing a provisional designation for FY 2015.

The Designated Agencies have asked to speak directly with Commissioner Dupre. He is scheduled to meet with them today.

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

Designated agencies and developmental disability advocates express reservations about the Accountable Care Organization (ACO) model:

On Thursday, Commissioner Wehry met with advocates in the Developmental Disability community to address their fear of a takeover of the long term care disability system by the ACO's, especially OneCare ("it's just too big"). These were similar to the concerns stated directly to you when you met with the DD Council earlier this month. Commissioner Wehry felt some progress was made in assuring that we are not reluctant to tackle difficult questions and in re-establishing the 'big picture' goals and finding common ground. She will continue to use and propose refinements to the new ACO talking points put out this week.

Senate Health and Welfare hears additional testimony on H.728 (an act relating to developmental services' system of care):

Family members and advocates for persons with developmental disabilities continue to advocate for more legislative oversight of the process for prioritizing expenditures in Developmental Services. The committee is considering the department's recommendation to forgo a new summer study committee and instead to ask the Health Care Oversight Committee to review the department's Task Force later this summer. Senator Pollina continues to advocate putting the system of care plan through rule making. Either outcome is acceptable to DAIL at this point.

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

S.218 (An act relating to temporary employees) and S.295 (An act relating to pretrial services, risk assessments, and criminal justice programs):

Commissioner Pallito and Deputy Commissioner Menard testified this week on both S.218 and S.295. The issue of staff searches in S.218 was a majority of the conversation. The House Committee on Corrections & Institutions had strong concerns about how we would implement the staff searches. The Committee also questioned why we didn't take a staggered approach along with a monitoring component to the Corrections Oversight Committee. Commissioner Pallito stated that we could do this by drafting and implementing the rule on visits first, reporting its effect and then take the next step with searches. This would allow the legislature the

opportunity to gauge each step. Although not mentioned in testimony, an intermediate step could be to furnish all employees with clear plastic containers to be used to transport lunch and other belongings into the secure portion of the facility. The DOC will evaluate this as a measure.

#### VSEA Issues Statement:

An ongoing issue for DOC staff misconduct is the issue of missing inmate checks, and then subsequently lying by indicating that the check was conducted. The DOC has repeatedly told staff that if a check is missed to inform a supervisor. Some staff continues to cover them up and when discovered, the DOC has proceeded with discipline, often termination, for lying. The VSEA in turn has issued the following to all of its members:

### **VSEA Warning About Reporting Missed Checks**

#### **WARNING – MISSED CHECKS – WARNING – MISSED CHECKS**

#### **Dear VSEA represented employees in the Department of Corrections:**

Last Friday, April 4, 2014, VSEA representatives met with DOC and Department of Human Resources (DHR) representatives to discuss DOC's policy concerning missed checks and documentation of these missed checks. After two hours of debating the interpretation of the policy and your collective bargaining agreement (CBA), it is clear that DOC and DHR will pursue termination against any employee who documents a check that did not occur or who inaccurately documents a check. DOC asserts that signing off on a check that did not occur is tantamount to fraud. VSEA believes that this ignores the required use of progressive discipline under your CBA. However, DOC has made it clear that it will zealously pursue termination of any employee who misses a check *and* inaccurately reports the check was completed. Your union is extremely disappointed that management has decided to treat you in a harsh, punitive manner, especially in light of the extremely difficult working conditions and chronic understaffing. This overly punitive approach will unfortunately lead to further staff shortages.

#### **The directive from DOC is to report a missed check immediately to your supervisor or suffer the consequences.**

VSEA does not want to see dedicated, hard-working employees lose their jobs over fear of reporting that you missed a check. Do not fall into this trap, make sure to report missed checks and never lie or document that you made checks that you missed. If you are unsure about the time or specifics of a check tell your supervisor and steward immediately. Remember, they are videotaping you, and the tapes are reviewed to check for mistakes. Be advised: over-report missed checks! Supervisors please encourage your employees to report any missed check to you and VSEA stewards in writing. Supervisors, please make sure that you also report any missed checks up the chain of command. VSEA needs an internal accounting report to defend your livelihood and lobby for more positions to be created where checks are missed due to under staffing. The only way to increase staffing for areas in need is to highlight the inability to perform your job duties due to poor management directives and understaffing. You and your colleagues are the experts on the front lines. DOC and DHR are more concerned

about potential lawsuits than keeping experienced staff. All DOC employees should review policy 403.04 – Inmate Observation Checks and Accountability.

### Population

The department's incarcerated population averaged 2,132 for the previous week. The incarcerated male population averaged 1,969 for the previous week with 345 being presentenced inmates. The female population averaged 163 for the previous week with 42 being presentenced female inmates.

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

#### Senate Appropriations:

Speaker of the House Shap Smith approached Senator Jane Kitchel who in turn asked Commissioner Yacovone to draft budget language allowing financial assistance to Creative Minds Child Care Center in Newport, operated by Jody Marquis. The request was for budget language that would provide the state flexibility in assuring financial assistance to high quality 5-Star child care programs in very impoverished areas of Vermont, without opening the door so wide that other providers could apply. Commissioner Yacovone drafted the language and gave it to Sen. Kitchel. DCF has already provided extraordinary financial relief to Ms. Marquis, and she has indicated she will likely close, though she continues to develop a viable business plan.

#### Staffing Pressures in DCF Family Services:

Nina Keck from VPR is doing a story on child protection issues. She has asked about whether we are adequately staffed. The short answer is we are not. When you took office the ratio was 1 social worker to 19 families. We added 27 staff and brought the ratio down to 1 to 16, where it is today. State law says the staffing ratio should be 1 to 12. We would need 38 more social workers to achieve the best practice ratio of 1 to 12. Since passing the legislation making the 1 to 12 ratio our goal, the legislature has taken no action to reach that goal, other than supporting our request for the 27 new positions.

Our initial estimate of caseload savings in Reach Up is that we will be under budget by \$500,000. In another week our consultant will give us another caseload savings update and we expect the number to be higher than \$500,000. The question is: should we now move to hire more social workers to get out front of what we expect will be a growing concern?

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

#### Blueprint for Health Annual Conference:

The 2014 Vermont Blueprint for Health Annual Conference on April 9<sup>th</sup> was a great success. The event was held at the Sheraton in Burlington and attracted over 370 participants. The audience included a diverse mix of clinicians, public health workers, hospital and health plan administrators, policy makers, grassroots community organizations and others interested in the cutting-edge health system redesign taking place in Vermont.

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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:** April 18, 2014

**Secretary's Top Issues**

**EPA Clean-up efforts in Rutland** have continued without severe incident. Current status and schedule are below. EPA has brought additional teams to Vermont in order to keep to the proposed time line. At the current proposed time line all of the contaminated homes in Vermont will likely be completely remediated by early June.

Three **Aerial larvacides application permits** were issued this week in anticipation of mosquito larval counts reaching threshold levels in the next week or two. Permits were Issued to the Brandon, Leicester, Salisbury, Goshen District and the Lemonfair Insect Control District and the town of Weybridge. Provisions have been made to coordinate oversight of the LFCID's aircraft annual calibration next week.

The Agency of Ag. is ready to launch a survey and gain information from farmers and those in the land use arena regarding limitations to rural enterprises and gauge land use community response to different types of **rural enterprises** that may commonly occur on farms. The AAFM has a plan to do a survey, analysis, convene stakeholder meetings and working groups (as previously engaged by ACCD) and work with other state agencies to identify what changes would affect their operations and prepare a package of policy initiatives that could be suggested for consideration by the Legislature next year.

**Federal slaughter facility** in Vermont is under Notice of suspension for violation of humane handling statute. Corrective actions have been submitted to the federal district office and the establishment is awaiting approval in order to restart slaughter operations; processing operations are not affected by the suspension.

**Proposed amendments to the Vermont Nursery and Ginseng rules** have been submitted to the Secretary of State for filing and publication in newspapers of record. The changes were requested by our Federal cooperators, industry and trade associations, and private individuals in Vermont. Amendments include increasing the certification age for Vermont wild ginseng from five to ten years (with a seven year option for private forest landowners enrolled in use-value, or owners of five acres of suitable ginseng land, subject to inspection and verification), moving the season opening date from August 20 to September 1, and changes to language reflecting statutory changes since the rules were initially adopted (1988!).

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STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

**TO:** Gov. Peter Shumlin  
**FROM:** Chuck Ross, Secretary of Agriculture  
**RE:** Weekly Memo  
**DATE:** April 18, 2014

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

April 15, 2014

**H. 860 Agricultural and Forest Products activities;** agricultural land enterprise working group House Agriculture Stephanie Smith

*Commissioner Noelle MacKay presented the work in Act 59 and the ongoing work with the Agency of Ag.*

The Agency of Ag. is ready to launch a survey and gain information from farmers and those in the land use arena regarding limitations to rural enterprises and gauge land use community response to different types of rural enterprises that may commonly occur on farms. The AAFM has a plan to do a survey, analysis, convene stakeholder meetings and working groups (as previously engaged by ACCD) and work with other state agencies to identify what changes would affect their operations and prepare a package of policy initiatives that could be suggested for consideration by the Legislature next year.

Commissioner Mike Snyder, presented work being undertaken by the state to analyze forestry sector and other innovative technology regarding wood products. He is very excited to encourage growth in the forestry products sector and wants to turn around what has been a decline in forest product processing across the state.

The Committee wants to hear back about the work all three Agencies are performing through the summer and into the fall.

**S. 70 Raw Milk, House Agriculture - Dan Scruton**

*Monitored testimony on S.70 Brad Fortier, Co-operative Insurance Company via Phone*

- supports the increased testing requirements of tier II
- very concerned that liability increases if sales increase
- Concerned it would be hard to enforce
- Concerned milk may warm up
- bottom line would cover a farm for the increased sales

*Ted Beals, Lecturer and Consultant, Dairy Safety and Fresh Milk Quality via Phone*

- considered raw milk safe if fresh and the problem is milk intended to be pasteurized is not good enough
- stated normal to have bacteria in milk but admitted it was from environment but considered skin bacteria from cattle beneficial
- stated fresh raw milk will actually kill pathogens if contaminated and that striving to make food free of bacteria is bad policy
- opined 10,000,000 people drink raw milk regularly
- stated he had reviewed science that raw milk helps protect children from allergies and asthma
- does not agree with TB and Brucellosis testing but then went to add as long as the whole herd is tested once and all additions are then tested

*Alan Clarisse, veterinarian, dairy farmer and milk processor*

- Solo vet practice for food animals
- Co-owns a processing plant with his wife. They make Butter and Buttermilk
- Stated no compelling reason to drink raw milk but it should be legal
- Requirements for TB and Brucellosis testing make no sense and is an undue burden on commercial farms

- Rabies vaccination is critical and needs to continue
- Stated requirements for a customer to visit the farm makes no sense and will give some people a false sense of security as you cannot tell milk quality by general appearance
- Stated small processors should not be required to pay the promotional fees required by the state
- Wanted insurance to be a requirement
- Considers the rules should be the same for all raw milk producers; those shipping and those selling direct
- Sees no problem with selling at a farmers market

*Richard Larson, Larson Farm, Wells Vermont*

- Commercial dairy with 40 cows
  - With overall fluid milk sales dropping sees raw milk as a shining potential but needs to have unlimited sales capacity. Working on business plan with Farm Viability Program and found that at 50 quarts a day he will only net \$6,000.00 at 40 gallons he could make \$58,000.00
  - Had 4 points for legislation
    - Remove limit on sales volume
    - Remove limitation to only selling on-the-farm and allow drop points
    - Need more cost effective animal health and milk testing (he stated animal health requirements included annual blood testing for brucellosis and milk testing requirements included the samples had to be hand delivered to the state lab in Burlington this was in error and after his testimony I was recognized to clarify it)
      - Change license in S.70 to registration and remove the requirement to notify the Agency prior to going to markets
- Dan Scruton, VAAFM clarified after that the milk quality testing can be done in any certified lab and that we do allow the ring test after the initial whole herd blood test for brucellosis.

*Tamara Martin, Chandler Pond Farm*

- Diversified farm with 2 milking devons
- Only sell milk at their farm stand
- Board member for Rural Vermont
- Raw milk should be the consumers choice
- Wants term “refrigerator” dropped from S.70 as ice water in a cooler is sufficient

Ryan Hayes, Milk & Honey Farm

- 4th generation dairy farmer
- Farm has long hard to traverse driveway that discourages customers
- 2 cows
- Voluntarily tests milk monthly at state lab or Bob White’s lab with excellent results (showed results and they were all excellent)
- Worked with Intervale beginning farmers and budget showed he needed 84 customer a week and at least 4 cows to make less than \$10,000.00
- He want drop box locations

Jane Clifford, Executive Director, Green Mountain Dairy Farmers Cooperative Federation, Inc.

- 8th generation dairy farm
- 220 milking cows
- 10 employees
- Raised concerns on how to manage the risk for the entire dairy industry and that the commercial dairy farmers are not getting the credit due for making it possible for the rest of the farms to do what they are doing.
- While Tier II standards are strict, farmers markets open up the whole industry to more risk

April 16, 2014

#### **H. 448 Primary Ag Soil- Senate Natural Resources- Stephanie Smith**

*Deputy Secretary Diane Bothfeld testified before Senate the Natural Resources Committee.*

- She provided some background on the issues that the current definition of primary agricultural soils presents for the Agency of Agriculture.
- The definition as contained in the bill starts with an object map set by a third party, USDA Natural Resource Conservation Service (electronic maps available on USDA NRCS website- Web soil survey). The proposed definition also doesn’t limit an applicant’s ability to question the NRCS’s map either. An applicant can provide testimony to questions the soils as mapped, but it starts with a more objective standard.
- Mitigation flexibility portions of the bill codifies a Senator’s interpretation of the 2006 revisions to the law.

- It also attempts to provide consistency (from one district commission to another) in requiring either on or off site mitigation.

*Gus Seeling, Executive Director of VHCB testified specifically on the use of the off site mitigation funds. Off site mitigation leverages investment (4:1- 6:1) in the conservation of farmland. VHCB chooses areas that they consider farm communities (97% of conserved farms are in production, remaining 3% were in transition). VHCB doesn't have enough dollars to conserve the farms coming forward to seek funding.*

Funds are used by farmers for a variety of reasons

- Equipment purchases
- Generational transfers
- Purchase more land
- Diversification

*Ron Shems, Chair of the Natural Resources Board testified.*

- Tried to dispel the issues brought forward by the Conservation Law Foundation
- Ran through an application
- Proposed some slightly modified language

### **H. 891 Authority of the Secretary of Agriculture, Food and Markets to respond to and remediate potential public health hazards**

Referred to the Senate Committee on Rules.

April 17, 2014

**H. 329 Current Use Senate Natural Resources-** Stephanie Smith (only there until 10:50 am and left during Com. Snyder's testimony)

*Rep. Allison Clarkson ran through the house version of H.329. Four major elements*

- Penalty strengthened to keep lands in who intend to keep in
- Easy out
- Study committee for municipal reimbursement rates
- Standard method of appraisal/of conserved lands

The penalty was increased in a desire for financial balance and to design to return to tax payer some money that goes into the program.

*Sen. Starr ran through the highlights of the Senate Agriculture version of H. 329*

- Address perception of the program
- Do no harm
- Increase penalty for those enrolled for a short period of time
- Address assessment of Farm Labor Housing on non-contiguous lands and methane digesters.

*Legislative Counsel, Brynn Hare did a side by side walk through of the bill.*

Commissioner Snyder, Forest Parks and Recreation provided testimony on the portions of the bill that specifically address FPR.

Some questions from the committee include

1. What are the problems we are trying to solve with changes to current use?
2. How does this bill do this?
3. What is the issue with "parking?" (Senator MacDonald)
4. Where properties being over assessed by municipal listers?

A Comment: Concerned that the proposed audit in the Senate version doesn't address issue of equal valuation across municipal boundaries.

**H.586 Water Quality House Floor vote-** Jim Leland -Passed out of house 137-4 by roll call.

**S. 70 Raw Milk, House Agriculture -** Dan Scruton

*Dan Scruton testified before the House Ag and Forest products committee. They had a few questions for Dan to address. They question and answered are generalized below:*

Would we be able to inspect all the markets and how do we do it now?

- Stated it would be challenging as we currently only go to farmers markets on a complaint bases but would try to get there.
- Diane B added that it would mean overtime and we would be looking at cross-training to have a wider pool of people available to look at all Ag products and scales while there.

Dan Connor asked if the temperature of 40 degrees should be lower and noted there was data to back the lower temperatures.

- I responded the data he was referring to were based on shelf life more than pathogen growth.
- 40 is the level used in the FDA food code and by the Health Department in Restaurants so is a good temperature
- The PMO uses 45 based on the milk will be or has been pasteurized so is less likely to have bacterial issues.

Who would be liable for illness at a farmers market.

- I did not answer as that is a legal question and Kristina Michelsen interjected that legally it would be the market and the farmer but ultimately the farmer would be the most liable.

I was asked to clarify what I would envision doing at a market.

- We discussed general sanitation, paperwork as required by the statute and temperature of the product.

I was asked why there should be a volume limit on raw milk sales

- My response was:
  - The limit is set in statute and they are the group that set policy
  - My concern would be that volume limits, limit risk if there is a problem with a particular batch of milk
  - Larger the production run the more likely problem will occur.
  - At some point they need to come into compliance and fully process if they wish to grow and added we have 104 processors the majority of which process less than 500 quarts per day so we are very good at working with small processors.

I was asked about the brucellosis and TB testing but deferred that Dr. Haas should be the one to answer those questions. *(They are wondering why we should require testing each year.)*

A discussion was held on differences selling at a market and I stated the further from the one-on-one relationship with the farmer you get the more concerning it gets. Farm tours came up as I said we require that a customer be offered a tour. They pointed out the current law requires a tour be given, not the offer of a tour. After discussion most agreed it was not practical to force someone to take a tour and will likely change the language to match what we are now doing but some made it clear we should be requiring a tour.

Diane Bothfeld asked, and had the committee put into the record that the Tier II producers delivering at the farmers market have to be official vendors of the market; and that the committee realized while at the farmers markets we will be looking at all ag products at the market, not just milk.

*Andrea Stander, Rural Vermont testified:*

After opening comments she had 5 specific requests

1. Change the term “refrigerator unit” to something that just says remains below 40 degrees.
  2. Change the term “license” back to “registered”
  3. Change brochure to be handed out at the market to be a sign with test results. (If they go down this road I would recommend that the last five test results be required so it is up good or bad)
  4. Remove the 40 gallon limit on Tier II producers or at least make it a weekly average
  5. Add “drop points” to farmers markets as acceptable delivery points.
- These resulted in some discussion among the committee with most of the discussion around the drop points. It was noted that it would be much more difficult to administer a program like that. Interesting was the debate on what constituted a farmers market. It was concluded on-line markets did but it only takes a couple farmers in a place to be one so that could open an administrative problem.
  - Andrea added that Tier II farms are more regulated than any other dairy farm (We may want to go through the testing other farms go through.) Dan Connor questioned her some on that.
  - Andrea ended with that TB and Brucellosis testing should only be every three year and that the Agency has tightened, not loosened the requirement by requiring all adult animals to be blood tested the first year. I said I did not think that was the case but I would confirm it with Dr. Haas.

## **Marketing, Press & Communications**

- Abbey Willard was a featured guest on Vermont Edition's "local food" program this week. She discussed the ways in which the state supports local food initiatives, and the impact of those initiatives on the community. Also in the works: an upcoming show in May, featuring Chelsea Bardot Lewis, as well as Brent Raymond from ACCD, will focus on the state's export initiatives.
- The Agency has reviewed proposals from companies interested in vending in the Vermont Building at The Big E for 2014 and is in the process of notifying applicants.
- The draft of the April issue of Agriview was sent to the Tim Newcomb, our contracted graphic designer, for layout this week.
- Plans for the 2014 NASDA conference Sept. 10-13 continue. The Agency is contacting hosts for farm tours. Kevin Ellis, who has been contracted to oversee fundraising for the event, is in the midst of outreach.

## **Significant Events/Meetings:**

The Public Service Department and the Agency of Agriculture have issued an RFP for a pilot project to process food waste for use in an existing digester on a Vermont farm. The maximum grant amount is \$150,000.

[http://publicservice.vermont.gov/topics/renewable\\_energy/cedf](http://publicservice.vermont.gov/topics/renewable_energy/cedf)

Wendy Blackman, Laboratory Evaluation Officer/Microbiologist, attended the National Conference on Interstate Milk Shipments (NCIMS) Laboratory Committee Meeting in Portland, OR at the Pacific/Southwest Regional Milk Seminar April 7-10. Some of the topics discussed include:

- Adding a line to Appendix N General Requirements Section 9 to include a provision for accepting frozen sheep milk samples.
- FDA/LPET is planning to propose a new system for scoring split sample results that utilizes Z-scores vs. the current method of set limits. A proposal to switch methods will be submitted during the 2015 NCIMS conference.
- FDA/LPET has proposed new software for the analysis of DMSCC vs ESCC data that will be presented to the NCIMS in 2015.
- The group reviewed, clarified and updated M-a-98.
- There was a discussion on FSMA and the new EPA water testing standards that go into effect in 2016, and how they may impact the dairy industry. A committee was formed to research the issue before the conference next April.

## **Evolving Issues:**

Secretary Ross and Deputy Secretary Bothfeld interacted with National Association of State Department of Agriculture representatives to discuss the upcoming federal Margin Protection Program for dairy. Rules are being written and the Agency of Ag has submitted areas of concern with these proposed rules. Another area of concern is the educational opportunities for Vermont dairy farmers to learn about this program – funds were approved in the Farm Bill but have not been released yet. UVM Extension would be eligible for the funds but time is required to accept funds into a university and these funds have not been made available by USDA. The new program is to be implemented for September 1, 2014 so time is of the essence.

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

### **Administration:**

Secretary Ross and Deputy Secretary Bothfeld attended the **AgriMark Dairy Cooperative Annual Meeting** in Burlington, VT. The annual meeting was attended by 700 regional dairy farmers and regional dairy industry representatives. The Co-op markets Cabot brand of dairy products and had over \$10 million in profits for 2013. This is the 7<sup>th</sup> year in a row that profits were over \$10 million.

### **Agricultural Development:**

**Working Lands Enterprise Board announces \$300,000 to 19 Working Lands Businesses – Emphasizes the Importance of Technical Assistance**

The Working Lands Enterprise Board announces this year's grant recipients from its "Enterprise Investment" area awarding just under \$300,000 of \$1.2 million available to 19 grantees in 11 counties of the state representing the

agriculture, forestry and forest products sectors, (3 forestry projects and 16 agriculture projects), leveraging over \$350,000 in matching funds.

Last year's investment reached over \$1 million into 37 agriculture and forestry projects touching every county in the State and leveraging an additional \$1.3 million in matching funds (funded 25 ag projects and 12 forestry projects proportionate to the total number of applications received by each sector). This year, the program further invests in job creation, innovation, sustainability, and increased income. For a link to the full article go to: [www.vermontworkinglands.com](http://www.vermontworkinglands.com).

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

#### **Meat Inspection:**

- Federal establishment under Notice of suspension for violation of humane handling statute. Corrective actions have been submitted to the federal district office and the establishment is awaiting approval in order to restart slaughter operations; processing operations are not affected by the suspension.
- Meat Program Section Chief spoke with individual looking to reopen the Grand Isle plant and it looks like the sales contract should be finalized in a couple of weeks. When completed, plant will open as a slaughter and processing operation under state inspection offering private label services for other producers.
- Correction from last week: the report stated that USDA currently does inspect Alpacas and it should have said that USDA does NOT currently inspect alpacas. Apparently, FDA only does post market product inspections. State is still in conversations with the establishment requesting inspection. Residue testing seems to be a major concern since there are no current animal drugs approved for use in Alpacas and the detection tests have not been validated by FDA.
- Meat Program Section Chief made a visit to Arlington to evaluate proposed reopening of custom shop in the area. Owners are looking to do several different operations from the location and eventually inspection for distribution of local meat and poultry products for resale.
- Meat Program Section Chief discussed mobile slaughter operation with an individual from the Cambridge area.
- Program is beginning to get extra inquiries concerning labeling rules since existing plants are expanding services for private label accounts. New producers are supposed to work through the establishments but the current plant operators have not done the research to be proficient at the labeling rules causing many more calls to the meat inspection section.
- Compliance and Enforcement Officer investigating the distribution and sales of chocolate covered bacon that was produced in Maine without the benefit of inspection.
- Compliance and Enforcement Officer investigating distribution and sales of chocolate covered bacon that was produced in Maine without the benefit of inspection.

### **Agricultural Resource Management:**

EPA Clean-up efforts in Rutland have continued without severe incident. Current status and schedule are below. EPA has brought additional teams to Vermont in order to keep to the proposed time line. At the current proposed time line all of the contaminated homes in Vermont will likely be completely remediated by early June.

EPA Cleanup status/schedule for Phase 1 households

Final Letters to tenant/owner

**Chaplin:** Phase 1 completed;

Phase 2 – cleaning to be completed by 4/8/2104;

RFQ back: 4/14

Phase 3 Restoration: expected start on 4/21

Walkthrough: 5/7

**Granville:** Phase 1 completed;

Phase 2 – cleaning to be completed by 4/8/2104;

RFQ back: 4/21

Phase 3 Restoration: expected start on 4/21

Walkthrough: 5/15

Second Action Memo signed on March 26, 2014

Five households

Access and Outreach started

First household meeting - Thursday April 10, 2014

Stakeholders Communications

Three Aerial larvacides application permits were issued this week in anticipation of mosquito larval counts reaching threshold levels in the next week or two. Permits were Issued to the Brandon, Leicester, Salisbury, Goshen District and the Lemonfair Insect Control District and the town of Weybridge. Provisions have been made to coordinate oversight of the LFCID's aircraft annual calibration next week.

### **Plant Industry**

Last week (April 7-10), plant industry staff attended the Eastern Region Plant Board meeting, in Princeton New Jersey. Plant regulatory officials from New England, New York, Pennsylvania, New Jersey, Maryland, Delaware and West Virginia, and USDA and Homeland Security personnel met to discuss phytosanitary concerns affecting the northeastern United States and our various approaches to managing plant pests threatening northeastern resources. Topics of discussion included Asian longhorned and emerald ash borer beetle infestations and quarantine practices, noxious weed regulations, firewood management, certification and inspection of nursery stock, biocontrols, and pending hemp legislation. In addition, we had the opportunity to tour Customs and Border Patrol Agricultural inspection facilities at the Port of Newark, and the new USDA APHIS PPQ Plant Inspection Station, also in Newark.

On April 24, Plant Industry staff will be participating in a simulated emergency response ('table top' Incident Command Structure training) for an as yet unidentified forest pest. Other participants will include USDA APHIS PPQ staff, Vermont Forests and Parks, and UVM extension personnel. This exercise is being conducted in an effort to better define the roles and responsibilities of our own and partner organizations if and when a regulated forest pest is detected in Vermont, as well as identify weaknesses in our internal structures prior to the actual detection of a serious forest pest.

Proposed amendments to the Vermont Nursery and Ginseng rules have been submitted to the Secretary of State for filing and publication in newspapers of record. The changes were requested by our Federal cooperators, industry and trade associations, and private individuals in Vermont. Amendments include increasing the certification age for Vermont wild ginseng from five to ten years (with a seven year option for private forest landowners enrolled in use-value, or owners of five acres of suitable ginseng land, subject to inspection and verification), moving the season opening date from August 20 to September 1, and changes to language reflecting statutory changes since the rules were initially adopted (1988!). A hearing on the changes is scheduled for June 10, in Montpelier. We anticipate closing of the comment period and formal adoption of the new rules by the beginning of the 2014 ginseng season, in September.

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

- Staff visited one MFO and one LFO in Franklin County to discuss the LFO program to discuss LFO permitting, answer questions, gather information and complete paper work.
- Staff conducted a complaint investigation of a heavy use pasture area on a MFO in Franklin County. The farm has agreed move their current fencing to improve water quality.
- Staff conducted a complaint investigation on a SFO in Franklin County and only the son was present and he requested that the Agency return when parents are at the farm.
- Staff met with a SFO in Franklin County to discuss manure spillage on a roadway surface. No violation was observed.
- Staff met with partners to discuss the St Albans Bay and Mill River watersheds and tactical basin planning. Partners at the meeting included members of VAAFMM staff, ANR-DEC and UVM Extension.
- Staff met again with representatives from ANR to evaluate several manure field stacking sites in Brandon. The sites were evaluated for potential runoff. We will continue to work with ANR and the farm to find better locations for stacking manure during the spreading ban.
- 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. Information is being compiled and permits are being drafted for these farms and this will be a major focus of the team through the month of April.
- Staff are working with CAI and project manager David Gadway to begin the processes of building the water quality database.

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

- Staff worked with Mississquoi River Basin Association (MRBA) and the Franklin Watershed Committee (FWC) to assist in efforts of project development on farms in two watersheds in Franklin County.

- Staff evaluated a bridge that was installed over a stream as part of the Agency's BMP program. The bridge keeps animals and equipment out of the river and was evaluated to see how a high flow event impacted the river. No concerns were noted during the recent high flow event.
- Staff visited a CREP project site on a SFO in Franklin County to evaluate a potential stream alteration permit.
- Staff flagged out a CREP project on a SFO in Franklin County.
- Staff met with NRCS and UVM Extension to discuss EQIP sign-up on a SFO in Franklin County. The farm is interested in installing several acres of field buffers and other agronomic practices. The ground work for these projects and this visit/meeting was done by VAAFM.
- Continued mapping/planning work for several ongoing potential CREP projects.
- Working with partners and discussing cover cropping sign-up and workload with NRCS.

### **Water Quality Enforcement**

A small farm in Newport Center will receive a Notice of Violation with administrative penalty for violations of the AAPs. This is the third observed instance of the farm's manure pit overtopping, with manure running across property boundaries and to a stream. The farmer was issued a corrective action letter in 2012, and a cease and desist order in 2013.

### **Public Records Request**

Andrew MacLean of MMR Legal Services, LLC, Montpelier, has requested all documents related to the promulgation of the Vermont Regulations for the Control of Pesticides. We have contacted the firm to let them know the documents are available for them to review.

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

- Met with Tom Vogelmann, the Dean of the University of Vermont's College of Life Sciences
- Attended Agri-Mark annual meeting at the Sheraton in Burlington
- Had a phone meeting with Mike Taylor, the Deputy Commissioner for Food and Veterinary Medicine (FDA)
- Hosted a Regional Conservation Partnership Program (RCP) meeting with representatives from VT's Congressional delegation, USDA NRCS, the VT Dept. of Environmental Conservation, and the VT Agency of Ag.
- Conducted a phone board meeting for the National Association of State Departments of Agriculture
- Continued the interview process for candidates for the Financial Director position

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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: Justin Johnson, Deputy Secretary, Agency of Natural Resources**

**Date: April 18, 2014**

**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Costco Wetland Individual Permit Reconsideration (Colchester):** A decision of the request to reconsider our decision to issue a wetland permit will be made by the end of this week. We anticipate an appeal.

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**EVERYTHING ELSE:**

**Legislative Issues/Testimony:**

**Dam Safety Bill (H.590):** The Senate Natural Resources Committee took initial testimony on H.590, the dam safety bill passed by the House earlier this month. Commissioner Mears provided an initial overview of the Department's support for the bill, which would implement a new registration requirement and fee requirement for dam owners that would be directed to ANR to fund a new dam safety engineer position. Program Manager Steve Bushman also testified before the committee to answer program-specific questions about the bill. After consideration by the Senate Natural Resources Committee, the next stop for H.590 would be the Senate Committee on Finance.

**Sewage Holding Tanks (S.211):** Representatives from DEC's Drinking Water and Groundwater Protection Division continue to provide testimony to the House Fish, Wildlife and Water Resources Committee on S.211, a bill that would approve the use of sewage holding and pump-out tanks for existing buildings or structures that are owned by charitable, religious, or

nonprofit organizations. The bill would also allow the Agency to delegate to a municipality authority to permit new or modified connections to an existing municipally owned potable water supply or wastewater system under certain circumstances. DEC has not supported the delegation provision, however staff will continue to work with the committee on possible language.

**Universal Recycling (S.208):** The House Committee on Natural Resources and Energy continues to take testimony on S.208, a bill passed by the Senate earlier this month which provides a number of updates to Act 148 of 2013, the universal recycling bill. The committee scheduled a “materials management summit” on Wednesday, to hear from waste districts, alliances and towns. Chair Klein has indicated that he is looking to this meeting to provide direction for action on the bill during the rest of the session.

**Water Quality (H.586):** The omnibus water quality bill introduced by David Deen passed out of House Ways and Means and House Appropriations last week. Substantive practices related to water quality in the agricultural sector remain in the bill, but all of the funding mechanisms added by the House Committee on Fish, Wildlife and Water Resources were removed in an amendment passed by Ways and Means. The bill is on the action calendar this week.

**Shorelands (H.526):** The Shorelands Conference Committee continues to meet to resolve differences between the House and Senate versions of the bill. The conferees have narrowed the discussion to four issues, and ANR has provided language to resolve those issues: mandatory municipal delegation upon and ANR finding that the municipal bylaw is functionally equivalent to the state standard; an alternative permitting path for shoreland owners providing public recreational access; a voluntary contractor certification program to be run by ANR and the Associated General Contractors; and rulemaking authority for ANR.

**H.860:** Commissioner Snyder testified before the House Agriculture and Forest Products committee on this bill relating to evaluation of agricultural and forest enterprise development and regulation.

**H.329:** This UVA bill now moves to the Senate Natural Resources and Energy committee, where Commissioner Snyder was invited to provide testimony on Thursday.

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

**North Connecticut River Tactical Basin Plan Released:** The North Connecticut River Tactical Basin Plan press release was issued. Public meetings and presentations on the Plan will be held in Brunswick and St. Johnsbury in the coming weeks. The Plan was developed with the purpose of improving both water quality and aquatic habitats, and presents the recommendations of State and Federal resource agencies, watershed partner organizations, planning commissions, municipalities, and individual citizens. This is the first tactical basin plan developed for this part of Vermont, and provides a work-plan for surface water protection and improvement.

**Hunt Safely in Turkey Season:** Hunting safely during turkey season is easy if you follow tips issued by the Vermont Fish & Wildlife Department. In Vermont, May first is almost as important as the opening of the firearms deer season, and while spring turkey hunting-related shootings are rare (last year's season was incident-free) precautions are needed. Camouflage or drab colored clothing is almost mandatory to outwit a keen sighted gobbler. Unfortunately, camouflage has the same effect on other hunters as it has on the turkeys.

**Vermont's Spring Turkey Hunting Starts Soon:** Hunters are gearing up for Vermont's spring youth turkey hunting weekend later this month and getting ready for the regular spring turkey hunting season that starts May 1. Vermont offers some of the best turkey hunting in New England according to the Fish & Wildlife Department. In 2013, Hunters took 6,362 turkeys in both the youth weekend and regular seasons, and 608 turkeys in the fall season.

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

**Aquatic Nuisance Species Funding Awarded to DEC:** DEC received its 15<sup>th</sup> consecutive funding award from USFWS through the National Aquatic Nuisance Species (ANS) Task Force to implement the *Vermont and New York Lake Champlain Basin ANS Management Plan*. Vermont and New York have one of the few bi-state management plans in the nation. The pre-proposal, submitted in partnership with Lake Champlain Basin Program and NYSDEC, lists the annual highest priorities as increased boat inspection and boat decontamination stations, and water chestnut control and spread prevention. The amount of this year's award is \$24,218.

DEC also received notification from USCOE of \$460,000 (match requirement is \$500,000) in FFY2014 Aquatic Plant Control funds for non-chemical control of Eurasian watermilfoil and water chestnut, and aquatic invasive species spread prevention initiatives for projects located in the Lake Champlain Basin.

**Cooperative Management Review:** Forestry Division Program Managers and Director of Forests Steven Sinclair hosted a group from the US Forest Service, State and Private Forestry from the Durham, New Hampshire Field Office and the Northeastern Area (NA) Headquarters in Newtown Square, Pennsylvania for a Cooperative Management Review (CMR). The goal of a CMR is to conduct a strategic assessment of the full suite of programs, grants, and related issues between the U.S. Forest Service-Northeastern Area (NA) and the State of Vermont. The CMR is also needed for NA to uphold its responsibilities as a Federal "grantor" in validating appropriate and effective/efficient use of funds. These reviews are conducted every five years; this was Steven Sinclair's second CMR as Director. Instead of conducting the review by programs (Forest Health, Forest Stewardship, Fire, and Urban and Community Forestry), it was decided to provide a detailed overview and assessment using the Forest Action Plan as a guide. Specific projects and activities were highlighted as they relate to the five Desired Future Conditions contained within the plan: Biological Diversity, Forest Health and Productivity, Forest Products and Ecosystem Services, Land Ethic, and Legal, Institutional and Economic Framework. The review came off without a hitch and Vermont's forestry program and its staff shined, as expected.

## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Lake Champlain Transportation Company:** USEPA Region 1 issued a second Notice of Violation (NOV) to the Lake Champlain Transportation Company (LCTC) for violations of the National Emissions Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair Facilities and for violations of certain permit requirements and emission limits set out in the Clean Air Act and the Vermont State Implementation Plan. The NOV was issued to the LCTC King Street Dock facility; an earlier NOV was issued to the LCTC Shelburne facility on September 20, 2013 for the same types of violations.

**Low Sulfur Fuel Regulations:** DEC will do an outreach mailing to all registered sources to notify them of recent or upcoming regulatory changes that could affect their operations. The mailing will include information on the sulfur in fuel reductions that take effect July 1, 2014 and updates on the federal EPA regulations of diesel generators and wood and oil fired boilers.

**Underground Injection Control Rule Revision:** The first public hearing on the Underground Injection Control rule revision was held in Montpelier. Three people attended the meeting: a consultant, a VNRC representative, and a job applicant. The consultant appreciated the simplification of the rule. Kim Greenwood of VNRC is concerned the proposed Rule does not adequately address the groundwater protection/public trust issue. A follow up meeting with VNRC and Commissioner Mears will be held.

**Green Mountain Maple Sugar Refining Company (Orleans):** DEC Regional Office staff are reviewing a proposal to reuse the former Ethan Allen Island Pond plant in Orleans as a maple products manufacturing plant. A sugarhouse in Warren Gore will concentrate up to 3,500,000 gallons of sap with up to 2,800,000 gallons of sap permeate to be disposed on-site. 700,000 gallons of concentrated sap will be trucked to Island Pond where it is proposed that additional permeate and washwater will be discharged to the ground surface. This project is currently under review.

**Business Transformation Initiative (BTI):** Administration & Innovation Division continues to prepare for its May Lean week, focused on the Grants and Contracts process, Stormwater permitting business model, and Drinking Water Ground Water's source water permitting process. The team charters are finalized and have been sent to our Lean consultant to review.

**Petroleum Cleanup Fund (PCF) Reimbursements:** Waste Management & Prevention staff met with their counterparts in MA and NH to review their electronic claims processing systems and see demonstrations. They shared how the systems were developed, what the cost was in terms of staff time and money and what the lessons they learned from the process. Information obtained from the trip will be valuable as DEC implements their Lean plan to move the PCF reimbursement process to electronic claims and reimbursements.

**Vermont Asbestos Group (VAG) Settlement:** As part of a settlement agreement with VAG and one of their insurers (Admiral), ANR received a check for \$284,050. The check was deposited into the VAG Settlement Fund, to be used for PCB cleanup, ongoing operation and maintenance costs, and system mitigation.

**Vermont Organics Recycling Summit:** Several Solid Waste Program staff and DEC Deputy Commissioner Schuren attended the 8<sup>th</sup> annual Vermont Organics Recycling Summit, held at Vermont Technical College (VTC). ANR is the main sponsor of the event with a grant to the Composting Association of Vermont, who organizes it with partners. Approximately 140 people attended. Presentation topics included compost research at UVM and community compost programs. VTC offered a tour of their new digester. The event and workshops were well received. ANR continues to receive support from constituent groups in attendance on the implementation of Universal Recycling (Act 148).

**Letter to Casella on CRT Glass Management:** The Solid Waste Program replied to Casella's February letter asking for a determination regarding the adequacy of their CRT glass management. Casella manages CRT glass, through their recycler, ultimately by treatment and use as Alternative Daily Cover at a landfill in Illinois. We advised them that the current management is adequate since there are no known viable recycling options, and it is approved by Illinois EPA, but should viable recycling options become available, they may be required to make use of such options in the future.

**Stream Alteration General Permit:** A revised ANR General Permit for Stream Alterations has been issued. The primary purpose for revising the 2013 Stream Alteration General Permit is to fully implement the Vermont Stream Alteration Rules (effective 12-23-2013) which require the Agency to authorize emergency protective measures undertaken by municipalities to address imminent threats to life or threats of severe damage to property immediately following floods.

**Hannaford's Permitting (Hinesburg):** The Stormwater Program issued an operational stormwater permit for the proposed Hannaford's Supermarket and Pharmacy in Hinesburg. Substantial public comment was received on the permit application. A response summary was included with the issuance of the permit. A request for reconsideration of a Class III determination was received and the review of comments is ongoing.

**Rutland Settlement Agreement:** A contractor has been identified to conduct the third-party review of the water quality attainment status of the impaired surface waters that substantiated the MS4 designation of Rutland City.

**Morrisville Hydroelectric Project:** We received a letter from members of the Lamoille River Anglers Association that was sent to the Morrisville Water and Light Board of Trustees supporting the Department's preliminary recommendations on the operations and bypass flow requirements for the Morrisville Hydroelectric Project. The Lamoille River Anglers Association is comprised of a group of local fisherman working for the conservation and preservation of the Lamoille River and tributaries. Morrisville has indicated that the bypass flow and operational changes as recommended are not acceptable, and has tried to seek an alternative solution.

## **Fish and Wildlife**

**Do Not Feed the Bears!** The bears have definitely emerged from their dens. Wardens are reporting a few bear damage complaints. Most of the complaints involve damage to bird feeders due to resident's reluctance to remove them due to the remaining deep snow and low food availability for the birds.

**Opening Day of Trout Season:** Staff and newly appointed Commissioner Porter attended the Orleans Rod and Gun Club Annual Anglers Breakfast to give those in attendance an update on our recent and proposed future activities on the Memphremagog tributaries and elsewhere, to disseminate information to the public, and to advance our productive dialog with anglers interested in the rivers' steelhead fisheries.

**Fish Passage:** Staff reviewed the downstream fish passage plans proposed for the Army Corps of Engineers flood control dams at Ball Mountain and Townshend. Staff also met with DEC staff to discuss the topic. How the Corps operates these facilities, their operation of the fish trap at Townshend, the future of the salmon program and fish passage to be constructed at the hydro projects are all inter-twined.

**Protecting Rare and Endangered Species from Power Installation:** Staff provided Galen Guerrero-Murphy of TRC environmental consulting firm a shape file of rare species and natural communities for the proposed New England Clean Power Link. The project is Transmission Developers Inc. (TDI) proposed new 1,000 MW high-voltage direct current (HVDC) underground transmission line. It involves approximately 100 miles of submarine installation and 50 miles of terrestrial installation in Vermont.

## **Forest, Parks and Recreation**

**ANR Land Transactions:** FPR has secured federal Forest Legacy funding to acquire the 1064-acre Molly's Falls Pond in Marshfield. This parcel was formerly owned by Green Mountain Power, and was acquired by the Vermont Land Trust in 2012 in anticipation of turning the parcel over to the State once acquisition funding had been obtained. Closing could occur sometime later this year. This is a popular recreation site that is easily accessible along Route 2 and encompasses all of Molly's Falls Pond (also known as Marshfield Reservoir). The property includes a heavily used Fish & Wildlife boating access area. Managing this site will be a significant challenge for the Agency. We will be working closely with Vermont Land Trust to develop an interim management plan for this site and to establish an endowment to assist with ongoing management responsibilities at this site. Work continues on several other priority ANR land transactions including sale of a portion of the former Lafreniere homestead at Camels Hump State Park in Bolton, transfer of a portion of Grand Isle State Park to the Town of Grand Isle for outdoor recreation purposes, Mendon Brook addition to Coolidge State Forest, and other projects.

**Survey:** Survey staff continue to work on priority DFW survey and boundary MOU projects at Les Newell, Blueberry Hill and Roy Mountain WMAs. Survey work continues or will soon begin on several FPR lands including Alburgh Dunes State Park, Willoughby State Forest, Darling State Park, Grand Isle State Park, Branbury State Park, Coolidge State Forest, and other sites.

**Camping Show:** Vermont State Parks was represented this past weekend at the first annual Camper and Outdoor Show at the Barre Civic Center sponsored by the Vermont Campground Association.

**Fat Bikes:** Director Whipple met with recreation staff from the Green Mountain National Forest and the Executive Director of the Vermont Mountain Bike Association this week to begin to formulate an approach to encouraging the use of Fat Bikes on public land. The winter use of this relatively new form of mountain bike is exploding in popularity.

**Working Lands Grants:** Matt Langlais, Caledonia-Essex County Forester has been busy reviewing a wood supply assessment for a proposed pellet manufacturing plant in Lyndonville which is applying for a Working Lands Enterprise Grant. He and Jeff Briggs have also reviewed other applications for the Working Lands Enterprise Board.

**VTrans Assistance:** David Paganelli and Emily Potter from the Barre District spent two days in southern Vermont working on the VTrans vegetation management project assessment. This is part of a long-term arrangement between ANR and AOT to develop a vegetation management plan for the interstate highway system in Vermont.

**Fire Wardens/Fire Season:** Lars Lund, Fire Supervisor reports five successful town forest fire warden trainings completed last week: Barre, Lyndonville, Colchester, Rutland, and Chester. The training theme was “Wildland Fire Origin and Cause Investigation.” There was good attendance, though numbers were down slightly from previous years. Fire season is underway, with fires in Pownal (3 acres) and Shaftsbury (2 fires, 2.5 acres total) reported.

### **Information Technology**

IT completed **security updates** and patches on all of our servers last weekend. ANR’s architecture kept last week’s Heartbleed bug from being an issue.

**Focus on Floods:** Deployed the new front end to production. The next phase of development is the public facing application that municipal partners can log into and use to edit their information.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: April 18, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**Regional Initiative:** We continue to negotiate with other states on cost allocation agreement, and are closing in on something I am looking for your approval of: I presented the other states with a 6 point proposal, the first point is cost share percentage. Based on power load share, Vermont's normal share would be 4.47% of regional projects (3.97% peak load share, 4.5% power load, for reliability projects). Based on Vermont's unique position and our long-term contracts, I have proposed 2.42% - which they seem likely to accept (happy to explain rationale if you want the back-up). What this means is that a transmission project that costs an estimated \$1.5B would result in a cost to Vermont of \$.121M per year or about 0.15% impact on rates. There are two transmission projects and 1 gas project being considered, all between \$1.5 and \$2B each, so assuming even \$6B in total costs to be shared on the 3 projects, Vermont's share would be a rate impact of about 0.53%. This beats the 6% rate impact over the next several years expected for reliability projects alone, and the other points of the proposal should help mitigate this as well. The other points are:

- 2) Projects have a benefit:cost ratio of at least 1.5:1, and benefits are calculated based only on regional LMP price suppression effects of the projects;
- 3) States pay only for incremental costs of projects that were not going to happen anyway (i.e. merchant proposal costs not be socialized);
- 4) Agreement to pursue strong NTA program across the region, building on Vermont's success at reducing transmission projects. This would start with a presentation on NTA's and cost estimation by VELCO at an upcoming regional meeting;
- 5) States retain full independent siting authority with the expectation that host states will negotiate the best deal possible for themselves, and that this will not in any way count against their cost allocation share;
- 6) Use the same formula for Gas as for the electric transmission (i.e. 2.42% share).

I believe states are going to agree to all the terms except #3 above – Mostly because we are having difficulty figuring out which projects “would have happened anyway” but for this initiative. I am prepared to give up on this one, as I think #5 above enables us to negotiate the best possible benefit for Vermont which should more than offset the small incremental costs to us.

I would appreciate your thinking about this and letting me know your reaction. I will be meeting in person with the states on Thursday 4/24, and they will be looking for a decision on whether the 2.42% is acceptable. I'll connect with Liz and Sue early in the week to check in.

**VY:** Changes to VSnap are before the Senate Appropriations Committee. All seems to be well there. I'll be meeting with Mike Twomey in CT on Tuesday (following DOE Quadrennial Energy Plan meeting w/Moniz) to discuss expectations for site assessment, SNF schedule to us, schedule for payment of the CEDF and site restoration monies, filings with NRC, etc.

**Solar Investment:** Had a good meeting with Catylst Financial and Green Lantern about how best to bring significant long-term capital into Vermont for solar projects. They have a potential commitment of \$25M of investor capital over the next few years ready to come, and expect that is a first of several tranches!

**GMP Rate Case:** We expect to receive GMP's response to our rate case filings today, and will evaluate internally, and likely meet with GMP within the next two weeks to negotiate a resolution to some or all of the issues if that looks possible based on what they provide today.

**Franklin Foods:** Continuing to look for ways to help them and will be discussing further with Kiersten B. on Monday. Meanwhile, ESA legislation averted, but see below for more steps to be taken on that.

## **Legislature:**

### **Legislative Testimony:**

**April 14:** Jim Porter testified on H.297 (telecom bill) in Senate Finance

**April 15:** Jim Porter testified on H.297 in Senate Finance

**April 16:** Jim Porter testified on 248a section of S.220 in House Commerce

**April 17:** Jim Porter testified on 248a section of S.220 in House Commerce

**April 18:** Jim Porter testified on H.297 (telecom bill) in Senate Finance

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

**April 14:** Chris attended Governor's cabinet meeting

**April 15:** Chris discusses VY CPG and VGS pipeline on WCAX "The :30"

**April 16:** Chris attended sound investigation kick-off at Pavilion with our consultants

**April 17:** Chris, Darren and Asa meet with Warren Leon re: RPS Study in Act 99; Chris and Darren meet with Bob Barton and Luke Shullenberger on bringing capital to scale in Vermont; Chris participates on NESCOE/GIG conference call; Staff met with VT Community Loan Fund and EVT to get the two entities to possibly work together on EE financing.

**April 18:** Chris participated on Vtel/RUS call with USDA, Senator Sanders' office and others; Darren attends meetings and site visits with GMP at energy innovation center, a smart home, and some solar sites, at the invitation of the High Meadows Board of Directors

**April 21:** Chris and Asa attend DOE QER meeting in CT

**April 22:** Chris meets with Mike Twomey in CT; Chris attends VY monthly decommissioning meeting at SEOC in Waterbury

**April 24:** Chris participates at NESCOE/GIG meeting in Boston

**April 25:** Chris attends NECPUC/ISO-NE Board meeting in Boston

## **Everything Else:**

### ***PERD***

Energy Efficiency Utility Activities - Energy Savings Accounts Option (for certain business customers to "self-implement" energy efficiency): Revised ESA program design based on feedback/comments received at PSB workshop; provided to EVT, BED, and VGS. VGS was not originally included; it will be necessary to consider if/how this program will apply to VGS.

Demand Resources Plan Proceeding -Staff continued to develop the 2013-14 DRP recommendation for EVT and BED which includes the following components due to be filed with the Board on April 16: (1) electric resource acquisition budgets and savings; (2) TEPF resource acquisition budgets and savings; (3) non-resource acquisition budgets (split between

electric and TEPF) and descriptions; (4) EEU compensation (QPI award and operations fees) rates and budgets; (5) DPS evaluation plan and budget; (6) EEU Fiscal Agent and EEU Fund audit budgets; and (7) impact of budget recommendations on electric consumers' rates and bills. Staff met with Annika Todd, behavioral efficiency program expert at Lawrence Berkeley National Laboratory, to get her advice on evaluation of the Opower pilot and treatment of behavioral measures in the DRP. We anticipate asking LBNL for technical assistance throughout this process, or even the next few years, perhaps with a formal agreement. Department made some modifications to its draft recommendation from last week. Modifications include:

- A correction to the Departments savings as a percent of sales estimate during the 2015-2017 performance period for EVT and BED. Budgets have the potential to achieve slightly less than originally estimated at 2.4% and 2.1% of electric sales annually in their respective territories. These budgets are comparable to the scenario 2 budgets, and in line with the trend the PSB approved three years ago.
- An additional investment of approximately \$5M has been added to the RA budget to investigate and research the savings potential from behavioral initiatives. The Revised resource acquisition budgets for EVT and BED are below and the new funds are characterized as “RA R&D”. Because all of the behavior initiatives will be funded out of the RA budget, the \$1M that was allocated in a previous draft budget in NRA was taken out.

**VEIC & BED – total EEU budget recommendation**

<b>VEIC EEU Budget 2015-2017</b>				
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>3-yr Total</b>
<b>Funded via EEC</b>				
Electric Resource Acquisition	\$39,351,359	\$42,460,068	\$45,555,423	\$127,366,850
RA R&D	\$1,377,298	\$1,804,553	\$1,822,217	\$5,004,067
Non-Resource Acquisition	\$4,217,048	\$4,177,272	\$4,260,432	\$12,654,752
Operations Fee and QPI Award (4.1%)	\$1,842,774	\$1,986,118	\$2,117,161	\$5,946,052
<b>EEC-Funded Subtotal</b>	<b>\$46,788,478</b>	<b>\$50,428,011</b>	<b>\$53,755,233</b>	<b>\$150,971,722</b>
<b>Funded via FCM and RGGI</b>				
Heating-and-Process-Fuel Resource Acquisition	\$5,349,342	\$5,856,090	\$6,256,375	\$17,461,807
Non-Resource Acquisition	\$575,052	\$569,628	\$580,968	\$1,725,648
Operations and QPI Fees (4.1%)	\$242,900	\$263,454	\$280,331	\$786,686
<b>FCM and RGGI-Funded Subtotal</b>	<b>\$6,167,294</b>	<b>\$6,689,173</b>	<b>\$7,117,674</b>	<b>\$19,974,140</b>

**VEIC 2015-2017 EEC & TEPF Total \$170,945,862**

<b>BED EEU Budget 2015-2017</b>				
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>3-yr Total</b>
<b>Funded via EEC</b>				
Electric Resource Acquisition	\$2,337,666	\$2,513,980	\$2,696,148	\$7,547,794
RA R&D	\$81,818	\$106,844	\$107,846	\$296,508
Non-Resource Acquisition	\$243,676	\$248,600	\$253,500	\$745,776
<b>EEC-Funded Subtotal</b>	<b>\$2,663,160</b>	<b>\$2,869,424</b>	<b>\$3,057,494</b>	<b>\$8,590,078</b>
<b>Funded via FCM and RGGI</b>				
Heating-and-Process-Fuel Resource Acquisition	\$96,390	\$98,318	\$100,284	\$294,992
Non-Resource Acquisition	\$10,700	\$11,000	\$11,200	\$32,900
<b>FCM and RGGI-Funded Subtotal</b>	<b>\$107,090</b>	<b>\$109,318</b>	<b>\$111,484</b>	<b>\$327,892</b>

**BED 2015-2017 EEC & TEPF Total \$8,917,970**

**Thermal Energy Finance Pilot Program** - Approval to accept a grant from VLITE for \$150,000 to support the credit enhancements is expected from the Administration next week.

Clean Energy Development Fund - Staff met with Ken Jones of ACCD on coordinating CEDF activities with their activities in general and specifically on the CEDF FY '15 plan and their Comprehensive Economic Development Strategy. Monthly meetings will now be held.

Net-metering - This past week the first CPG for a 3.8 kW CHP net metered facility was granted

**Net Metering Activity 3/28/14 – 4/4/14**

	Registrations	Applications	CPGs Granted
<b>Count</b>	17	0	6
<b>kWAC</b>	88.432	0	31.717
<b>Ave Size kW</b>	5.201	0	5.286

**Cumulative Capacity of Registrations and Applications Submitted**

Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of 15% Cap
2000.57	1968.03	40515.45	~ 29.5%

\* Note: As of April 1<sup>st</sup> projects up to 15kW are now eligible for the registration process. Prior to this change, systems larger than 10kW were required to file an application.

Total Energy Study - Staff provided feedback to Dunsky on the proposed outline of the final report, and confirmed that the Dunsky report will be a part of the larger PSD TES final report. Staff began planning for development of that report, including mapping Dunsky model final results into REMI economic analysis, and post report stakeholder processes. TES Gantt chart was updated to propose a specific stakeholder/public engagement schedule matching the framework the team agreed to last week. Question remains on whether and how the TES Final Report stakeholder/public engagement process would tie into the kick-off of the fall CEP process. Staff revisited the effort to summarize the TES Legislative Report comments. A combined stakeholder input appendix may be appropriate for the final TES Report release. Meeting with the Tax Department is a critical path item for the REMI model development, due to the need to model the tax implications of carbon tax offsets and revenues for TES carbon tax scenarios. The first meeting is set for Tuesday, 4/22.

Standard Offer - Met with the Public Service Board staff to discuss process for setting avoided cost caps for standard offer resources. PSB would like the PSD to take the lead in proposing changes to the methodology (if any) and process to setting these caps. Staff will be investigating the feasibility of the PSD conducting the avoided cost cap analysis and making recommendations on process.

SEMP grant - Began quarterly reporting with grantee; some questions have come up regarding their budget based on changes to the work plan regarding the model documents process. Staff will follow up to discuss options for managing changes to their schedule and budget.

Docket 8180 – Convened internal team to confirm roles and responsibilities relevant to this docket. The degree to which DPS analysis will consider consistency with CEP will be further fleshed out on 4/21. Staff are conducting an analysis with regard to what we think the requirements are necessary to make a case under b(2) for “need” to VT for the project, and the amount of analysis necessary regarding future expansion to the Rutland area.

Raab Associates Electricity Roundtable - Environment Northeast shared its 2050 Climate Vision to meet greenhouse gas reduction targets of 75% below 1990 levels. Essentially, this “vision” equates to our CEP goals, and ENE is planning on conducting analysis that is similar to our TES. They quoted the TES legislative report estimating that electrifying buildings and transportation would increase load 20-50%. ENE Vision includes 1) Electrification of Buildings and Transportation, 2) Modernizing the Grid, 3) Clean Electricity, 4) Energy Efficiency. In their vision, nearly ALL of the remaining 25% of GHG emissions is from natural gas. MA Office of Energy and Environmental Affairs presented emphasizing that the “Clean Energy Import Strategy” is necessary to meet its goal of 25% reduction in GHG from 1990 levels (otherwise they will fall 5% short). They further emphasized that MA legislation requires that they competitively solicit clean energy, but not contract with it (if the solicitation doesn’t look good, they aren’t required). It was noted that oil usage is going back up for electricity use in NE. ISO-NE noted that we are 1.5BCF short of NG capacity. Sue Tierney, Analysis Group, expressed concern about:

- Shifting energy dollars from commodity payments to fixed infrastructure payments (the region didn’t like this when had SMD 15 years ago)
- Picking winners and moving from traditional market structure even further – potentially having adverse impacts on GHG
- Shifting impacts of energy use to another region (hydro/oil/etc.)
- Still sending energy payments out of region.

### ***Engineering***

Vermont Yankee Operation - With the exception of a planned control rod pattern exchange that began last reporting period and ended this past weekend, VY has been at 100% power since the last report, with no notable operational issues. VY has conducted routine maintenance and surveillance activities during this period. The plant has operated continuously for 376 days. The Director of Engineering will be at the plant one day next week.

Nuclear Engineer Position - Top candidate has been identified and an employment offer will be made as soon as we receive approval from HR.

Department Sound Consultants - The Department met with our sound consultants to discuss the various projects that the Department is working on and how they can be of assistance. The

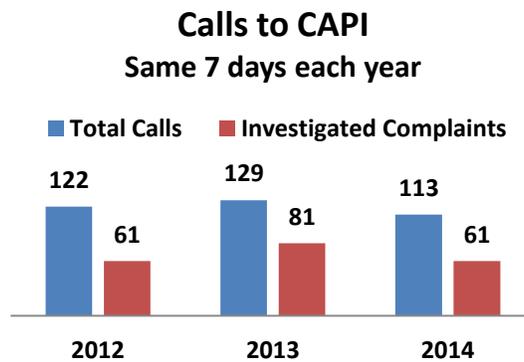
overall discussion was very broad and allowed the Department to understand where we can turn to for help. The Engineering Division was impressed with the depth of knowledge and expertise encompassed by the different consultants and the fact that they appear able to be collaborative in their responses to us. Their expertise goes well beyond that of wind turbines, to various other forms of electrical power generation to substation noise (transformers and reactors). The consultants also have expertise in noise issues found at other types of facilities such as natural gas regulating stations.

GMP Service Quality and Reliability Plan (SQRP) - Engineering and CAPI held a teleconference with GMP to discuss the final round of changes to GMP’s SQRP to account for merger with CVPS. Engineering worked with GMP engineers to arrive at acceptable baselines for reliability and worker safety, and is currently working with CAPI and GMP to arrive at acceptable baselines and exclusions for “percentage of meters read” and “billing accuracy” that take into account the presence of smart meters.

**CAPI**

*Note: CAPI report covers activity from Sunday to Saturday, April 6-12, 2014.*

Call Data



Post CPG Wind Complaints - GMP Kingdom Community Wind (1), due to noise.

**Public Advocacy**

Board Investigation into Comcast Billing and Disconnect Policies – Docket 8224 – The full Board held a status conference on April 16<sup>th</sup>, for the purpose of addressing Comcast’s alleged practice of billing customers for downgraded limited basic service for a “soft disconnect” period of 10 days. The Department has been discussing this issue with Comcast since January and the parties are hopeful the issue can be resolved to the Board’s satisfaction. At the status conference, the Board issued a number of questions for Comcast, to be supplemented with questions from the

Department. Comcast will provide its responses by May 16<sup>th</sup>, and the Department will make a recommendation to the Board by June 6<sup>th</sup>.

Charter Hill Solar Project – Docket 8212 – A public hearing was held on April 3<sup>rd</sup>, which was heavily attended by neighbors with concerns about the project’s potential impacts on property values and private views. The Hearing Officer issued a scheduling order in which he adopted the Department’s proposed schedule. The Department has resolved its concerns with the PPA price and has communicated that to the Petitioner. A site visit will be held on April 30<sup>th</sup> and the Department will be preparing discovery questions.

Barton Solar – Docket 8148 – The petitioner responded to the Board’s information requests. Additionally, the hearing officer issued an order sustaining in part Barton Solar’s objection to the prefiled testimony filed on behalf of the Menards. The Menards have objected to a portion of the hearing officer’s order that stated that their response had not been filed timely. The technical hearing has been scheduled for April 24<sup>th</sup>.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – The PSD is working with GMP and the petitioner on a MOU, which is due to be filed on April 18<sup>th</sup>.

Red Pines Development Water System CPG Amendment – Docket 8207 – The petitioner has informed us that she will be providing a letter that will clarify the petition. The PSD is due to file an additional recommendation to the PSB by April 29<sup>th</sup>.

NextSun Solar – Park Street – Docket 8194 – The PSD will be participating in the scheduled site visit and public hearing on April 17<sup>th</sup>. Based on the particular pricing in this PPA the Department intends to oppose issuance of a CPG unless the 1.5% escalator is eliminated.

NextSun Solar – Main Street – Docket 8195 – The PSD will be participating in the scheduled site visit and public hearing on April 17<sup>th</sup>. Based on the particular pricing in this PPA the Department intends to oppose issuance of a CPG unless the 1.5% escalator is eliminated.

GMP Stafford Hill Solar in Rutland – Docket 8098 – The PSD and GMP have an agreement in principle, which is due to be documented in a MOU by April 24<sup>th</sup>.

Burlington Telecom – Docket 7044 – BT has forwarded a draft Assurance of Discontinuance to the Department for review. The Department is exploring ways to insert a comprehensive reporting scheme into the document to make the AOD more palatable to the Board. BT intends to file the AOD and supplemental testimony outlining why third-party bridge financing is preferable to direct city financing (as suggested by the Board in its prehearing notice and order) sometime next week. Additionally, Moody’s updated the City of Burlington’s credit rating – from Baa3 with a “negative” outlook to a “stable” outlook – due in large part to the city’s approval of the Citibank Settlement Agreement. The update also indicates that the rating may further increase, contingent on “closing of BT settlement without alteration of current terms.”

General Sound Investigation – Docket 8167 – DPS and Department of Health Staff met with representatives from three firms retained as experts to provide assistance to the state in understanding noise measurements and methodologies and potential health impacts from noise. Representatives from Aercoustics Engineering Ltd., Intrinsik Environmental Sciences Inc., (both from Toronto), and Acentech Inc. (from Boston) discussed a wide range of issues with the state agencies from scoping issues to be presented at the Board-sponsored workshop on sound fundamentals, as well as providing assistance to the Department in resolving ongoing complaints at wind facilities that are currently operating. The Board workshop will be held on April 29, 2014. All three firms will present at the workshop. The topic(s) each firm will present on are to be determined.

Sheffield Wind – Docket 7156 – Paul Brouha, a landowner about two miles from the Sheffield Wind site filed a “request for relief from wind turbine noise” in early March, 2014. Brouha filed a report from Les Blomberg of Noise Pollution Clearinghouse alleging that the CPG’s 30 dBA inside noise limit is being violated. Brouha made a follow-up filing in late March attaching a review of the Blomberg measurement methodology by Cavanaugh Tocci Assoc., which concludes that methodology substantially conforms to relevant industry standards. The Board has since issued an order seeking comments in response to the Brouha filings. The Department is forwarding the relevant documents to two of its recently-retained sound experts for review. Comments to the Board are due by April 21, 2014, though the Department will seek an extension to file comments in early May. Interestingly (since the Board just issued a memo in this docket) the Board recently denied a motion to intervene filed by the Therriens on the basis that the docket is closed. This seeming discrepancy was brought to the attention of the clerk’s office.

Georgia Mountain Community Wind – Docket 7508 – In late 2013, a landowner adjoining the project site, Reggie Johnson, filed a complaint to the Board alleging that tonal noise was being emitted from cooling fans at the base of the turbines in violation of the project CPG. The Department recommended that an investigation be opened, and the Board declined to do so. The Department then discovered that the cooling fans were likely operating during background noise monitoring periods, potentially tainting overall sound measurements. The Board issued an order largely dismissing the Department’s concerns, reasoning that non-operation of the cooling fans during background readings is the only reasonable way to read the final Board order and CPG, but requiring GMCW to confirm that cooling fans were not operating during background noise monitoring periods. GMCW then conceded that cooling fans were operating during some background monitoring periods, but claimed that the collected data could be scrubbed and still be valid and useful. GMCW filed its final (and only) comprehensive noise monitoring report on March 19, 2014. The report concluded that no violations of the CPG noise limits were present during the four quarterly monitoring sessions. However, the report did not indicate a) how the tainted background noise readings may or may not have impacted the general set of data and/or conclusions of the report, or 2) how the tainted background measurements had been scrubbed. The Department is forwarding the documents to its recently-retained sound experts for review.

Addison Expansion—Docket 7970—The ongoing negotiations with Monkton landowners concerning easement acquisitions continue to be problematic. The PSD is acting as an intermediary and trying to facilitate solutions. The Monkton Select Board is also very involved.

Addison Expansion Phase 2—Docket 8180- The PSD filed a second request with the Board to specifically define the scope of landowner interventions, as had Vermont Gas. PSD served its initial round of discovery requests on VGS; responses are due April 25. All of the affected towns, together with the public interest groups and several landowners, also filed discovery. It is voluminous and well beyond the various limited scopes of intervention. ANR filed a Motion to extend the schedule, which was supported by many parties including, ultimately, all of the State agencies and VGS; it appeared that agreeing with the ANR request would at least insure that a more protracted schedule not be put in place. The Board has now adopted this schedule, which moves the technical hearings out until October. VGS and ANR continue to have unresolved issues around the Shoreham Swamp; the PSD is attempting to facilitate resolution. An ANR/ VGS site visit will be conducted next week which PSD counsel plans to attend. The Addison County Regional Planning Commission voted on April 9 that the Project did conform to the Regional Plan.

GMP/VELCO Georgia Interconnection Project—Docket 8205- The PSD has reviewed GMP's responses to our initial discovery requests and is preparing a second round of discovery requests, which are due to be filed on April 18. A site visit was held on April 15. The PSD remains hopeful that a Stipulation can be entered into.

Charter Cable CPG Renewal – Docket 7820 - A prehearing conference was held on April 10<sup>th</sup>. The parties are discussing a proposed schedule.

VPPSA Section 108 Petition – no docket – VPPSA requests approval to enter into a \$6 million line of credit for the purpose of renewing the company's existing operating line of credit facility. The Department will file its recommendation on April 17<sup>th</sup> recommending approval of the petition.

Village of Swanton Section 108 Petitions – no docket – the Department's recommendations are due on May 2<sup>nd</sup>.

Barnet Water System, Inc. Sale – Docket 8214 –In a memorandum, the PSB agreed with the PSD recommendation that (1) the financing contingencies contained in the Purchase and Sale Agreement be documented as satisfied, or as waived by the Fire District, and (2) the Fire District confirm that it wishes to have the rights and responsibilities of the water company transferred to it prior to the PSB approving the sale.

Washington Electric Cooperative, Inc. 2014 IRP – No Docket – The PSB has scheduled a prehearing conference on April 28<sup>th</sup>.

FairPoint – CANNE Wire Center Reclassification - Docket 7958 – PSB heard oral argument from

parties on the Hearing Officer's Proposal for Decision. FairPoint supported the decision as written, agreed to additional changes to future reclassification dockets proposed by CANNE and opposed a request for attorney's fees and costs by CANNE. PSD supported the decision as written as well as the proposed changes to future proceedings and took no position on the request for attorney's fees and costs.

Sudbury Solar 2.0 MW Solar (Std Offer) - Docket 8225 – PSB conducted a prehearing conference on this matter. Parties agreed on a potential time frame (mid-May) for a site visit, public hearing and intervention deadline, and will file a proposed schedule with the PSB. Petitioner also agreed to provide adequate time in the schedule for ANR to conduct some field investigation on wetlands abutting the project area. Initial review indicates it is unlikely that the PSD will have significant issues with the project.

Demand Resource Plan Proceeding - EEU 2013-01 – PSD filed energy efficiency budget and savings recommendations for Efficiency Vermont and Burlington Electric Department for the upcoming three year cycle (2015-2017). VEIC, BED, CLF, VPIRG and AIV are also expected to file recommendations. Comments, Board workshops and Reply comments on the various party recommendations are scheduled throughout the month of May with a target date of June 6 for a final budget order from the PSB.

Townshend Dugreneider Solar - CPG # NMP – (no number yet) – Comments were filed by an abutter requesting visual mitigation in the form of landscape plantings to reduce aesthetic impact of the project from their property. A continuance request from the Petitioner and ANR is pending. PSD will be monitoring PSB actions with respect to the abutter request. PSD supported the project.

Petition to Amend Rule 3.706 (Pole Attachments) by Comcast - The PSB denied Comcast's petition to initiate an amendment to the pole attachment rule. While noting that Comcast's petition was in essence a request for declaratory ruling, the Board observed that the petition lacked an adequate legal analysis to support any determination by the Board. The Board also indicated that it intended to initiate other proceedings to conduct further investigation of pole attachment rates prior to instituting a formal rulemaking to amend the rule.

GMP Rate Case and Alternative Regulation Filing – Docket Nos. 8190 & 8191 – On March 28, GMP submitted discovery on the Department's initial testimony in the rate case. The Department submitted responses on April 11. GMP's rebuttal testimony is due on April 18.

Separately, in the alternative regulation case, GMP responded to extensive discovery from AARP on April 10. The Department reviewing this additional information and will likely submit testimony of its own. Initial testimony is not due until May 13.

SunCommon Enforcement Matter – No Docket – A year ago, the Department entered into an MOU with SunCommon to resolve violations of the SSREIP rules, which provides incentives for certain renewable projects. To resolve the violations, SunCommon agreed to install an approx.

6kW solar PV facility at a public school in Vermont. SunCommon has installed such a facility at the Shoreham Elementary School and submitted paperwork to verify the installation. The Department sent SunCommon a letter on April 16 confirming that SunCommon had complied with the MOU. SunCommon has one remaining compliance filing (which addresses how SunCommon has complied with SSREIP rules) and the matter will then be closed.

Stowe Rate Case – Docket No. 8074 – The Department filed a letter with the Board on April 16 recommending that the Board accept compliance tariffs filed by Stowe that set forth the 3.5 percent rate reduction agreed to by the Department and ordered by the Board. These tariffs will be effective as of last July 8 (2013), and customers will get a refund in May.

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

#### Electric

Merchant Generation – Staff has completed its review of five (5) renewable energy (SPEED) projects. After discussion with the parties, the Department will support the 248 petitions for three of the five projects as described below:

- Docket 8212: Charter Hill Solar, LLC. Filed 2/12/2014, Petition for a 1 MW photovoltaic electric generation facility. PPA pricing modified from 18.0 cents with no buyout to 17.9 cents with the \$1 buyout option clause\*.
- Docket 8188: Rutland Renewable Energy, LLC. (Cold River Project) Filed 12/20/2013. Petition for a 2.3 MW solar electric generation facility. PPA pricing modified from 18.2 cents with no buyout to 17.4 cents with the \$1 buyout option clause\*.
- Docket 8182: Rutland Renewable Energy, LLC. (City Solar Garden Project) Filed 11/26/2013. Petition for a 1 MW solar electric generation facility. PPA pricing modified from 18.2 cents with no buyout to 17.9 cents with the \$1 buyout option clause\*.

\*If GMP exercises the buy-out option, the decommissioning funds along with the responsibility to decommission, will transfer to GMP.

Department will oppose the 248 petitions for two of the projects based on the PPA pricing as described below:

- Docket 8195: NextSun Energy Rutland, LLC. (Main Street) Filed 12/17/2013, Petition for a 1.5 MW solar electric generation facility. The associated PPA pricing is 17.5 cents with a 1.5% per year escalator (19.0 cents levelized) with no buyout option.
- Docket 8194: NextSun Energy Rutland, LLC. (park Street) Filed 12/17/2013. Petition for a 1.83 MW solar electric generation facility. The associated PPA pricing is 17.5 cents with a 1.5% per year escalator (19.0 cents levelized) with no buyout option.

BED –has requested comments on a proposed “interim” tariff structure and specific rates for charging electric vehicles (EV) at its charging stations. BED currently has a single charging station that is available free of charge and which has been used to as a “test” site to gather information about charging station usage. Based on the data collected, BED plans to build 5 additional charging stations and plans to begin to charge for the service. BED has proposed a

cost based EV rate structure with two primary components--a flat fee connection charge and a kWh volumetric charge. Following an internal strategy meeting this week to discuss compliance with energy plans and policy staff has begun drafting a recommendation for the Commissioner's approval prior to submitting the guidance to BED by 4/18.

GMP - PSB Docket 8098: Filed 7/24/2013. GMP Stafford Hill Solar Farm project. (Similar to the merchant generation dockets discussed above.)The Department and GMP have agreed to settle this case as filed.

### Gas

VGS - Docket 8180 - Petition for a certificate of public good authorizing the construction of the "Addison Natural Gas Project – Phase II". First round of PSD discovery on VGS testimony was filed this week covering issues such as rate impacts, the amount and use of customer provided expansion funds, and analysis of pipeline routing alternatives, among others.

VGS--Tariff Filing 8491—Quarterly Purchase Gas Adjustment Filing reflecting an overall increase of 2.21% in firm rates from the under collection of \$1,723,872 in gas costs, effective with bills rendered on and after May 8, 2014. The rate change is largely attributed to a 5.03% increase in the wholesale cost of gas that has been driven by the extremely cold temperatures this winter. Staff and our consultants are continuing to review supporting documentation for the filing. Our recommendation is due April 22.

VGS- Customer Complaint 216875: St. Michael's filed a complaint against Vermont Gas stating that VG did not adhere to its contracted price for supplying gas. Staff has reviewed the complaint and all of the related documentation and agrees with St. Michael's that VGS has not met its contracted price obligations. Discussions to determine a final resolution continue.

### Energy Efficiency Utilities

Fiscal Agent – Staff has begun a review of the Fiscal Agent bank reconciliation reports.

Annual Reports and Gross Receipts Tax-- Staff is receiving and responding to inquiries about the Annual Reports and continuing to receive tax payments.

#### Gross Receipts Tax:

Received this week:	\$6,648,999.14
Received YTD:	\$7,023,444.28
Last year:	\$8,144,516.20

Smart Grid Cost/Benefit Measurement and Verification—(Dockets 7612 and 7704) Under these dockets, the PSB requested the Department to file a revised Measurement and Verification (M&V) Report template to be used by all utilities as a uniform standard report for tracking costs and benefits associated with implementing AMI over the 20-25 year planning period. Staff has completed a draft template, socialized it throughout the department and we are now ready to roll it out to GMP and thereafter to the other four utilities for review before filing it with the PSB. A meeting with GMP has been scheduled for April 23<sup>rd</sup> to review the draft.

## ***Regional Policy***

### Infrastructure Initiative

- NESCOE and state staff met with three of the NEPOOL sectors on April 14. The Public Power sector supports the initiative (VEC and VPPSA were present at the meeting and indicated support, provided that the costs are commensurate with the benefits). The Supplier/Short sector (primarily competitive resellers) have concerns with such a significant intervention in the market; they believe that the market needs to be fixed but did not offer any constructive ideas. The End User sector had mixed reactions, with Conservation Law Foundation strongly opposing the initiative, while large customers such as the Maine paper mills strongly support the initiative.
- New Hampshire, and several members of NEPOOL, are strongly interested in starting a discussion soon regarding how the New England wholesale electricity market can be modified to address the disincentives associated with purchasing firm gas capacity.
- There is general agreement from the NEPOOL participants that states need to start fleshing out the infrastructure proposal and provide a more concrete proposal at the Participants Committee meeting in May. Rhode Island staff have indicated that they are willing to take the lead in putting together a document that states could support.

### Northeast International Committee on Energy

- On April 11, NICE had a call to discuss potential changes to the NEPOOL Generator Information System in order to track environmental attributes of Canadian power. These changes are being requested by Massachusetts and Connecticut, both of which would like to see changes implemented before power is contracted under the transmission component of the Infrastructure Initiative.
- The two primary challenges identified so far are (1) the fact that HydroQuebec want to track only power that is exported, and (2) there is interest in tracking power from Newfoundland that is wheeled through Quebec. Tracking only a subset of Quebec's generation, and trying to account for power wheeled through a third control area complicates any determinations as to whether power from a specific source is being double counted.
- These challenges are not insurmountable; and it appears that it may be possible to get these changes in place by November.
- Given that Massachusetts and Connecticut are the states pushing strongly for this change, Vermont staff is letting those states do the heavy lifting and is primarily observing the process to ensure that no significant concerns are raised that would impact Vermont.

### University of Vermont Conference

- UVM is working to put together a "Power from the North" Conference in spring of 2015. The idea is to focus on Vermont's electricity ties with Quebec, with a review of the

history, a summary of the present activities, and predictions on future interactions. Prof. Richard Watts is taking the lead in organizing the conference.

- Vermont staff talked with Prof. Watts and provided information about the Infrastructure Initiative and NICE. Staff will participate in periodic meetings at UVM to develop ideas for the conference.



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**State of Vermont**  
**Department of Public Safety**  
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:** April 21, 2014  
**Subject:** Weekly Report

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## Vermont State Police

### A Troop

Arrested a subject who previously filed a complaint with VSP advising he was accosted and dragged for 50 feet while being held by a passenger in a car. When he came to the barracks the following day he confessed to being ripped of cash while selling drugs in Jericho. He was found to be in possession of a good amount of mushrooms, and MJ.

Fatal fire in Fairfax, 80 year old male caught himself on fire while using kerosene to ignite a fire in the wood stove, wife escaped home, male did not.

### B Troop

Uniform troops completed a majority of the sex offender registry checks in the area.

2 untimely death cases Friday/Sunday, natural

Norrie arraignment/O'Hagan homicide. Held without bail, still in federal custody.

### C Troop

Tim Foley attempted murder investigation in Leicester. Charged with 2 counts of Attempted Agg. Murder and 2 counts of Attempted Murder. He was arranged but refused to come up to the courtroom. He was held without bail. Next hearing is in Middlebury on April 17th.

### D Troop

Stopped a vehicle after witnessing some dangerous operation and determined that the subject was under the influence of drugs. A DRE was called to assist in screening the subject.

Investigation developed from NPLeX; possible precursor activity; follow up with pharmacy, etc

## **Emergency Management/Homeland Security**

### Issues/Updates:

Hosted the Governor's press conference in the EOC.

DEMHS activated the EOC to Partial status for approximately 30 hours in support of the flooding event.

Hosted the State Emergency Response Commission (SERC) meeting.

In coordination with the Lt. Governor's Office scheduled the next Governor's Emergency Preparedness Advisory Council (GEPAC) for May 19th from 1300 to 1500 (1 PM to 3 PM).

Director signed the Purchase Order for two Forest & Parks Wildland Fire response trucks. ANR was not able to get guidance on whether they could be added to their fleet. They will be bought by DPS and put into the DPS fleet with cost and operational expenses billed back to ANR / F&P through a Homeland sub-grant previously awarded. This option gets the project underway and avoids further delays.

HS Chief continues to focus on multiple interoperable communications enhancements to include VCOMM, FirstNet and state projects.

HS Chief met with Vermont State Police Executive Staff to discuss tactical communications enhancements. Four mobile repeaters are being staged and configured for operability in each of the four Troop Areas. A thirty day field test will be conducted.

Vermont, Connecticut and Rhode Island were selected by FEMA for testing of large Public Assistance (PA) fund transfers under the Improper Payment Eliminations and Recovery Improvement Act Testing of 2013 ("IPERIA"). DEMHS PA Team has obtained voluminous transaction detail from VTrans in order to prepare for phase I of this de facto audit initiative.

### Legislative Contact:

Received additional information request from the Joint Fiscal regarding the Vermont Communications (VCOMM) Board and SHSGP.

Updated congressional staffers that FEMA only granted Vermont until May 1 for DR4022 HMGP time extension.

## **Fire Safety**

### Issues / Updates:

The Division received \$5.8 million in new plan review construction valuation collecting \$4,500.00 in permit fee revenue.

The Fire Academy is gearing up to offer a 4-hour swift water awareness class to volunteer/career fire departments. Fire Departments can complete a training request form and the academy will provide an instructor at no cost to the fire department.

The road leading to the Vermont Technical College burn building is not usable for heavy equipment thus a couple pre-scheduled live burn classes had to be reassigned to Pittsford. At some point a discussion needs to take place with VTC to discuss who is responsible for repairs and if necessary upgrade. Currently there is no MOU in place for the use of the facility as it has been explained to me. In the meantime the live burns will be held in Pittsford.

The swift water response team from Hartford responded to Springfield to assist a man who jumped into the river. The individual was rescued and transported to the hospital for medical reasons.

Working on a response to an elevator complaint the Governor's office received from a building owner alleging the State shut his elevator down. We did not shut the elevator down and there is some history with this. In short the elevator was shut down because the safety gate was inoperable- people are killed because of faulty or inoperable safety gates. Once Bob has compiled a complete response I will make sure you are informed.

Our new fire safety education trailer will be delivered in a couple of weeks and the old one turned into surplus.

## **Administration**

### Grant Management Update:

REPEATERS FUNDING FOR VSP: There are discussion underway between VSP and DEMHS to possibly reassign funding that had been targeted to an IT system called "Be On" to purchase the repeaters to enhance handheld radio communications. More to come on this.

VCOMM Board Questions from Legislature: Marie Belliveau of the JFO contacted me yesterday with some questions from a legislator regarding the VCOMM board. The questions related to whether the VCOMM lifeline system was now operable; how the project was funded; when/how often the Board meets; whether the Board could be combined with E-911 Board. I copied you and Paco yesterday on my emailed response to Maria. I was able to answer her questions regarding the project go-live and the funding, but advised that she should contact either you or Paco for answers regarding the functioning of the Board. Update 4/17/14: Multiple individuals in DPS have been contacted about this issue which is causing much confusion. The questions appear to be generated within the Senate Finance Committee per a discussion I had with Steve Klein of JFO on Tuesday. The questions have come up per Steve because of some issues that have been raised by David Tucker, Executive Director of the E-911 Board. Steve Klein has asked me to provide him with some Homeland Security Program budget information which I have asked Tracy to pull together for me, and will forward on when I've had a chance to review. I did explain to Steve Klein that the VCOMM Board does not have a "budget" that they manage, which seemed to be point of misunderstanding. Again, it appears that the intent here is to find

out why so many boards are needed to manage statewide emergency communications and why can't they be consolidated. I believe that Paco had a conversation with Steve Klein as well where he attempted to explain the difference between the missions of the various boards, and types of communications systems.

Prison Rape Elimination Act (PREA): We are attempting to sort out the implications of this federal act on our Department of Justice grants. We have heard that there will be percentage reductions of our granted funds for non-compliance with the requirements under this legislation. Tracy has reached out to Rosemary for help with this. This issue is complicated by the fact that this legislation most directly impacts the Corrections system, so we need to sort out who is taking the lead on this for Vermont. There is a webinar next week which we will participate in and we will invite Rosemary to participate as well. More to come as we become better acquainted with these potential impacts. Update 3/20/14: Finance staff were unable to participate in the PREA webinar last Friday, but there is an online version that we will all review when time allows. Tracy reached out to her grant contact at DCF this week to discuss and was told that as far as DCF knew, no one has taken a state lead on this. Tracy was also told that DCF supervisor Cheryle Bilodeau was crafting a letter to the Governor's office about this certification. I would like to discuss this at our next Staff meeting to ensure that I understand your wishes regarding if/how you'd like me and my staff to be involved with this issue or if you wish to turn it over to legal or VSP. Vermont's non-compliance with PREA will result in a 5% reduction to our Byrne/JAG funding going forward. Update 3/27/14: Discussion of PREA has been placed on the agenda for our next director's meeting. Update 4/3/14: Per our brief discussion of this at our staff meeting, I have passed along some information to Paco on PREA, and my understanding is that he and Rosemary are going to look into the issue. Although I will be happy to participate in this in any way I can be of value, I believe this is a legal issue rather than a grant administration issue although the State's non-compliance will impact our grant funds. The fact that multiple state agencies must be in compliance with this federal law requires that it be discussed at a higher level than DPS. It is important for someone to take the lead to determine what is actually required by state's to meet the requirements under PREA and where Vermont stands in terms of that compliance. Update 4/17/14: My understanding is that Paco and Rosemary are pursuing this issue.

Note: Deputy Commissioner Aumand has been in touch with the National Criminal Justice Association (NCJA) about this issue (PREA) and is working with them to help get the penalty associated with none compliance delayed. NCJA has asked that a picture of what the penalty will mean for Vermont be prepared. DC Aumand has been in touch with VSP representatives to see what the 5% reduction of JAG funding will mean and has been in touch with the Vermont Network to determine what a 5% reduction in VAWA money will mean to this program. Contact with DCF and DOC will be made next week.



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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: April 18, 2014**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Issue Updates:**

**Ribbon Cutting Events:**

- The Vermont Psychiatric Hospital – Monday, June 30<sup>th</sup> at 11:00am
- The Vermont Health Lab in Colchester – Tuesday, September 23<sup>rd</sup> at 11:00 am

**Status of Governor's Priorities:**

Stable. Governor's priorities continued in the Capital Adjustment Bill which be voted out of Senate Institutions Tuesday.

**Legislative Issues/Contacts:**

- Weekly meeting with Senator Flory and Representative Emmons to discuss H. 864, including the installation of wiring for cameras which will not be installed.

**Testimony:**

**Senate Health & Welfare:** Emily Montgomery testified on H. 217 (smoking on state owned property); BGS will implement what is passed.

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

- District Heat Plant follow-up meeting with Jessie Baker, Bill Fraser, Julie O'Tool, Bob Rea, Joe Aja and Wanda scheduled for today to review next steps.
- ADA follow-up Meeting with Matt Riven, Bob Rea, Dave Burley and Wanda Minoli to discuss judiciary ADA priorities and funding.
- Green Island Project meeting – met with Hal Wilkins along with Dan Edson to discuss a passive solar thermal system.
- Met with Wayne Lamberton to discuss the Information Center at I-89, Exit 7. Meeting w/ Jeb next week to discuss further with Mr. Lamberton.
- Meeting with Michael Snyder, Paul Frederick, Steve Sinclair and BGS to discuss producing woodchips from our own lands.
- Met with the Lt. Governor twice to discuss the assessment proposal from Margolis Healy on Security
- Met with Shelly Martin and David Schutz to discuss fundraising ideas for the Employee Service Memorial. Follow-up meeting scheduled for May when Tom Ball has returned.

### **Evolving Issues:**

20 Houghton Street: The Elman agreement is still not executed, but the issues appear to be resolved and execution is expected to occur soon. BGS and Mylan have identified the outstanding issues for the purchase & sale of 20 Houghton, and the last major piece is an agreement pertaining to the due diligence inspection. Construction is moving along according to schedule for the new state office building and garage.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

FY 2014 Self-Assessment of Internal Controls was issued this week and is due back to Finance and Management by May 7, 2014. Primary changes to the survey this year are focused on our new time reporting and travel and expense reimbursement processes.

The Senate Appropriations Committee continues its mark-up of the big bill. The budget office is attending the meetings and will communicate changes and developments.

The budget office continues to monitor bills with money implications. There are several that are moving.

Commissioner Reardon testified in House Gov Ops on the consolidation of VCGI into DII.

Commissioner Reardon testified in House Ways & Means on State Teacher Retirement.

## HEALTH CARE REFORM

### Status of Governor's Priorities:

Financing: One of the primary decision points in the design of any finance proposal is whether to create a specific, dedicated tax system to fund Green Mountain Care or use the Exchange construct created by the Affordable Care Act. Given the attention paid to Ken Thorpe's exchange based concept, now is a good time to remind people that we are designing financing options that work in both ways so that the Governor may consider all options. Our dedicated tax system concepts are well-fleshed out, and we continue to perform iterative runs to better understand the impact of various policy options. Our Exchange based model is still in the design phase.

The goal of our current finance modeling is to gain specific feedback from the Business Advisory Council at its May 12<sup>th</sup> meeting. Attendees may recall that the previous meeting featured a lengthy staff level presentation. It is time to get their comments and ideas. Michael will be working to schedule a meeting with David Coates, Lawrence, Liz, Jeb, and Robin by April 28 to discuss the specific approach for that meeting.

The Administration's partnership with *Partners for Health Care Reform* is going well. Don George and his team continue to help us develop a more sophisticated understanding of payer administrative costs, and this will help inform the next financing proposal. The hospitals, doctors, and ACOs continue to work with us on provider reimbursement and provider administrative cost issues, but this is moving significantly more slowly than our work with Blue Cross. (To be fair, this part is much more difficult.) The providers keep discouraging us from diving too deeply into potential provider savings. Instead, they keep urging the Administration to consider working with them to (1) identify a consensus base for total health care spending, (2) identify an appropriate methodology to measure health care system growth, (3) agree on a consensus future health care system growth rate, and (4) leave the specific administrative cost cutting to the providers.

The Administration is now on the 3<sup>rd</sup> draft of an RFP for economic modeling services required to evaluate Green Mountain Care proposals. The services would be procured and shared jointly with the Green Mountain Care Board and Legislative Joint Fiscal Office. The draft RFP has not been circulated to other Administration officials yet because we would like to circulate a draft that includes Board and JFO input. Unfortunately, neither the Board nor JFO have delivered promised comments. Moreover, both the Board and JFO seem stuck in their default positions. The Board's default position, via AI, is to agree that collaborative economic modeling is the right thing to do, but the Board is overwhelmed with work at the present time and is potentially incapable of partnering. The JFO's default position is to agree that collaborative economic modeling is the right thing to do, but disagreement between top legislative leaders about whether and how much to collaborate with the Administration creates a situation where the JFO cannot make decisions. Board and JFO indecision costs the Administration time, and we are the only party under a deadline to produce a financing plan and accompanying economic analysis. While I think the JFO could spring into action quickly, I am increasingly concerned about AI's mantra that his staff is overwhelmed at the present time. Much more will be expected of them in the future.

We made our first pitch to the IRS regarding how to potentially keep insurance contributions excluded from an employee's gross income, which would attempt to mimic the status quo with employer contributions to employee insurance. The IRS was non-committal, but they did not reject our idea out of hand. They asked us for time to confer with their colleagues within the IRS and to also confer with the other federal agencies handling our ACA waiver application. We look forward to discussing the matter again once the federal agencies are better coordinated regarding all the moving parts at the intersection of Vermont's health care reform and federal law.

The next Consumer Advisory Council meeting is set for May 15<sup>th</sup>.

Single Payer Planning: (From 3/27/14) Tom Boyd, Deputy at DVHA, has suggested a 30 day process to pull together cross-IT project information and development as the first step on the GMC operations plan. This is going to the HSE Executive Committee for approval Friday. We are also looking at a GMC operations retreat to increase understanding of the Governor's vision and level-setting across the full project teams, many of whom have been educated about GMC, but may not have totally absorbed the information. We have also formed teams to work on different aspects of ops planning and DVHA is working on staffing and project management for the teams.

SIM Grant: On April 2<sup>nd</sup>, the Governor announced the award of \$2.6 million in grants to Vermont's providers working on innovation as part of the State Innovation Models sub-grant program. The awards will foster innovation and health care delivery changes throughout Vermont. The SIM team also convened four of its work groups over the past two weeks. These work groups focus on developing episodes of care, care management coordination, Vermont's data and information technology infrastructure, and population health measurement. Medicaid is continuing its conversations with CMS about the Medicaid Shared Savings ACO Program State Plan Amendment.

## **HUMAN RESOURCES**

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

Commissioner Duffy testified before House Government Operations on S. 225, an early retirement bill that would establish a study committee to address the impact of stress on state workers and assess to what extent changes should be made in the retirement status of those in stressful jobs. Commissioner Duffy noted the bill should not be seen as a presupposition that early retirement rights should be extended, but should be viewed as an opportunity to find ways to alleviate stress on the job. She also noted she would be assessing whether some groups now receiving early retirement are appropriately characterized as requiring early retirement and whether early retirement benefits should be curtailed for future employees in those roles.

Commissioner Duffy testified before House General on S. 241, the binding arbitration bill. She stated that while she believes the issue has been fully vetted and will take significant DHR time and resources, the Administration does not oppose the bill requiring further study of the issue.

### **Press Contacts:**

Commissioner Duffy responded to an email from VT Digger regarding the state's contract with Express Scripts and statements made by Auditor Hoffer that language in the contract makes it impossible for him to audit whether the state is getting the best pricing for the requested services.

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

DHR participated in a meeting along with Finance and DII with Cherry Road to find common ground on what work is encompassed within Phase One of the ERP project and will not require future funding and what additional work is required to be part of Phase Two, that will require an extension of the contract to add hours for this work. It appears that the parties have agreement on those items encompassed within Phase One.

### **Evolving Issues:**

DHR is working with the Secretary's Office on finding funding and positions for a workforce development plan to enhance supervisory training.

## **INFORMATION AND INNOVATION**

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

#### **ERP/VISION:**

- Preparations for a contract extension of Cherry Road professional services continue
  - Concurrence has been reached on the need to extend services
  - Funding of the extension is being pursued
  - Review and clarification of Phase I deliverables (non-chargeable) is planned
- A formalized maintenance window plan needs to be established to allow for the timely updating of the underlying ERP platform
  - Lack of timely updates puts the environment in a less stable situation and at higher security risk
  - A proposed maintenance window strategy is under development
- Vision (PeopleSoft Finance) version 8.8 is out of vendor support and requires an upgrade
  - Version 8.8 has been out of support (Oracle has no obligation to support or fix problems) since March 2011
  - Working with Finance to plan the upgrade to version 9.2

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

Commissioner Boes was invited to participate in a meeting with the legislative IT committee and comment on legislative IT's plan for summer projects. Their summer plans include updates to the website, a new firewall, updates to their existing document management, and potential changes to legislative recordings. Richard commented on the opportunities for leveraging existing services for the website and firewall projects and Tanya Marshall spoke that the preservation of legislative recordings had large cost implications that should be considered in any changes to recording methodology.

Commissioner Boes was present and answered some questions in support of Jim Reardon's testimony to House Gov Ops on H.516. At the end of the testimony, the committee did a show of hands that their

primary reservation in supporting the bill was due to the need to create 6 new positions in state government. They asked Jim to work with the administration on alternatives to creating new positions.

Commissioner Boes testified to Senate Gov Ops with Sue Zeller on IT contracts. This is a continuation of previous testimony as the committee tries to understand the issues throughout the process and attempts to hold our feet to the fire. It will resume next Thursday and they asked for a list of our goal dates for healthcare projects.

### **Significant Events/Meetings**

Telecommunications: Conducted initial I-TOP meetings with the Agency of Transportation and the Agency of Natural Resources. Intent of both meetings was to discuss the future consolidation of both agencies Local Area Networks (LAN) under the management of DII Network Engineering section. Each agency provided LAN topologies of their networks and granted full control to all their routers/switches. Also discussed were the network bandwidth limitations that some of the ANR remote locations encounter and the potential to increase network capabilities to each of the sites.

### **Evolving Issues**

#### Web:

- Information was received from VIC regarding vulnerability to the Heartbleed vulnerability. Neither VIC nor its NIC parent organization uses the OpenSSL software and so are not vulnerable to this risk. NIC technicians are undertaking a full security review to be certain no instances of the software are present on their systems.
- There was a brief (15 minute) outage of VIC hosted Websites on 4/15 due to unusually heavy traffic. Speculation is that this was, for some reason, due to the income tax deadline. VIC is monitoring user activity to determine whether this was indeed a one-time incident or a sign of a larger trend.

### **LIBRARIES**

Nothing to report.

### **TAXES**

#### **Legislative Update:**

Ed Finance/Governance: Sen. Ashe had promised to unveil a bill today, however, he then apologized that Donna Russo Savage had not had time to finish it. Her involvement would suggest that it will have some ed governance pieces, and indications are that Tim still may be willing to go only halfway - consolidation of services. On the rate side, the only guess we have is that the Committee will take out the slope provisions and lower the income sensitized rate to 1.84 (at least for this year). The Commissioner is meeting with Tim tomorrow morning.

Miscellaneous Tax Bill: Finance did not spend time on the bill this week. The Commissioner sent a letter to Sen. Campbell (copied to Shap, Ashe and Ancel), outlining our activities to date on cloud in response to his inquiry. The letter reiterates the suggestion made to House Economic Development that

the Legislature would do well to clarify services that are not subject to the software tax. The Commissioner also made this suggestion directly to Sen. Mullin.

Current Use: Sen. Galbraith and MacDonald seemed to have issues with the bill in the first walk-through in Senate Natural Resources. The Commissioner has been working both within the Department, and with Ag, to better clarify the impacts of the Senate bill. A meeting with Ag and FP&R is scheduled for Monday.

**Operation:**

Returns Processing: We receive electronic filings through the IRS modernized efile platform, and we noticed starting Friday that not all returns are coming through. Other states are reporting the same issue. We believe as many as 5,000 returns may be hung up in the delay. After a relatively light week for mail last week, we have had some very heavy days and have a backlog to process. The unit will be working on Saturday. In terms of customer service, our personal income unit handled over 1200 calls on Monday, with average wait time of less than 30 seconds.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: April 18, 2014**  
**Re: Weekly Report**

**Status of Governor's Priorities:** Senate marking up Budget- no issues with DLC.

**Legislative Issues/Contacts/Updates:**

- S299: would allow for licensees to serve flights of various products for comparison purposes. The bill was passed out of Senate and is in House General.
- 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.
- H884 Miss Tax Bill: Spoke this past Tuesday on some changes to the spirits tax that will affect in state manufacturers. Answered technical questions of how the tax works and who pays it. The committee is still looking at this and will most likely make some adjustments.
- House General Committee has consolidated these three bills into one: S299 on behalf of the late Sen. Sally Fox as she originally introduced S299. The Senate should concur with these minor changes.

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

**Significant Events/Meetings:** Next Board Meeting 05/07/2014 - Enforcement Hearings.

**Evolving Issues:**

- ERP/POS Project Kick off meeting this past Tuesday. It went very well with Barry/Dunn as the Project Manager and STG the vendor of record for the project. At the same time, my IT Manager of 20 years has decided to move on and go to another agency. That has caused us to advertise and cast a wide net for a man with that much experience. DII has been a great help in this process.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in May.

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**Summary of Key Department Activity:**

- April sales so far are at 4-5% which is a good sign. We are still year to date in a good position.

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