

WEEKLY REPORTS

Checklist

2/7/2014

Elizabeth Miller/Aly Richards

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

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- ☒ Boards and Commissions – Susan Spaulding
- ☒ Department of Liquor Control – Mike Hogan

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To: Governor Peter Shumlin

From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development

Date: February 7, 2014

Re: Weekly Report

LEGISLATIVE ACTIVITY

- **The Workforce Development Bill:** has dropped and both Secretary Miller and Deputy Secretary Leriche have had conversations with lead bill sponsor, Rep. Kupersmith. Some significant structural changes to workforce development are likely to result. Lucy will work with interested parties to further develop and refine the bill.
- **Economic Development:** Lucy is working with ACCD staff and leadership, the Governor's staff, , and members of the House and senate and ED partners on fashioning an economic development bill the administration can support.
- **GMOs:** Lucy has been asked to testify on the GMO Labeling bill in Senate Agriculture tomorrow. She will let them know that mandatory labeling for Vermont products will put Vermont producers at a disadvantage in domestic markets where other states are not required to comply with this labeling.
- **Smoking Bill:** Commissioner Harry Chen of the Department of Health contacted Megan concerning the smoking bill and the fact that it is closing loopholes for the few lodging properties that have smoking rooms, as well as outdoor patios that have 2 or more walls. Megan will testify on Thursday concerning these changes.
- **Downtown Tax Credit Testimony:** Chris Cochran provided clarifying testimony in House Ways and Means on the Downtown Tax Credit and the Latchis fix we are requesting to ensure they receive the Flood Credits provided 2 years ago. Chris D'Elia provided supportive testimony before we testified. The committee is trying to determine the best path for the Latchis fix and seem generally supportive of the tax credit fix.
- **Track 1 Legislative Update: Growth Center Process & Incentives**
 - Noelle provided a walk-through of H.809 with leg council Hanna Smith and noted how the process was reorganized, clarified and streamlined and pointed out any new provisions. This week, the committee also heard from Brian Shupe, VNRC; Sharon

Murray, VPA; Sarah Hadd, Town of Colchester; Ron Shems, NRB; Billy Coster, ANR and former state representative Joe Krawczyk, currently on the Selectboard in Bennington. All were supportive of the changes. Brian and Sharon had suggested edits which we worked on outside of the committee. The committee will also hear from Karen Horn, VLCT and Michael Zahner as well. We see no concerns and the committee plans to have this voted out early next week.

- The incentives bill is out – H.823. House Natural Resources and Energy will take this up after they finish H.809.
- Noelle met with Mayor Weinberger of Burlington and outlined the incentives in H.823 that will support downtown development and housing in Neighborhood Development Areas. Understands the incentives and appreciates our work.
- **Enterprise Zones:** Noelle testified again in Senate Ec. Dev on this. Provided an overview of the existing programs, their requirements and benefits and noted that EZs have no requirements and potentially millions in benefits. Also noted that if they are considering state support of infrastructure, there are many other needs to consider and I suggested others the committee should hear from regarding infrastructure needs.
- **Proportional Share:** Noelle testified in House Transportation on Proportional Share. Outlined our involvement in the process; what we have heard from developers and how we have worked with AOT and NRB to consider smart growth and our designated centers in this legislation so that we are supporting our land use goals.
- **Regulation of Land Use within Flood Hazard Areas:** Noelle testified in House Fish and Wildlife on H. 767. Provided support of ANR's outreach process and the work they have done in this area.
- **LCAR:** Noelle presented the proposed rule for sales tax reallocation for developers working on a redevelopment project in a designated downtown.
- **Franks Fix:** Jen met with Tax Commissioner Mary Peterson and the Champlain Housing Trust. The bill (H.833) that would clarify legislative intent regarding the valuation limited equity homes was presented to the Ways and Means Committee this week by Rep. Kesha Ram, D-Burlington. Committee consideration will continue. It is hoped the bill will be added to the Miscellaneous Tax Bill.
- **Condemnation:** The Senate Government Operations Committee will take up S.168 – Municipal Tool Box Bill – next week. Came to an agreement with VLCT on language and clarified with the Chair Jeanette White, D-Windham, VAHC, VLCT and the Mobile Home Program that changes to state authority are not required. Coordinating with Sarah London and Mike Desrochers at the Division of Fire Safety.
- **Fee Bill:** H.735, which includes ACCD's fee requests, has been approved by the House and been referred to the Senate Finance Committee.
- **Water Shut Offs:** S.41 has been sent to the Governor's office for his signature. Jen provided a final bill review.
- **Ways and Means:** The committee had a few final questions about how banks purchase and discount downtown tax credits and about the language to allow Latchis Theater (a

non-profit organization) to claim the refundable flood recovery credit. The Committee appears supportive of both the \$500,000 program increase and the Latchis amendments.

LUCY LERICHE, DEPUTY SECRETARY

- Lucy reached out to Saint Johnsbury Academy to express our desire and intention to work toward a resolution to the appeal filed by the Division for Historic Preservation on the District 7 Environmental Board decision on the Saint Johnsbury Academy application.

DEPARTMENT OF ECONOMIC DEVELOPMENT

OFFICE OF THE CREATIVE ECONOMY ♦ Lars Torres, Director

- **Open Data:** Continuing to pull new people and ideas into a conversation about the potential for and shape of an open data initiative in state government. The idea was bolstered somewhat by the Secretary of State's recent election software award:
- <http://www.washingtontimes.com/news/2014/feb/1/vt-secretary-of-state-gets-new-election-software/>

VT PROCUREMENT TECHNICAL ASSISTANCE CENTER ♦ Robin Miller, Director

- **White Wolf Consulting – Jacksonville:** Ed Williams met with Bob Lambert of White Wolf Consulting regarding federal contracting goals and opportunities. Bob mentioned that he is leaning toward setting up a sewing/manufacturing, possibly Ability One, shop near his current office. He has a large factory space, which he could have fitted out and ready to go in roughly 30 days. Bob did mention that he has significant experience in R&D and product development in the sewing industry, including tank covers, tactical bags, helmet covers, holsters and other larger items. Ed also called Robin Miller during the meeting to check on the status of introductions for Bob with Revision. Robin also suggested that Bob contact MMIC in St. Johnsbury to see if there could be some subcontracting, teaming or strategic partnering possibilities there. Ed and Bob reviewed MMIC's website together and immediately found items which Bob believes he could manufacture. We also followed up on an earlier conversation about a strategic partnership with Fulflex, as Fulflex has a flameproof fiber that can be used in a broad spectrum of items. This partnership, or these products may be helpful in responding to the Natick Soldier BAA items. White Wolf will be pursuing a meeting with Fulflex. White Wolf will also be continuing their research on becoming an Ability One contractor and the requirements as well as implications of doing so.

- **Companies PTAC is currently working with:**

- Banwell Architects - South Woodstock
- Champlain Analytical Partners LLC - Shelburne
- Claire's Home Comfort Cleaning - Newport
- Curve Trends Marketing, LLC - South Burlington
- David Manning Inc. - Brattleboro
- Elizabeth S. McLoughlin LLC - Brattleboro
- Green Mountain Zerodraft - South Burlington
- Jay Peak Area Chamber Of Commerce - North Troy
- M & K Lemieux Logging, Inc. - St. Johnsbury
- North Woods Ecological, LLC - Burlington
- Northeast Kingdom Moving And Storage, LLC Derby
- R G Gosselin Incorporated - Derby
- Sawabini & Associates - Vergennes
- Squeegee Printers, Inc. - Canaan
- St Johnsbury Area Local Food Alliance, Inc. - St. Johnsbury
- Vermont Embroidery, LLC - Orleans
- Vermont Underground Construction - West Charleston

VERMONT TRAINING PROGRAM ♦ Beth Demers, Director

- **Liquid Measurement Systems:** Beth Demers met with Anita Prouty, HR, to discuss how the VTP could assist Liquid Measurement Systems of Georgia with some employee training needs. The company is working to expand its commercial products and services.
- **Teknor Apex:** Beth Demers met with Eric Cierniewski, Plant Technical Manager, and Tim Melita, Plant Manager, to discuss some cross training needs the company has. They recently experienced some significant down time due to the employees not being properly cross trained.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Deputy Commissioner Hollar

- **Sunset Mobile Home Park:** DEC Attorney Gary Kessler, accompanied by DHCD's Dale Azaria, appeared in environmental court at a hearing requested by the park owner. DEC successfully argued for the enforcement order to remain in place. A foreclosure sale is scheduled for next week. Regardless of what course of action the owner takes, DEC will return to court next week with a request that it place the park in receivership.

COMMUNITY PLANNING & REVITALIZATION ♦ Chris Cochran, Director

- **Public Service Department:** Chris met with Commissioner Recchia to discuss if consolidating DHCD's and PSD's contract with the Regional Planning Commissions made sense (the Department is currently funding an update of all Regional Plans and the PSD would like to invest in improved energy sections of the regional plans). Chris is sending the PSD the existing RPC "shell" contract along with each region's work plans and updated timelines. Chris also discussed following up on a partnership with the PSD, VTrans, VEIC, and the Department to create a tool that shows how living in a downtown or village can save Vermonters money, energy and reduces greenhouse gas emissions. Finally, we discussed ways Efficiency Vermont could prioritize its investments in downtowns and villages.
- **VTrans Land Use and Transportation Linkages:** Chris and Richard met with Joe Segale, VTrans Policy and Planning Manager, and Jackie Cassino, Transportation Coordinator, to discuss approaches to increase municipal planning capacity by combining state Municipal Planning Grant funds with Federal transportation planning funds. Next steps are to map specific details of the proposal and gather input from other stakeholders.
- **Burlington Neighborhood Planning Area Designation:** Burlington's Community Development & Neighborhood Revitalization Committee voted to recommend that City Council approve an area to be submitted to the Downtown Board for Neighborhood Development Area designation. The area encompasses the entire old north end, downtown and a significant portion of the south end. Housing developers praised the program and urged the City to act as quickly as possible - two projects with the potential to create several hundred new housing units would stand to save hundreds of thousands of dollars in development costs while expediting their permitting process by several months.

DEPARTMENT OF TOURISM & MARKETING

Megan Smith, Commissioner

- **Tokyo Sales Mission:** The Discover New England sales mission to Tokyo was very productive. We did four days of presentations to airlines, tour operators and travel agents. Vermont has been in this market for 15 years but, due to the now daily flight from Tokyo into Boston, the rest of New England has joined us. New Hampshire was very well represented on this mission with the state, White Mountains Region and the Attractions Association present, but the Japanese clearly love Vermont. Paul Richey from [Trapp Family Lodge](#) was also with our group. We were pleased at how many travel catalogs Vermont is included in now, and we are working with several more catalogs for the upcoming summer and fall seasons. This was our first meeting with United Airlines, and they are promoting us from the Tokyo-Chicago-BTV route. There is also interest in

Toronto arrival for groups. [Jay Peak](#) has had its first two large Japanese ski groups this year and [Killington](#) has maintained the groups that have been coming for years from New York.

In addition to United Airlines, Megan was able to meet with several [American Airlines](#) (AA) executives who were in Tokyo meeting with [Japan Airlines](#). We discussed the American/U.S Airlines Air [merger](#) and the need for a Boston-BTV flight. They were very interested in the Canadian business that we do, and asked me to get travel numbers from the airport to share with them. One of the AA officials had been with us two years ago when Japan Airlines launched the flight to Boston. He had since visited Vermont and loved it. Relationships are the most important thing to the Japanese business people, so it was good to get back and see many of the same people as we did two years ago. We came home with more than 30 solid leads to share with our industry.

The only disappointment was that our meeting with [Caroline Kennedy](#) was cancelled, but we did meet with her Deputy and staff.

Memorandum

To: Governor Peter Shumlin

From: Annie Noonan, Commissioner VDOL

Weekly Report: Weeks ending January 29 and February 7, 2014

Unemployment and Wage Division: For the week ending 02/01/14 we took 2901 calls. This is an increase of 38 calls from the prior week. We processed 583 initial and 423 additional claims. This is a decrease of 47 initial claims and a decrease of 9 Add claims from the prior week. We paid 7,308 claimants during the week ending 02/01/14 compared to 7,311 for the week ending 01/25/14. A Rapid Response was conducted for week ending 02/01/14 at Huber & Suhner from Essex Jct. 30 employees attended and TAA was also discussed at this session.

WC & Safety: Several Stop Work Orders were issued this week, and some have since been rescinded after securing WC insurance. We are nearing the filing of the WC Rule for Debarment, and will be shortly thereafter presenting the ESB Rules for debarment and other changes. We are awaiting the results of the federal audit on VOSHA.

LMI: Working with JFO for minimum wage (MW) study. Mat presented an analysis of MW info to Louis Porter per his request. Completed data request from Sara Teachout at JFO on behalf of Senator Ashe (looking at MW employees in 3 industries (general merchandise retail, grocery and fast food) who are drawing upon public assistance. UITSF report completed (Mat, Tracy and Annie) and sent to Legislature. VDOL did a cost analysis of current legislative proposals drawing from UITSF and presented to House Commerce. LMI Fringe benefit study is completed and online. Mat B participated in a call with Michael Costa and UMass about the fringe benefit survey raw data and in the Mature Workforce meeting with Governor. LMI is working on S.155 data report.

Legislative Review:

S.155 Workforce Development: VDOL is providing significant staff time to inquiries and meetings. Report is supposed to be issued next week.

UI and UITSF: Presented to House Commerce, plus an overview of the costs of all the outstanding proposals in current legislation that would draw against the UI TF. Rep. Sharpe is requesting the one-week waiting period be eliminated and a 20% plus 'sloping'. VDOL testified that IF any changes were considered, we would suggest keeping the waiting period but moving it to week 4 or 5, and simply changing the percentage of Disregard to a higher number. There are 2 other issues that will likely surface again, Newspaper Carriers (Leg Council's recent report fully supported VDOL's report and conclusions from last year); and also non-professional staff in school districts (bus drivers, cafeteria workers) UI during summer. Self-Employment Assistance - House Commerce seems supportive of VDOL language. STC plan: WE asked for language to be added to the STC statutory sections, but have since found out that other states are NOT charging all base period employers and are (possibly) not being called out on the issue for lack of federal conformity. We do NOT want to charge all base period employers, so we are again researching how some states are doing their STC that allows this avoidance. State WARN Act - a lot of interest from the committee and many positive comments from many legislators today. VDOL's bill will 'right size' the scope of a WARN Act to be relevant and useful in Vermont.

H.852: Workforce Development - VDOL has issues and questions on the bill. I spoke with Louis today. We support the restructure of the WDC. I testified against the changes to VTP. I am very concerned about the WIA restructure they have in the bill AND need the Governor's support on how VDOL does business as a single state entity. I am meeting with Louis on Monday. I don't mind the role of "herding cats", but the bill seems out of scope for what the committee is trying to achieve.

Paid Sick Leave:

VDOL was asked to testify on the definition of an 'employee' yesterday.

Prevailing Wage: I met with Chairs Emmons and Head today at their request to be briefed. They are supportive and trying to figure out their strategy. VDOL has put forth the \$0 threshold on capital construction projects, and using the federal wage rate under DBA.

Social Network Privacy

No action this week

Paid Family & Medical Leave

No action this week

H.577: Tramway passed the House.

Fee Bill: We think VDOL is fine for Tramway and WC.

S.220: Senate Econ Development: VDOL's interest is the Independent Contractor issue. I was asked by Senator Mullin about the issue this morning. VDOL staff is working on the issue, and I am calling the workgroup together next week to discuss.

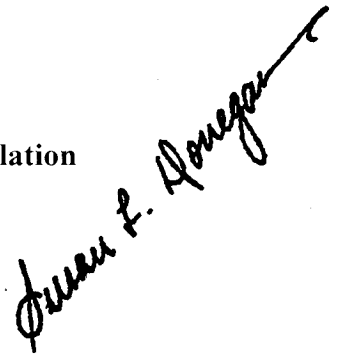
S.213: Employee Use of Leave Benefits: Senate Econ Development: I was asked to testify today and simply read their new version. It was fine. I gave a copy to Louis.

State of Vermont
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To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: February 7, 2014
Re: Weekly Report



Securities Division:

The Department welcomed Michael Pieciak this week as the new deputy commissioner of the Securities Division. The Brattleboro native received his law degree from the University of Miami School of Law and comes to us from Skadden, Arps, Slate, Meagher and Flom in New York City where he specialized in mergers and acquisitions. He has also practiced business law at Downs Rachlin Martin in Burlington where he worked with commercial transactions, corporate governance and investment and financing transactions.

Legislative Update:

The House passed H.198, the Legacy Insurance Management Act (LIMA), on Tuesday and we are looking forward to its signing on February 19. We have been in contact with folks in your office regarding the details of the signing ceremony.

H.260, the Electronic Notice and Credit for Reinsurance bill was voted out of the House and now heads to the Senate Finance Committee.

S.223, which addresses the regulation of pension loans, was passed this week by the Senate and is on its way to the House Commerce Committee.

H.563, the bill that focuses on technical changes to captive insurance laws, is in Senate Finance.





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MEMORANDUM

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: February 7, 2014

Thank you for the chance to touch base on Tuesday. That was very helpful in clarifying a few issues.

Legislative updates:

We continue to provide testimony at the Statehouse on S.91, our miscellaneous education bill, school technology access, student-staff ratios and governance. I have avoided taking a stand on S.91, explaining that we do not yet have counsel on board. We anticipate providing testimony next week on educator licensing in response to the VT-NEA proposal to reduce requirements for educator re-licensure, which is being considered for inclusion on the miscellaneous education bill.

Significant Events/Meetings:

Rulemaking

Our State Board's Education Quality Standards, which reflect the Governor and Board shared priorities of personalized learning, flexible pathways to graduation, and proficiency based progressions, will be presented to the Legislative Committee on Administrative Rules (LCAR) on the morning of February 13. This is the final mile marker for this important statement in Vermont education policy.

Evolving Issues:

Governance

To move the governance issue, there are really 3 parts: clarifying the purpose, developing the plan, and execution. At this point, the only piece on which the AOE can

really contribute is establishing the purpose. Our goal is to keep a focus on framing governance as a way to improve outcomes for kids. There are three components currently in play on this:

- Making sure people understand **that our leadership crisis threatens our ability to improve learning**, and is more and more acute each year (we may have up to 17 superintendent transitions this year, and the candidate pool is extremely weak).
- Making sure people understand that the **complexity of our current system makes it difficult to accurately assess the effectiveness of our schools**, and thus impairs our ability to make decisions about how to get better, and our ability to share effective models across sites.
- Making sure people understand some of the **hidden costs and unique challenges of operating a system with many small, declining units**.

There are six challenges we put in front of the House Education Committee and which we propose to put in front of the SBE. I have invited Jeff Francis to join the SBE discussion. The key challenges we hear driving the discussion and hope to address through a solution are as follows:

1. Challenges related to improving learning:

- Challenge of promoting continuous improvement in learning
- Challenge of assessing effectiveness of programs with respect to improving learning

2. Leadership instability:

- There are at least 15 Superintendent openings this year and few viable candidates
- About 30% turnover of principals every year

Rapid turnover is related to the difficulty of developing and maintaining a coherent agenda and answering to and supporting its implementation across a large numbers of boards.

3. Challenges addressing mandates:

- Federal mandates add administrative and reporting requirements: The impact is greatest on states with lots of small administrative units. The obligations fall on districts and schools (and on the AOE to keep separate schools/units straight with ever fewer staff).
- In Vermont we have lots of units and many units have very few students over which they can spread the cost of complying with mandates.
- The decline in enrollment compounds the effect.



4. Challenges of analysis (cost effectiveness): The complexity of the current situation makes it extremely difficult to analyze effectiveness in any meaningful way. Given our high levels of expenditures, this contributes to a crisis of confidence in the system. More critically, it reduces our ability to identify strategies that work and make them widely available. It also makes it more difficult to identify cases where schools are relying on ineffective practices.

5. Challenges of Analysis (impact on learning)

Research supports systematic, continuous approaches to improving learning. It is impossible to build PK-12 coherence across multiple governing units. The result is a limitation in the educational experience of many of our students.

6. Challenges of effectiveness (SPED): We see some anecdotal evidence that current governance structure may make it difficult to achieve regional solutions to certain challenges related to the provision of special education services. These challenges include, among other items:

- heavy reliance on 1-1 aides and teachers
- limited access to the full range of increasingly specialized expertise of special educators, especially in small districts.

(Note: I have asked our staff to use a mapping program to place high spending special education districts on a map, so that we can see where they are concentrated geographically. There is some evidence that there is a geographic link. If this is fruitful, we will then also map this against leadership turnover, to see if there are any meaningful patterns. I have also asked the staff to examine correlations between spending and school size. This work is ongoing.)

(Note: Act 153 and subsequent legislation are creating progress that is at least partially addressing this situation. Complexities of the governance structure are slowing progress and in some cases may make the transition impossible.)

Some related issues that we are managing:

- **Burlington is consuming an increasing proportion of the Education fund, and it looks like this proportion may be increasing faster than their child population increase.** Also, we have some concerns about finances in Burlington and we are working toward getting a better understanding of this situation. We can provide more specifics, but it appears they may be actively experimenting with how to use the Education fund to reduce their local tax burden.
- **Ongoing referrals to SBE under consolidation:** After telling you I would not be recommending more districts to the SBE for boundary discussion, I am now proposing to recommend a change involving the Tinmouth district. This district



has gone through an extensive process **and has requested to be able to shift SUs, using an argument made entirely on educational grounds.** They are moving from a smaller to a larger district. I am recommending this case forward, because it highlights the way we want our local boards to be thinking: long term and proactive in the interest of better education for students.

General Comments on the Governance Discussion:

In keeping with the Governor's comment that the long timeline for the current governance proposal potentially threatens many benefits that might be achieved, I floated this concern in a meeting around Governance with our education partners (VSA, VSBA, VPA). There seemed to be some agreement on that, though Steve Dale seems to think the solution is extensive involvement of his board members in the planning process. My sense is the weak link on governance will be VSBA. Steve Dale understands the need for a change in governance, but I am not sure he can rally his members, who do not have his vantage point or the constant support of Jeff Francis. Steve outright asked us if there is any data we can provide which will be compelling to his members. Two stories/considerations that his members may need to hear are:

- Current budget challenges are driven to some extent by declining enrollments and one-time funds. These challenges are not going away and will not be solved by privatization. To address this, I asked Bill Talbott to draft a writing piece (attached) which lays out the problem. **Please let me know what you think about this as a possible Op Ed.**
- There is real and strong resistance around giving up local control, but what kind of control do you have when your students are disappearing and your only budget decisions involve what to cut? It is true that in a system composed of School Districts, there would be fewer board members in voting positions. The model calls for school level advisory councils, but these would not have the power of the current boards. That said, it is also true that in some of these towns, the power of the board is diminishing as their student numbers drop, because the only power they have now is around what to cut. Moreover, in some schools, grade sizes have dropped so substantially that boards often don't even have NECAP data to evaluate school effectiveness (see samples below for Coventry and for Concord).

We were thinking of pulling together a second Op Ed focused on asking how you know if you are doing the best for your students if your program is very small. It would include data on per pupil expenditures, sample score reports that don't include data because numbers have declined so much, course offerings and post-secondary outcomes. See sample score reports below. The blank spots indicate years in which their



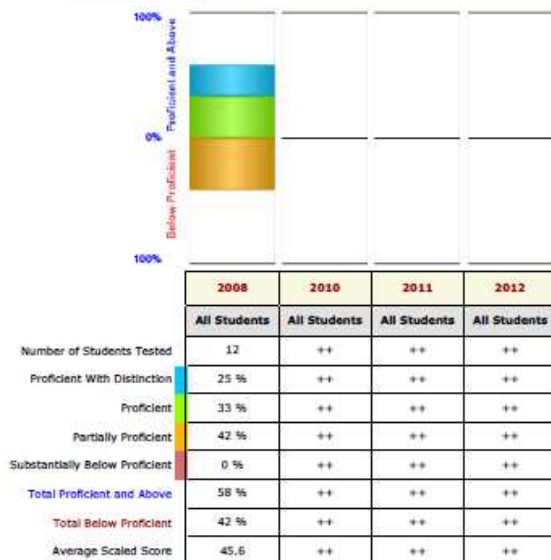
numbers were too low for us to release numbers publicly (although school staff should have them). One advantage of a piece like this is that it would also motivate the new accountability model, because we could provide these small schools with some data other than test scores, and that could be used with their staff to work towards improved outcomes.

Coventry Elementary:



NECAP Assessment Report

Organization: Coventry Village School
Teaching Year: 2011-2012
Test/Subject: NECAP Writing Grade 5
Breakdown: Across all the grades tested, how did our students do?
Comparison: Over Time?



The NECAP Math, Reading, and Writing tests are administered in October and measure student achievement of Grade Expectations for previous school years. NECAP Science tests are administered in May and measure student achievement of Grade Expectations in current and previous school years. District assessment data are for the accountability LEA which is either the town or union school district.

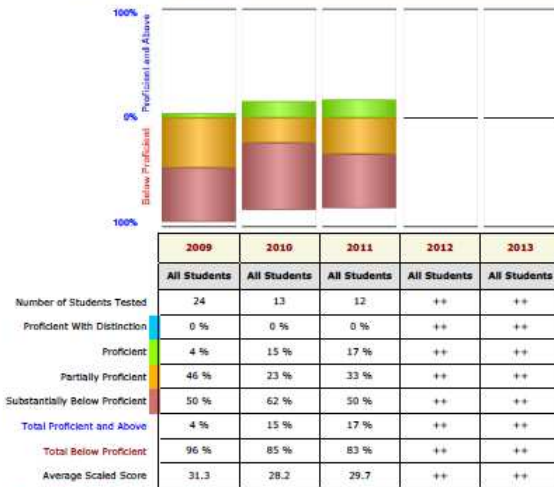


And for Concord High School:



NECAP Assessment Report

Organization: Concord Graded/High School
Teaching Year: 2012-2013
Test/Subject: NECAP Science Grade 11
Breakdown: Across all the grades tested, how did our students do?
Comparison: Over Time?



The NECAP Math, Reading, and Writing tests are administered in October and measure student achievement of Grade Expectations for previous school years. NECAP Science tests are administered in May and measure student achievement of Grade Expectations in current and previous school years. District assessment data are for the accountability LEA which is either the town or union school district.

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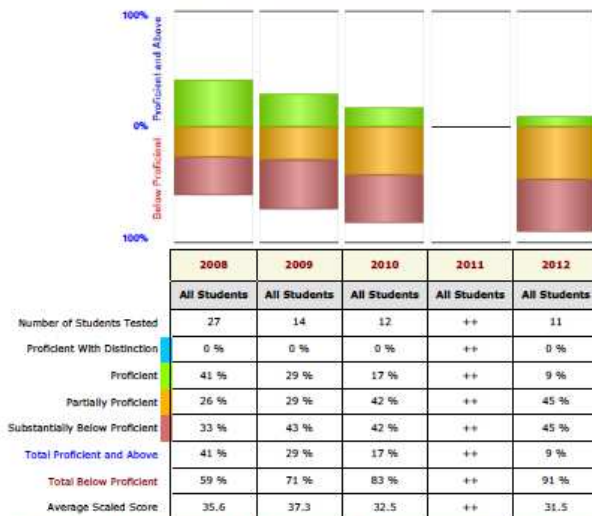
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NECAP Assessment Report

Organization: Concord Graded/High School
Teaching Year: 2011-2012
Test/Subject: NECAP Math Grade 11
Breakdown: Across all the grades tested, how did our students do?
Comparison: Over Time?



The NECAP Math, Reading, and Writing tests are administered in October and measure student achievement of Grade Expectations for previous school years. NECAP Science tests are administered in May and measure student achievement of Grade Expectations in current and previous school years. District assessment data are for the accountability LEA which is either the town or union school district.

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Hazing, Harassment and Bullying Commission

This commission was convened by Armando and is a popular concern of the House Education Committee. I attended my first meeting a few weeks ago, and concluded that perhaps we need to tighten the agenda and shorten the meeting time to help the group become more effective. This group has a good purpose, but is a bit of a challenge, as it is very poorly facilitated. It seems fairly content to focus on mitigating symptoms, which are understandably compelling. We are now trying to steer it towards addressing some of the root causes of bullying in social emotional learning, in part as a way of bringing it back into the AOE mission. We have extremely limited capacity to support initiatives that are off mission, no matter how important. This group definitely has the ear of the legislature, on both sides of the aisle, and has support for whatever it asks. I regret that this group asked for funding this week and named the AOE as a co-requestor. I had explicitly asked them to not list us this way, so that we would not be asking for resources. It is clear this group has to be managed a little more assertively. I have now been asked to testify on this topic next Tuesday. Given Tracey Tsugawa's decision to list us as a co-requestor, despite my written direction that any request from us had to go through the fifth floor, my sense is we have two choices. We can throw her overboard. Or, we can own the process, and replace her as chair of the advisory council with someone from the AOE; I could chair the advisory council. I do not have confidence that I can rely on Tracey Tsugawa to protect the interests of the Agency. Tell me which course of action you prefer. Neither is optimal. Maybe you have a third option.

NECAP release:

We released the 2013 NECAP scores yesterday. We tried hard to explain to the press that the testing group did not include 27 schools that are part of the SBAC field test. We know, as I explained to them again, that these 27 schools tend to score higher on average than the groups that took the NECAPs this year. Thus, we would expect the current NECAP test group to score lower on average. At the state level, it is inaccurate to characterize lower state level scores this year as a decline. Of course, that appears to be the headline in some papers, which is evidence again of why perhaps our reporters should take the math NECAP as part of the field test this spring. As I said Thursday at the news conference, you can compare school level scores for schools that took the test in both years.

We used the conference as a chance to look retrospectively at what we CAN learn from the data and to model one appropriate way to use test scores. We focused on highlighting that perhaps our biggest challenge is to improve the learning of low income boys, who lag on every test, and pointed out that this is also the group for



whom jobs appear to be disappearing the fastest as the economy is transformed by technology. Hopefully, that will be picked up.

General Plea

We are receiving many requests from interest groups and legislators that appear to mistake us for the education fund. While most are worthy causes, we do not have the capacity internally to support them or to devote staff to supporting them. **I will be telling almost all of them that while we support their goals, we do not have the capacity to implement them.**

NEA –driven legislation to defenestrate the Professional Standards Board

In his presentation to the House Education Committee, Joel Cook made the assertion that teacher quality is an issue between principals and teachers only. Last week, I spoke to the Senate Education Committee and made the case that the state has a compelling interest in teacher quality, and that at the moment, licensing is the only lever we have on quality. This week, the House Education Committee dropped language into the Miscellaneous Education Bill that essentially orders the Vermont Standards Board for Professional Educators (VSBPE) to drop its current requirements for license renewal and limit re-licensure requirements to completion of a certain number of hours of professional learning, ill-defined, without tying them to any goals.

This is an interesting piece of language, in that it seeks to strip an independent board, (staffed by teachers and essentially created by the NEA) of its independent powers, basically because it is not doing the NEA's bidding. I do have to hand it to Joel Cook.

On a jurisdictional level, I question why this issue is in the legislature and not being addressed through rule making.

On a policy level, this is a public assurance issue. We spend about \$1.4 billion on education a year from a **state** education fund. We need to ensure that every child is taught by the best possible teacher, especially given the robust research literature suggesting:

- a) that teacher quality is the most important driver of learning we can affect, and
- b) there is tremendous variability in teacher quality.

This public assurance issue is what motivates our new proposed accountability model: we are working to develop a model that will promote systematic improvement of teaching and learning in every school.



In terms of the merits of the proposal, in truth, as a veteran of the re-licensure process, I can say it is a cumbersome process and it probably adds little value. I could happily work on streamlining the process, especially if we can get it done before I am up for re-licensure myself.

That said, it is problematic as proposed for a couple of reasons. As a principal, I found the linking of professional learning to goals very useful as a way of focusing the professional learning of my teachers. Their professional development funds typically constitute a substantial sum, and the proposed language would remove a tool principals have to make sure that money is spent in a way that advances school goals.

In addition, Vermont is a very weak state in terms of teacher reviews and teacher quality rules and statutes. And, in a state with 30% turnover of principals a year, it is pretty perilous to rely on principals alone to ensure teacher quality. We also know that based on surveys, about 30% of schools don't seem to evaluate teachers at all. I made the point to the Senate Education Committee that if we streamline the licensing process, we had better make sure we strengthen our teacher quality policy more broadly. Joel represents the teachers, but the State represents the students.

We combed the 500 plus pages of education law and found only one reference to teacher quality (Title 16 §165 Standards of quality for public schools; equal educational opportunities (a) (4) (5) Page 17 of the 13th Edition of the Law book). This is a vague reference to regular evaluations of teachers.

There is slightly more robust language in the Education Quality Standards, but it is pretty vague. We are assessing whether this language is sufficient to support our proposed accountability model:

EQS 2121.4

Staff Evaluation

For the purposes of this section, "staff" includes administrators, educators, and other school employees working with students.

Staff evaluation programs and policies shall be designed and implemented with the goal of improved student outcomes. Such programs and policies shall

- a. be consistent with the provisions of state and federal law and the Vermont Guidelines of Teacher and Leader Effectiveness adopted by the State Board of Education;*
- b. include multiple sources of evidence to inform and measure teacher performance;*
- c. address the professional learning needs of all staff, including administrators;*



- d. address the needs of teachers who are new to the profession, the assignment or the school;*
- e. provide supports to improve instructional practice, content knowledge, working relationships (with colleagues, parents and community members), and other areas as appropriate.*

Online Licensure

With respect to the field test of our new online licensure system:

- It is really just a field test,
- All participants had the option to participate in the field test or use the old process.

We expect some glitches and are using the field test to sort them out. We are seeing some indications that the NEA (Julie Longchamp) seeks to use this as an opportunity to criticize our licensing process, again. This process was well thought out, in particular, by Lynne Eyberg, AOE Project Manager. I appreciate the strong work on this; the new online process represents a huge improvement. The platform is flexible enough that if the process is streamlined, the new platform could accommodate those changes.

The Move

We are beginning to pack up and ready ourselves for the move to Barre.

We ask for your patience with us as we make the transition. It has been a bit of a rough month for many in the Agency, who are trying to manage the move and weather a series of staff transitions. Many people are running really hard just to stay in place at the moment, including several in my own office.

Again (Jeb, this is for you), we hope we can retain some parking to support our work with the legislature. I am happy to set up an alternative office space in Capitol Grounds for Jill and Vaughn.

Rebecca



DRAFT

The Level Funded Budget and Rising Tax Rate Paradox as Told Through the Tale of One Town

It was the best of times; it was the worst of times. We have great schools in Vermont and yet we are frustrated with rising property taxes. Boards are frustrated that even with level funded budgets tax rates go up. Looking at what happened in one town could help explain the paradox.

The first thing to remember is that there are two homestead taxes: one is based on a percentage of the market value of the property and the other is based on a percentage of household income of the property owner. Each of these homestead tax rates are based on a district's education spending per equalized pupil.

Tying tax rates to per pupil spending is meant to help out when student numbers are increasing. It does this by allowing a district to increase its spending at the same percentage as its pupil count increases, holding its per pupil spending constant. In times when the pupil count is decreasing, the system tries to constrain spending by raising tax rates. Since the state funding system's inception we have seen declining student counts and few districts have experienced the upside of this system because so few districts have seen pupil counts go up.

The numbers of students in the state has been declining since 1997. The law holds a district harmless to no more than a 3.5% decline in its pupil count to help a district adjust if its student count declines faster. This year (as has happened every year since the hold harmless provision was instituted in 2001), more than 70 districts have had actual pupil declines of more than 3.5% but are being held harmless to just a 3.5% decline.

Boards are becoming frustrated by the effect of rising tax rates when pupil counts decline given the hard work they have been doing crafting budgets. The story below tries to illustrate what is happening.

This year the Brightingham Town School Board used a very sharp pencil to build a budget with virtually no increase. It managed to create a budget that went from \$2,607,734 this year to \$2,607,998 next year, virtually a level funded budget. Feeling good about the result of this difficult work they were shocked to learn that the

homestead property tax rate would go up 6.81%. They were completely kerflumexed about how this could happen. The answer lies in the amount called education spending per equalized pupil, hereafter called per pupil spending. Once again, tax rates are determined on a district's per pupil spending.

This year the district would have \$572,418 of available revenue to cover some of the budget and would need the balance or \$2,035,316 to come from the state's education fund. The state calls the state funded portion of a budget "education spending." Before agreeing to pay this amount the state requires the town to raise a portion of the amount through a state property tax levied on the homestead owners in the town.

A homestead property tax rate is determined by dividing the district's education spending amount by its equalized pupil count. Two things happened in the Brightingham Town District that raised this per pupil amount. Its revenues dropped a little, meaning that more of its budget would need to come from the education fund. Instead of having \$572,418 it only expected to have \$514,266 in offsetting revenue. The amount the district will need from the education fund goes up by 2.9% or from \$2,035,316 this year to \$2,093,712 for next year.

The second thing that happened is the district's pupil count went down 2.2% from 161.37 to 157.82. These two changes resulted in per pupil spending going from \$12,613 to \$13,266 or a 5.18% increase. This increase in per pupil spending will compound the 4.8% increase the state has determined is needed this year if pupil spending is unchanged. This results in a total homestead property tax rate increase of 10.2%.

The tax payers won't see this rate and the reason is a little confusing. Towns' grand lists often vary from where the tax department assesses them compared to the fair market value. This variance is expressed as a percentage called the common level of appraisal or CLA. To create a level playing field across the state for the state education taxing system, homestead property tax rates are adjusted by dividing the rates by the town's CLA.

Brightingham has a new CLA for next year of 104.5%, a little higher than this year's 101.25%. Dividing the tax rate by this percentage results in the town having a homestead tax rate applied on the tax bill of \$1.37. The homestead property tax rate is now 6.8% higher than last year's rate of \$1.28. In the last decade CLAs were generally getting smaller as a result of the bubble years' rising property values. Now that the bubble has burst, property values are more stable and CLA adjustments do not create as many increases in tax rates.

If the initial estimates for the base homestead and income tax rates are adopted by the legislature, the income rate will not increase as much. The estimated change in the base income rate of 2.2% means a 0.3% decrease in this rate for a district with level per pupil spending. This happens because the base spending amount is also expected to increase 2.5% and more than offsets the base income rate increase. This decrease multiplied by the 5.18% increase in per pupil spending leaves a 4.9% increase in the income rate for Brightingham. Its rate this year is 2.48%. Next year's rate will be 2.60% of household income.

Homestead education property tax rates are based on education spending per equalized pupil. As seen from Brightingham's experience, other factors can affect its per pupil spending, but the pupil count is primary. Even if a district level funds its budget, its per pupil spending will go up if its student count decreases. If its per pupil spending goes up, so will its tax rate. This is as intended. At some point with a continuous decline in pupils, spending should decline. The question is, where is that point?

OFFICE OF THE SECRETARY

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Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, February 7, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Salt Shortage Update

We have had the valuable assistance of Phil Scott on this issue as he deals with the providers regularly and has been briefed on the shortage for the towns. In fact, he confirmed this morning that seven communities have been cut off from salt deliveries by American Rock Salt. Phil's office will work with us, BGS, the Trans Chairs, VLCT, and others to try and find a solution to this shortage. You may want a direct representative from your office involved or I could certainly play that role.

Update of Transportation Board

Last week I reported our intention to submit language removing the responsibility for contractor claims appeals from the T-Board. We have pulled back from that strategy in response to discussions with the Associated General Contractors and some T-Board members who have acknowledged the recent problems and pledged to discuss them with us in an attempt to settle this without a fight in the legislature. We will keep the language in our back pocket and put it back in if progress is not made.

The matter of appointing a new member and a new Chair of the T-Board to replace Moe Germain now becomes even more important and is something that we would like to discuss with you before Moe's term ends on February 28.

Act 250 Permit for Stowe-Morrisville Airport

The plans for a new hangar and terminal building at this airport got a boost from the granting of a conditional Act 250 permit this week. This privately financed improvement includes a New England wide charter service, flight training with simulator, 22,000 sq. ft. maintenance facility, Jet hangar, 29 seat "StoweMo" café and a Park & Ride with electric vehicle charging stations.

The development should be underway in the spring and will be done while the airport is closed for an FAA funded runway reconstruction.

In another airport matter before the Public Service Board, we are objecting to the size of a proposed VTel tower near the Knapp airport as it negatively affects the flight path on Runway 17. It needs to be lower than planned or moved.

In other airport news, we are pitching Cape Air about adding Rutland to their current Lebanon, NH to White Plains New York service. They are interested and have scheduled another meeting. At BTV we are currently helping to market the new Orlando service on Allegiant and have agreed, along with Travel and Tourism, to add some funds for the potential marketing of service to Fort Lauderdale. A decision on that one will depend on the success of Orlando.

New Positions

The position plan that was so well received in the House is not meeting with similar support in Senate Transportation. I plan to meet with the Chairman on Monday to see what the problem is and what he sees as the way forward. We have also backed off on a plan to fold the VTrans Grant funded Vermont Local Roads program into our newly established Local Transportation Assistance Program (LTAP). This is a plan that Sen. Mazza supports but would require pulling at least two of the three existing positions into the Agency. This is not a budget issue but a position issue as funding already exists. The underlying reason for the change is current program performance and better coordination with other municipal assistance, particularly in the wake of extreme weather events.

Deep Thunder – Weather Information Innovation

We learned today from Kerrik Johnson of VELCO that a deal has been struck with the utilities, VELCO and IBM to jointly invest in the Deep Thunder project. This technical innovation in enhanced weather information may reap huge rewards for improving both our weather predictions and preparedness, and our (joint) ability to effectively respond to weather events and improve public safety. This advancement has important implications for our ability to pre-deploy assets and improve the effectiveness of our predictions and emergency response capabilities. We will assemble a team of technology experts to work with the utilities and IBM on the progress of this important endeavor so that the information (which is primarily being driven and paid for by the utility sector) can be utilized by and benefit the public sector, including VTrans. This initiative might be worth a press event, and can be sold as a private/public partnership and part of our emergency preparedness/resilience agenda.

NOTES FOR STAFF

Road Surface Deterioration

As a follow-up to last week's discussion, our technical team is still working on the full picture of the pavement problems we are experiencing. Early indicators based on specific weather and frost data supports the cold and wet winter role in what we are seeing, but there does also appear to be a connection with the use of a fairly new (2006 or so) paving technique called Reclaimed Stabilized Base (RSB) utilizing Portland Cement as part of

the road base. This process is increasingly used to pave roads that don't have high traffic volumes in order to reduce costs significantly and get more life from the pavement. There have been no problems until this year, but it appears that part of the 116 miles done thus far on Rt. 12 in Worcester and Rt. 113 in Vershire are experiencing transverse cracks from frost heaves at regular intervals. Frost in the ground at these locations has been measured at levels that are very unusual and the engineering and material composition of these treatments may have to be adjusted. Our team will scan all miles completed with this methodology utilizing high tech geophysical surveying methods and a forensic determination will lead to a mitigation strategy for current issues and a plan to limit recurrence.

Legislative News

The Proportional Share legislation (formerly known as Fair Share) has been the subject of extensive hearings in House Transportation. Starting with a walk-through by Leg Council, the committee has heard from VTrans, Ron Shems, Tom Little, RPCs, developers and the Vermont Chamber of Commerce just to name a few. They are becoming quite familiar with the concept which is really all we intended for this session. This week we will testify on the FY-15 budget in House Appropriations and the T-Bill in House Transportation.

FEMA News

FEMA has reversed themselves and funded town highway bridge replacements in Halifax and Chester. Assistant AG Dan Dutcher reports that, once again, they are doing the funding without recognizing any precedential value for subsequent appeals. We are still in pursuit of the larger goal of getting FEMA to recognize Vermont's revamped stream alteration standards.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: February 7, 2014

FY 15 Budget:

I kicked off the AHS budget presentations this past week in the House, appearing in the Appropriations and Human Services committees. I must say that it was easier than last year! I was able to present our vision for better integration of health and human services for greater effectiveness and efficiency. I tied together our strategic plan work, using Results Based Accountability (RBA) to focus on outcomes, and our plans for new IT systems to enable all that work. While there are always issues and concerns, the feedback was that they see we have a plan and that we are moving in the right direction.

Fletcher Allen CON:

Fletcher Allen is developing a Certificate of Need (CON) application for a major construction project to improve their inpatient services. My understanding is that psychiatric services are not part of their proposal. I find this troubling given the size of the project and the stated inadequacy of their inpatient wards dedicated to psychiatric patients. Fletcher Allen should be a major component of our expanded community based mental health system. Further, as a community hospital, our largest hospital, and a teaching hospital, I believe that Fletcher Allen has an obligation to treat all illnesses and not relegate mental illness to a lesser status. They have relied on the state to treat more challenging patients and while they have helped us through the current crisis (albeit reluctantly at times), they apparently wish to continue relying on the state for the foreseeable future.

Given your Administration's desire to have a robust community based mental health system, and the growing needs and acuity of needs of our population, I believe that any new project should address psychiatric services. Perhaps they will when the CON is filed, but that is not what I have heard. I would like to consider having the Administration play an active role in the CON process on this topic. And in anticipation of that, I would like your support in having me reach out to Fletcher Allen officials to explore their plans and express our concerns.

Vermont Department of Health (VDH)

Fentanyl Deaths Reported:

The VDH has confirmed the cause of three deaths in Addison County in January as overdose from pure fentanyl. Health and public safety officials are warning heroin users that product sold as heroin and packaged in the same manner as heroin may instead contain pure fentanyl or fentanyl-laced heroin. A press release is pending.

Continuing Medical Education (CME) on Safe Opioid Prescribing Scheduled for May 10, 2014:
The Board of Medical Practice is partnering with the Boston University School of Medicine to offer a 5-hour CME conference on safe and effective prescribing of opioids for chronic pain treatment.

The Centers for Disease Control and Prevention's (CDC) *Tips from Former Smokers* TV campaign continues in Vermont:

The CDC will again place a national TV buy of the *Tips from Former Smokers* campaign starting February 3rd. The campaign will air for 9 weeks.

Department of Mental Health (DMH)

House Corrections and Institutions:

On Wednesday, Commissioner Dupre and Deputy Commissioner Reed testified before the House Committee on Corrections and Institutions with the Department of Buildings and General Services (BGS). This was regarding a request by BGS for a 1-year extension for a plan to replace the temporary Middlesex building with a permanent structure.

Emergency Room Waits:

It's been a good week in regards to the numbers in emergency rooms and Corrections.

Department of Disabilities, Aging and Independent Living (DAIL)

House Appropriations requests plan for \$1M BAA spending authority proposed by Senate Appropriations:

Commissioner Wehry responded to a request from House Appropriations Chair Martha Heath for information on how DAIL would invest up to \$1M in Choices for Care (CFC) reinvestment funds. Reminding the Chair that the Senate language was permissive rather than mandatory, the Commissioner also informed her that there were currently 39 CFC enrollees awaiting home modifications or assistive technology supports from Vermont Center for Independent Living (VCIL) and that if there were room for more investments, this would be a high priority.

Vermont State Employees Association (VSEA) submits Freedom of Information Act (FOIA) request for Vocational Rehabilitation (VR) audits:

On Thursday, DAIL's Division of Vocational Rehabilitation provided the VSEA with documents from a routine federal audit conducted one year ago. There were a number of findings in the audit, including one on accounting practices related to the Vermont Association of Business Industry and Rehabilitation (VABIR). Whereas VSEA lost a grievance related to VABIR last year, and whereas some of the language concerning the VR findings is inflammatory, we anticipate VSEA may wish to raise old issues. Corrective action plans have been accepted for all findings needing one and the Division is currently in good standing, so the only problem may be a public relations one; there is nothing substantively damaging in the audit.

H. 555, a bill to commit individuals with traumatic brain injuries (TBI):

A bill that would commit individuals with traumatic brain injuries who have been found incompetent to stand trial to the Department of Mental Health (DMH) may be finding more support. Responding to tearful testimony from the mother of a victim of sexual assault by a perpetrator with a TBI who remains in her community, legislators have asked DAIL General Counsel Alice Kennedy to provide a primer on Act 248, the commitment law for individuals with intellectual disabilities. In our view, neither DMH nor DAIL providers, which are designed to provide treatment and habilitation, are very well-equipped to perform this essentially public safety function. The average annual cost to serve these individuals commonly is in excess of 100K/year. From a liberties point of view, such commitment action amounts to a life sentence.

Adult Protective Services (APS) complaint alleges insufficient action by the Division:

On December 20th, Sen. Joe Benning called on behalf of Paul Brooks to complain that APS was doing nothing to assist his mother, the alleged victim. Subsequently, Mr. Brooks has contacted another representative and the Governor's office. This is an open investigation and the Division and the Commissioner are constrained by law as to what may be shared. A report has been made to my office and the broad outline is this: the APS investigator has met with the alleged victim at her home and found that the alleged victim had food, her house was warm and clean, and she did not appear to be at imminent risk of harm; the APS investigator has made, and will continue to make, efforts to keep the reporter informed about the status of the investigation; the APS investigator has interviewed the reporter; and Adult Protective Services has reviewed options that may assist in the protection of Mr. Brooks' mother.

Sisters of Mercy meeting with DAIL's Division of Licensing and Protection (DLP) cancelled:

Inclement weather led the Sisters of Mercy to cancel this week's planned meeting with Director Clayton Clark. The reason for the meeting is to discuss findings from a recent complaint visit. DAIL's general counsel has informed Commissioner Wehry that requiring the Sisters of Mercy to license their infirmary is the strongest legal position for DAIL, and a likely outcome of the planned meeting. At this stage, the DLP team will still be offering an exploratory conversation to better understand the Sisters' position.

Department of Corrections (DOC)

Sex Offender Release:

Todd Cardinal is a high risk sex offender maxing out of DOC supervision. The DOC found housing for him three weeks ago via the Burlington housing authority which was available this week. This means that we are releasing him two weeks prior to his max. In addition to housing, the Community Justice Center is able to provide a support system as well as establish him into sex offender treatment. Cardinal will be supervised with electronic monitoring at our highest level of supervision. The DOC did not issue a press release on him; however, the Burlington Police Department did.

Offense Patterns: Cardinal has been under supervision with the Vermont DOC for various convictions since 1989. Including Todd's sexual offending history, he has a total of 23 criminal charges resulting in 21 convictions (5 felonies and 16 misdemeanors) over 14 sentencing dates.

Under community supervision in the past, he has been uncooperative. He has been charged and convicted of new crimes, had unsatisfactory discharges and probation violation convictions/revocations.

Programming History: Cardinal completed the high-intensity Vermont Program for Sexual Abusers (a prison-based sex offender treatment program).

Risk Re-offending: Compared to other incarcerated sex offenders, Cardinals' risk to commit another sexual offense is considered to be in the High Range. His risk for general criminal recidivism is considered to be in the Moderate Range. Based on his past history and self-report, if Cardinal were to sexually re-offend, his most likely victims would be adult or adolescent females.

Inmate Escape:

On February 4th, at approximately 5:05 P.M., Vermont State Police (VSP) were advised by hospital staff that an inmate visiting the Central Vermont Medical Center for medical treatment escaped from DOC custody. The inmate, Jonathan Henry (age 28), of Marshfield, was recently incarcerated by the VSP, Bureau of Criminal Investigation, for aggravated assault from an incident in January of 2014 in East Montpelier, VT.

VSP took the subject back into custody at approximately 7:30 P.M., off of US Route 302 near River Run Mobile Home Park in Berlin, without incident.

Two DOC correctional officers had transported Henry to CVMC from the Northeast Correctional Complex in St. Johnsbury for medical treatment when he escaped on foot.

The DOC has referred the matter to the AHS Investigations Unit to ascertain whether there are any potential personnel issues.

Population:

The department's incarcerated population averaged 2,136 for the previous week. The incarcerated male population averaged 1,983 with 381 being presentenced inmates. The female population averaged 154 with 40 being inmates.

Department for Children and Families (DCF)

Southwestern Vermont's Community Action (BROC) Update:

We reported in the January 24th AHS Weekly Report that the BROC board had placed Executive Director Linda Rooker on administrative leave pending an investigation into hiring practices which included allegations of nepotism, conflict of interest and falsifying hiring documents. The current update is that Executive Director Linda Rooker of BROC has retired. A three person transition team is leading the organization until the search for a new Director is complete.

Electronic Benefit Transfer (EBT) Card Holders Warned of Target Security Breach:

Target Stores had a major security breach in December of 2013. This breach resulted in their customers' personal information being stolen. We have identified 60 Vermont EBT card holders as having shopped at Target during that time. Although it is not believed that EBT card information was compromised, we feel it would be prudent for these 60 cardholders to request new cards and change their PIN numbers. We have drafted a letter suggesting this course of action which will be sent to these individuals next week.

Department of Vermont Health Access (DVHA)

Customer Support Center Improvements:

Responding to concerns about excessive wait times and high abandonment rates, Maximus implemented an aggressive plan in January to open an overflow call center in Chicago. The impact of adding another 60+ Customer Service Representatives in Chicago has had a dramatic impact on call center service levels. Although call volumes have remained fairly consistent since mid-December, wait times and abandon rates have been within contractual expectations for the past eleven days. Average wait times are running at 30 seconds or less, and the longest wait time has ranged from 9-23 minutes during this time period.

Vermont Health Connect (VHC) Training Update:

VHC created and trained a cross-functional "Tiger Team" of 30 staff members from Health Access Eligibility Unit (HAEU) and VHC Operations to concentrate on the Interim Change of Circumstance process that was introduced on January 27th. This team will continue to work together to process outstanding customer change requests throughout open enrollment.

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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: February 7, 2014

Secretary's Top Issues

- A number of presentations have been made to the legislature regarding the Lab Feasibility Study and its recommendations. Last week Deputy Secretary Jolinda LaClair and Director of Agriculture Research Management Director Jim Leland met with committee leadership from House Institutions, Senate Institutions, House Ag and House Fish and Wildlife. This week presentations were made to the full house institutions, ag and fish and wildlife committees. More presentations are being planned for next week. These presentations/testimony are being provided in partnership with ANR/DEC and BGS. Response has been favorable although capital funding for the lab replacement project will be challenging. It seems we have finally cleared the 'do we need a lab' hurdle. The question is now where, and how to secure funding.
- Secretary Ross presided over the National Association of State Departments of Agriculture (NASDA) Winter Policy Meeting in Washington, DC. As NASDA President, he guided the membership towards action on several important national policy items
- Hannah Baird joined the Ag Development Team this week as a UVM Food Systems intern.
- Assistant State Veterinarian received a report from a Humane Agent in the Brattleboro area of abandoned emus. The emus will have a new home at the petting zoo at the Brattleboro Retreat Farm and the Humane Agent may pursue the abandonment case.
- **Raw Milk and the Press**
 - State Veterinarian Dr. Haas was approached by a Fox 44 reporter who asked if the Agency's responsibility was to inspect raw milk dairies – and she responded that the agency's responsibility is to inspect all dairies, commercial and direct sales. She then asked if the Agency takes a position on raw milk sales and Dr. Haas stated that our role is to provide information to the legislature if asked and to implement the statutory provisions that are enacted by them.
 - Assistant State Veterinarian completed confirmatory tuberculosis testing of a raw milk producer. Two goats responded to the initial screening test performed by the herd's veterinarian. The confirmatory test was negative and the farm's quarantine was lifted. The producer very wisely moved the annual tuberculosis testing period to the time of year when the goats are dried off and the farm is not selling raw milk, avoiding any loss of sales from a subsequent quarantine.

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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: February 7, 2014

Status of Governor's Priorities:

Legislative Activities and Issues

FEBRUARY 3

H. 112 GMO labeling with Senate Ag. – Tim Schmalz Testimony from Dr. Jane Kolodinsky, Director, Center for Rural Studies, Community Development and Applied Economics Department, UVM

- To provide testimony on whether Vermont opinions on GE labeling are similar or not to nationally quoted surveys
- She has been involved with labeling issues since rBST in Vermont, studies, through polling and statistical research, the trends in labeling of foods
- Her studies conducted between 2000 and 2013 indicate the majority of Vermonters would like to see GE labeling
- However, there is ambiguity in whether they want to see specific legislation on GE labeling (supporting labeling is not the same as supporting legislation requiring labeling)
- Either way, there is a substantial majority supporting labeling in her polls – over the 13 years, 88.9% of Vermonters support GE labeling (on average)
- Attributes this in part to the nature of 'credence goods' vs. 'experience goods' - credence goods are those which the consumer does not immediately recognize the utility inherent in the product, even after they have consumed it, experience goods are those where they can (GE ingredients do not obviously change the quality of the product, as opposed to something that does, like flavorings)
- Agrees that there is likely a sizeable consumer base that would preferentially purchase non-GE foods over organic foods, especially if they were price conscious and the organic products were more expensive than those non-GE.
- Personally feels GE labeling is a good idea, and Vermont should not be hesitant to move forward on the matter. Mike O Grady walkthrough continued
- § 3014 (1) does 'inform' belong here? Label does not address 'risk', committee would like to remove 'loaded' language in this section, insert enabling to describe consumer choice
- (2) and (3) – are environmental interests something that should be/can be included here, or is this a public health bill? Agree to split (3) into two sections, one on deception/deceptive practices, and the other on disclosure of information
- Make sure language at other parts is consistent with other states/laws
- Make sure it is abundantly clear this bill is 'intended for human consumption'
- Raising question of how much to remove? Perhaps seeking 100% GMO free is too much. 99.1%?
- Where does the label have to occur? Front of package? Leave to producers
- Addresses the unknowns in foods, GE may be present, conditionally included, should this language be consistent with MA and CT?, MOG will update draft to reflect these laws
- Committee still must examine exemptions and decide on trigger/effective date language

S. 119- Amendment to Perpetual Conservation Easements- House Judiciary- Stephanie Smith

- Agriculture Secretary Chuck Ross testified that the Agency supports a conservation easement amendment process that is open, transparent and public.
- The Agency of Agriculture has a fiduciary responsibility as a state entity.
- The panel should have agriculture or working lands experts- the Easement panel has been expanded to potentially include these experts.
- Concerned that a law could create more process than is necessary and provide an opportunity for litigation. He would like the process to provide certainty to property owners that endeavor to amend conservation easements, (green lights , red lights” and “no yellows”).
- Sec. Ross agrees that farmers require flexibility as their operations change.

Enterprise Zones (S. 220)- proposal by Senator Baruth- Stephanie Smith

- (listened to Ron Shems, NRB Chair testimony from Kate McCarthy, VNRC; Brian Palalia, Milton Town Manager; Dawn Francis, Colchester Town Manager)
- Ron Shems suggested leaving the Act 250 exemption out of the proposal. He hasn't experienced any issues with obtaining an Act 250 amendment for industrial parks. Issues also are not apparent in the realm of industrial parks (someone mentioned a 30% vacancy rate in those existing parks).
- Dawn Francis supports the proposal
 - Industrial uses are not welcome in downtowns and residential areas
 - Incentives need to exist in designated industrial areas
- Kate McCarthy, VNRC doesn't support the concept
 - The proposal doesn't balance the need for infrastructure in downtowns and villages that have been identified in the Act 59 report, ACCD. Review the success of existing programs and look at the impacts of switching gears.
 - It exempts from state land use review the most heavy and noxious uses from comprehensive state land use review.
 - She suggested considering the state's needs for economic development more broadly.
 - She brought up that it wasn't apparent in the research conducted by ACCD that there was a current problem.
- Brian Palalia, Milton Town Manager
 - Said this is modeled after a CT program that addresses incentivizing industrial development.
 - It would help towns improve permitting capacity and place development in appropriate areas pursuant to locally designated areas.

FEBUARY 4

H. 112 GMO labeling with Senate Ag. Tim Schmalz Mike O'Grady continued with his read through of the bill

- §3043 (c) discussion of 'natural' on labels prohibited if GE in products
- (d) this bill is specifically not about ingredient labeling, and should also not be construed to require GE as an adjective (eg 'GE CornFlakes')
- Discussion of exemptions, those covered under federal law already (milk, meat, alcohol, food processing aids)
- §3044 (2) sworn affidavit releasing liability if unintentional GE contamination is found, but there will have to be modifications to the penalties clause, forthcoming.
- Should the de minimus exemption be extended (from 2019 to 2020, or removed entirely?)
- Discussion of the organic exemption, whether that exemption is redundant with (2), and if the allowance is sufficient given the 0.9% in clause (5)
- What are the criteria for independent certification going to be/procedure with AG's office, could Vermont State lab fill this need?

Raw Milk- House Agriculture - Kristin Haas

- Andrea Stander, Executive Director of Rural Vermont, made a presentation of the 2014 5th annual raw milk report to the committee.
- Areas of Stander's testimony specific to VAAFM included the allegation that there are inconsistencies in the inspection processes btw Agency inspectors and that the regulatory environment created by Act 62 is cumbersome enough that it makes the production and direct sale of raw milk uneconomical. This is ironic given that Rural Vermont lobbied strongly for passage of Act 62.
- The Committee Chair stated that the Committee would discuss amongst themselves whether they want to take up the issue during this session and be back in touch with Rural Vermont and other stakeholders if they do.
- DR. Haas was asked on the record by Chair Partridge about any raw milk-related illness outbreaks that had occurred since passage of Act 62. I relayed to the Committee the three outbreaks documented by VDOH and recommended to the Committee that they speak with VDOH for more detailed feedback on this topic.
- Immediately following the session, Dr. Haas was approached by a Fox 44 reporter who asked if the Agency's responsibility was to inspect raw milk dairies – and she responded that the agency's responsibility is to inspect all dairies, commercial and direct sales. She then asked if the Agency takes a position on raw milk sales and Dr. Haas stated that our role is to provide information to the legislature if asked and to implement the statutory provisions that are enacted by them.

FEBRUARY 5

S. 220 Workforce Development Senate Economic Development, Housing and General Affairs - Stephanie Smith Monitoring

- Testimony specifically addressing Industrial and Commercial improvements amendment proposed by Sen. Baruth Ron Shems spoke about the importance of Act 250
- providing certainty to all who rely on the state land use review process, applicants, neighbors, business owners.
- The current process is not time consuming when the review is considered “minor.”
- It addresses statewide and regional issues that are not addressed at the local level.
- Not aware of issues regarding time needed to amend permits, nor Act 250 preventing development
- The proposed section is not clear and could result in unintended consequences.
- Aaron Adler presented language from 2007 (similar to Mike Zahner's below)
- Mike Zahner's synopsis of language, below (actually language from a 2007 Legislative session and modified to fit the 2005 VBR and VFOS Model). Senator Mullins suggested that Mike and Aaron Adler work together on language.
- Inserted in the definition of development does not include Sec. 6001 (3) (D)
- Senate Economic Development is considering language to incentivize industrial park development and to exempt
- Commercial or industrial improvements, or substantial or material changes to improvements, on land that lie within a “traditional industrial district or industrial park” currently under a master Act 250 permit when a municipality has:
 - An adopted municipal plan that has been approved by the regional planning commission
 - Permanent zoning and subdivision regulations
 - Has a Development Review Board
 - Has adopted a municipal ordinance to assert local jurisdiction ,exempt from Act 250
- A municipality will have to enforce all previous Act 250 permit conditions on the specific development Anne Cummings had some concerns about the ability of municipal officials and her opinion was the local process was more time consuming than the Act 250 process.
- Senator Mullins kept suggesting that costs to hire engineers, attorneys, etc preempts development of commercial and industrial improvements and hence halts economic development in this sector. (If an applicant needs to go before a DRB the same level of detail will hopefully still be required, so many of those costs arguably still exist.)
- Anne Cummings is concerned that regional impacts would not be addressed (Act 250 does address impacts).

- It was recognized that definitions of “traditional industrial district or industrial park” would need to be created. (SS: Also it is not clear to me what a “master permit” is?)

S. 119- Amendment to Perpetual Conservation Easements- House Judiciary- Sam Werbel

- The Committee, with Mr. Adler, wordsmithed and tinkered their way through several pages of this bill, including making a new list of amendments.
- Chairman Lippert decided after an hour that due to weather and the remaining proposals they would return early next week with Mr. Adler to continue. He noted that there were not too many remaining proposals or amendments remaining and to bring forward any new ones as soon as possible.

H. 112 GMO labeling with Senate Ag. Sam Werbel

- Representatives Teo Zagar and Tristan Toleno of the House Ag committee attended this. They presented 2 binders of studies, mostly/entirely from outside of the United States, demonstrating the risk of GMO's. The Senate Ag committee indicated they had electronic copies of these files and declined keeping them.
- House and Senate Ag committees agreed that there are too many conflicting reports and this is cause for concern, but they feel confident that the language in the bill is defensible constitutionally.
- Rep. Zagar cited a study that demonstrated that the rise in food costs for additional labeling would be an additional ~2\$ per person, per year.
- Rep. Toleno said that we are labeling for GMO PRESENCE vs. ABSENCE because that is easier to prove
- There was a bit more discussion about concern with the bill language pointing out economic benefits of the bill because legislation should not promote one industry over another.
- Michael O'Grady (leg counsel) then met with the Senate Ag and continued a fine-toothed review, wordsmithing, tweaking and redacting occasionally.
- The Committee discussed standards for organic certification.
- The Committee discussed how the Attorney General would challenge/enforce - O'Grady explained that these sorts of processes are largely complaint driven, then enforced with penalties.
- Sen. Zuckerman distributed a handout (attached) suggesting the establishment of a fund at the State Treasurer's office that would collect donations from individuals (not organizations), and once \$5 million was reached (enough to avoid a lawsuit) the law would go into effect (rough summary).

FEBRUARY 6

H. 112 GMO labeling with Senate Ag. Sam Werbel

- Senator Bray does not approve of Senator Zuckerman's suggested fund, stating that it not right to ask individuals to have to buy into a state approved bill.
- Senator McAllister agreed that this individually financed fun doesn't appeal to him. If believes that the bill should stand on its own merit and thus be defensible against the law.
- Committee discussed trigger size.
- Michael O'Grady joined and presented a new mark-up.
- The committee discussed amending Sen. Zuckerman's Amendment to change the amount of time from 6 months to 12 or 18 months. Agreed that for the public hearing this evening they would indicate there that the amount of time is still under discussion by the Committee.

FEBRUARY 7

H. 112 GMO labeling with Senate Ag.

Committee took testimony from Wm. Sorrel (VT Atty Gen), Lucy Leriche (AACD), Chuck Ross (VAAF), and Jim Harrison, VT Grocers Assn. Wm Sorrell

- concerned that the fund might be viewed as odd, and hard to defend the law if the state is not willing or able to defend our own legal challenges – reliant on private donations to defend our laws?
- Is the science (or lack thereof) enough to make a compelling state interest argument? – perhaps, more is better.

- Would like to have more states go along with similar legislation Lucy Leriche
- Balance between Right to Know and needs of Vermont producers
- Doesn't want to see VT producers hurt by the label on our products in markets where labeling is not required
- Supports law generally, but would like triggers Chuck Ross
- AAFM supports triggers, and would prefer a regional approach rather than a go it alone approach
- Can not comment on the amount of Vermont produced products sold regionally
- Ideally a balance between RTK and upsetting markets has to be reached Jim Harrison
- Prefers a nationwide approach, followed by regional, then single state
- Membership is not unanimous in their feelings toward this bill, reluctant to speak for all in testimony Mike O'Grady readthrough of the trigger options in most recent draft (attached) Committee votes to adopt option 1, but after striking the two state and delay trigger clauses, and go with July 1, 2015 alone. Vote 4-1 for the bill (N. McAllister dissent), with mods on effective date, and pass out to Senate Judiciary.
- Jim Leland and Laura DiPietro met with Rep. Sharpe of Bristol regarding draft legislation that would eliminate all exemptions for agriculture in all statute for large farms. Rep. Sharpe does not believe that large farms deserve these considerations as they are not good neighbors and operate more as an industrial operation than a local farm. He suggested that he will wait until next session to introduce the bill.
- Jim Leland testified regarding H.676; a bill to address flood plain development when there is no municipal authority to regulate the development such as state buildings, silviculture and agriculture. He will be meeting with flood management staff prior to testifying to ensure consistency in approach and message.

AG/ANR/DEC/BGS Lab Feasibility

- A number of presentations have been made to the legislature regarding the Lab Feasibility Study and its recommendations. Last week Jolinda LaClair and Jim Leland met with committee leadership from House Institutions, Senate Institutions, House Ag and House Fish and Wildlife. This week presentations were made to the full house institutions, ag and fish and wildlife committees. More presentations are being planned for next week. These presentations/testimony are being provided in partnership with ANR/DEC and BGS. Response has been favorable although capital funding for the lab replacement project will be challenging. It seems we have finally cleared the 'do we need a lab' hurdle. The question is now where, and how to secure funding.

Significant Events/Meetings:

Secretary Ross presided over the National Association of State Departments of Agriculture (NASDA) Winter Policy Meeting in Washington, DC. As NASDA President, he guided the membership towards action on several important national policy items, including: collaborating with the FDA on the implementation of the Food Safety Modernization Act; strengthening partnerships with the EPA to improve water quality while maintaining a profitable agricultural sector; and initiating contact with DOL to adjust the definition of "internship" in a way that allows for meaningful experiences for agricultural interns. Secretary Ross also met with key USDA leaders on a number of issues, including national maple grading standards, the National Organic Program, and international trade. He had the pleasure of announcing the passage of the Farm Bill through the Senate to Secretary Tom Vilsack while he was addressing the NASDA membership.

Evolving Issues:

Assistant State Veterinarian received a report from a Humane Agent in the Brattleboro area of abandoned emus. The emus will have a new home at the petting zoo at the Brattleboro Retreat Farm and the Humane Agent may pursue the abandonment case.

Summary of Key agency Department Activity

Agricultural Development:

Diane Bothfeld and Alex DePillis attended the hearing of the joint agricultural committees on the new Farm Bill. Tom Berry (Senator Leahy) gave testimony. At times during the hearing, Tom asked for clarifications from Diane, Shelley Mehlenbacher, Patricia Coates (US Representative Peter Welch) and from Jenny Nelson (US Senator Bernie Sanders).

With an introductory letter and e-mail from VAAFM, Castleton State College Polling Institute is surveying MFO and LFO for their interest in installing a manure digester, with specific questions designed to identify the perceived hurdles and their openness to joint ventures with non-farming entities.

Hannah Baird joined the Ag Development Team this week as a UVM Food Systems intern. Hannah will be engaged in event coordination, supporting the SOV Workplace CSA program, writing for Agriview, assisting with our grant program review, and providing additional communication support to the Ag Development team over the next ten weeks.

Food Safety and Animal health and Consumer Protection:

Animal Health:

- Animal Health Section completed an annual farmed cervid herd inventory reconciliation at a farm in Caledonia County. Additionally, the Section provided replacement RFID to the producer at no charge.
- The Animal Health Section participated in a USDA webinar in preparation for the National Animal Health Monitoring System's 2014 Dairy Study. Section personnel will be assisting Federal partners with on farm visits for survey completion and sample collection.
- Assistant State Veterinarian attended a Summit hosted course in Berlin on Conflict in the Workplace. The course reviewed general communication techniques and methods of engaging in difficult conversations – very helpful as a regulator.
- Assistant State Veterinarian and AH Inspectors met with two veterinary practices in Addison county to review the use of electronic Certificates of Veterinary Inspection; both clinics signed up to use the Agency's free form. One clinic expressed concern regarding the lack of uniform animal health standards among VT fairs and 4H shows. The Animal Health Section has heard this concern in the past and will be engaging with Addison County 4H leaders as a place to start the conversation. The lack of uniform standards makes it difficult for both veterinarians and exhibitors to know what requirements must be met at different fairs/event throughout the exhibiting season and be properly prepared.
- Assistant State Veterinarian and State Veterinarian attended the Fair Association Meeting in Berlin to present to the Association their options for drug testing at horse pulls for the 2014 Fair Season – the fairs may use the Agency's lab to send samples or they may use the Florida Racing Association's lab. The fairs will review the options and report back their decision; they indicated that they would prefer to all use one option or the other. The NH fairs have also indicated interest in using the Agency's lab as the pricing per test is more competitive than the Florida lab they have been using. Having each fair coordinated directly with a veterinarian and a lab removes the AH Section from its previous role as a middleman and delivery man and will save the Section approximately \$5,000 in time and resources.
- AH Section is completing work plans for the 2014 USDA Cooperative Agreements; the work plans will be submitted by February 21st and will need to be approved by USDA. The Section received a small increase in funds from last year.
- Assistant State Veterinarian and AH Program Coordinator met with a new Euthanasia Advisory Board of Animals member, who is a Certified Euthanasia Technician at the Chittenden County Humane Society. The meeting reviewed the Humane Euthanasia Rules and the duties of a board member. The Humane Society is updating its animal transportation requirements (basically, what vaccinations, treatments, and disease free certifications they require of animals coming from southern states that they accept into the shelter).
- Assistant State Veterinarian completed confirmatory tuberculosis testing of a raw milk producer. Two goats responded to the initial screening test performed by the herd's veterinarian. The confirmatory test was negative and the farm's quarantine was lifted. The producer very wisely moved the annual tuberculosis testing period to the time of year when the goats are dried off and the farm is not selling raw milk, avoiding any loss of sales from a subsequent quarantine.
- Inspectors continued outreach on proper ear tagging methods to licensed livestock dealers in Orleans and Caledonia County; provided tagging illustrations for drivers to use.

- AHI Zach Bartlett is continuing training on ICS 100 and 200 and tissue residue investigations.
- AH Program Coordinator Jim Cameron attended at two day ICS 300 course in Berlin.
- Both Animal Health trucks are having problems with leaking cabs. Inspectors are coordinating with Charlene and with Fleet for repairs.
- Animal Health animal disease traceability supplies to licensed livestock dealers in Orleans and Franklin Counties and tuberculin to a veterinarian in Addison County for caudal fold testing.
- AH Inspectors completed annual pet shop inspections in Chittenden County and responded to two animal welfare complaints, one regarding an animal shelter and the other regarding beef cattle without any shelter. The latter investigation was coordinated with Humane Agent from the Chittenden County Humane Society.
- AH Program Coordinator Darryl Kuehne attended the Addison County Commission Sales for animal disease traceability compliance and Market reporting.
- AH Section issued official ear tags to a producer in Tinmouth and to two more producers during the Farm Show.
- AH Inspectors worked with the Humane Agent in Bennington County to review video and pictures from an equine animal welfare investigation.
- AH Inspectors responded to a report of animal welfare concerns at a dairy farm in the Middlebury area.
- AH Program Coordinator Darryl Kuehne met with NYS Field Veterinarian Roger Ellis regarding the tracing of suspect drug residue livestock originating from a Vermont livestock auction market.
- AH Inspectors are working with a new National Poultry Improvement Plan applicant located in Springfield.

Agricultural Resource Management: **Enforcement Actions**

- Participated in court ordered mediation in an effort to resolve a complaint against Nelson Farms, Inc. regarding a direct discharge at the Coventry Medium Farm Operation. Efforts to resolve this case are ongoing; facts are not in dispute at this time. The effort is to resolve the penalty amount which was originally set at \$47,850. If there is no resolution the case will proceed to superior court.
- Participated in a status conference in Orleans superior court regarding two other Nelson Medium Farm Operations in Derby and Derby Ctr. This was a conference to update the court on the progress made relative to the preliminary injunction issue in December. There are numerous direct discharges or potential discharge issues on these farms. The Attorney General's office will provide the court and the Nelson's attorney with recommendations to complete work required by the preliminary injunction. A follow up status conference will be scheduled for the end of March.
- Pre-Hearing on water quality case: Met with a farmer this week to discuss a violation of an Assurance of Discontinuance which stated that the level in the manure pit must maintain at least 3 feet of freeboard. We had evidence that they violated this but within the month and prior to over topping the farmer did lower the manure level. We had the farmer come in for a pre-hearing to remind them of the AOD details and currently continued to suspend the \$250 penalty that is currently being held for 2 years as part of the maintenance agreement in the AOD, and the \$500 for violating the AOD. Since there was no discharge and they did meet the standard but a month later than requested, we felt that a discussion to remind them of their responsibilities was appropriate. The AOD still stands and we will continue to monitor the situation.
- FNLC Annual Winter Meeting: The Agency attended the Friends of Northern Lake Champlain Annual farmer meeting. It is really enlightening to watch farmers give presentations about the changes they've made on their farm and to work hard at convincing their fellow farmers to adopt similar practices. Very positive progress is being made in the Northern Lake farm groups, great coordination and farmers are really leading the charge.
- CREP show cause hearing: Listened to a farm provide information about a breach of a CREP agreement. The funding in question is approximately \$5,000. The hearing officer will make a recommendation to the Secretary.
- VHCB WQ Policy discussion: Today several water quality partners are meeting with VHCB to discuss their newly proposed policies surrounding water quality initiatives. VHCB is really trying to ensure they are well coordinator with partners and programs so as not to create any new obstacles for farms interested in pursuing their program.
- River, Floodplain and Ditch training: Next Monday the DEC and VAAFM are hosting a training focused on agricultural regulations surrounding rivers, floodplains and ditches. There are more than 70 people signed up for the training which includes state and government staff, watershed groups, farm technical services providers, and non-profit organizations.

Secretary's Comments:

This week was dominated by attending the National Association of State Departments of Agriculture Annual Winter Policy Conference in Washington DC as presiding President of the Association.

PRESS – Politico, Washington, DC: Interviewed at NASDA

LEGISLATURE – H. 112, GMO Legislation: Testified to Senate Ag committee in support of bill in general with preference for a large enough trigger to mitigate risks of negative impacts on importers and exporters.

MEETINGS - NASDA Winter Policy Meeting, Washington DC: Attended as President of NASDA and ran the meeting in that capacity. Over 40 states were represented, met with Secretary Vilsack, Deputy Secretary Harden of the USDA and Administrator McCarthy of the EPA as part of their participation in the conference, provided both with letters requesting help organizing additional federal resource to address water quality matters in VT. Attended NASDA meetings from Sunday through Thursday.

Brian Baenig, Chief of Staff for Sec Vilsack, USDA: met to discuss range of topics including need for national commitment on water quality

Jennifer Yetzak, Government Relations, USDA: met to discuss range of issues facing Vermont and follow up work for NASDA

Food Safety Modernization Act, FDA Leadership, Washington DC: Met with FDA leadership charged with promulgating and administering rules for FSMA. Discussed with FDA leadership whether or not they trusted individual states as regulator partners and if they would reopen conversation on the Jackson farm inspection as both are relevant to the ability to build a working partnership between federal and state agencies.

Senator Leahy's Office, Washington, DC: Visited office to have conversations with the Senator, Ag Committee staff and Chief of staff. Reviewed farm bill matters and other related issues.

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**State of Vermont
Agency of Natural Resources**

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Deborah Markowitz, Secretary, Agency of Natural Resources
Date: February 7, 2013
Subject: ANR Weekly Report

Governor Level Issues:

H. 526 Shorelands Bill: The bill, as amended by the Senate Natural resources Committee passed second reading 21-5. The bill as passed is a much better bill than the one sent over by the house in large part because of the input received during the public process that was held over the summer and fall. We expect that there will be a conference committee.

Electric Vehicle Charging Station Grants: DEC and ACCD together administer an electric vehicle charging station grant program, with the goals of increasing the number of zero emission vehicles on the road and reducing carbon emissions. On Jan 27 the Vermont Downtown Development Board voted to approve charging station grants to 6 designated downtowns: Barre, Bennington, Burlington, Middlebury, Morristown, and St. Albans. The grants range from \$6,000 to \$30,000, and increase the number of publicly available charging stations from 22 to 35.

Lean: DEC continues to implement the 'Lean' process review of key departmental activities. Our upcoming 'Lean week' (Feb 10-14) will focus on improving the process for three projects: wetlands permitting, petroleum cleanup fund reimbursements, state clean water revolving fund audit process. Over the last week, staff lined up external experts on these topics to engage with us mid-Lean week.

EVERYTHING ELSE:

Legislative Issues/Testimony:

H. 590 Dam Safety: Steve Busman provided supporting testimony on the Dam Safety bill H.590. The bill would require owners of Vermont dams to register their dam annually; pay an annual fee; establish a process to designate abandoned dams; and require the seller of property on which a dam is located to notify the buyer of the presence and condition of the dam, as well as notify DEC of the buyer's name and contact information. VNRC, Brian Fitzgerald (River Ecologist), and American Whitewater also gave testimony in support. EcoStrategies, a consulting firm that helps developers of micro-hydro projects, opposed the bill for fear the registration and fee would hinder micro-hydro development. After all testimony was heard, the EcoStrategies representative no longer appeared to oppose the bill since small hydroelectric facilities will not be impacted.

Capital Bill - House Committee on Corrections & Institutions: Facilities Engineering and Watershed Management staff provided testimony in support of the additional \$614K to fully match the FFY14 Clean Water SRF Grant, the \$500K for the Ecosystem Restoration Program, and \$307K for the Waterbury Wastewater Treatment Facility (WWTF) phosphorus removal improvements. The committee appeared supportive of the three adjustments, and requested information on how much phosphorus will be removed from the upgrades. We will complete and provide the estimates.

Senate Institutions: Commissioner Michael Snyder and ANR Lands Administration Director Mike Fraysier met last week with the Senate Institutions Committee to provide an update on the proposed sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation. Markowski has completed the survey of the proposed sale parcel and is following up on needed local and state permits. We anticipate that this transaction could reasonably be completed by this summer. We also provided a brief update to the committee on the status of the Grand Isle State Park transaction approved by the legislature last year, and two proposed right-of-way exchanges that we will be seeking legislative approval for during the current legislative session.

Press Issues/Releases:

NEFA Report Released: The North East State Foresters Association (NEFA) and the Vermont Department of Forests, Parks and Recreation have released a report detailing *The Economic Importance of Vermont's Forest-based Economy*. The report highlights the various sectors of Vermont's economy that depend on wood, forests, and trees. The total economic value of Vermont's forest economy is pegged at over \$3.4 billion dollars for 2012. The NEFA report shows that nearly 21,000 jobs in all sectors are directly impacted by Vermont's forests. While manufacturing jobs in Vermont's wood products businesses have declined over the past decade, the harvest of timber from Vermont has stayed relatively stable. The NEFA report can be found under "Latest News" at: <http://www.vtfpr.org/htm/forestry.cfm>

FPR in the Card Room: FPR staff were on hand this week in the Card Room of the State House to meet with legislators and others to highlight the Department's efforts to enhance provision of recreation services on parks and forest lands. Several nonprofit partners were also on hand to draw attention to the collaborative relationships the department has with the major recreation interests in the state.

Significant Events/Meetings:

Sutton Water System exceeds the nitrate MCL: Like all water systems, Sutton is required to monitor its drinking water for the presence of drinking water contaminants. On Jan 15 the Town received notice that the January water sample had nitrate exceeding the maximum contamination level (MCL). A confirmation sample that was collected on Jan 28, and a calculated average of the two showed nitrates just over the MCL. Nitrates above the MCL is a serious health concern for infants under six months old, infants born prematurely, and pregnant women, as it can cause "blue baby syndrome". On Jan 30, DEC issued a NOAV to Sutton, requiring the Town notify its 20 system connections of the high nitrate results, the potential danger of drinking their tap water, and to offer bottled water. A compliance schedule was set to resolve the high nitrates. DEC staff are also reaching out to the Agency of Agriculture as the high nitrate may well be caused by the management of farm fields adjacent to the Town.

Meeting to Discuss MS4 Permit with St. Albans: The Stormwater Program met with representatives of St. Albans City and St. Albans Town regarding their obligations under the MS4 (Municipal Separate Storm Sewer System) General Permit, specifically the challenges they face in deciding which stormwater systems they should take over as part of their MS4 permit. Additionally, they are very supportive of the concept of DEC taking on their flow monitoring requirements, for a fee, as proposed by H.650.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

IES Renewable Energy, Middlebury: IES Renewable Energy will be proposing a large scale biomethane generation project to supply Middlebury College with pipeline quality natural gas. The system will entail stripping the CO₂ and H₂S from the biomethane to meet pipeline natural gas requirements. Because the H₂S emissions will exceed the "action level" under the air toxics rule, the project will need to explore emission control measures.

Outdoor Wood-Fired Boilers (OWBs): Air Quality & Climate Division staff are renewing contracts with OWB dealers involved in the OWB change-out program in hopes of spurring additional participation and using up the remaining funding before ending the program in Nov 2014. We are also preparing NOAVs for OWB owners who have not participated in the change-out program and are not in compliance with the OWB retirement mandate.

Sunset Farms Mobile Home Park, John Bushee (Bennington): We issued an Emergency Order sought by the Secretary requiring that steps be taken to correct the significant water supply issues at Sunset Farms Mobile Home Park in Bennington. This Emergency Order was served to owner John Bushee last week. This week Bushee requested a hearing on the Emergency Order, to be held next week.

Waterbury Dam: Green Mountain Power has indicated that they are nearly complete in their review of the conditions in the draft 401 and will be meeting with their management to discuss in 2-3 weeks. Once GMP has a scheduled their internal meeting, they will let the Agency know dates of availability for the ANR/GMP meeting. This meeting probably will take place in early March.

Records and SharePoint 2013: Over the next 5 weeks emphasis will be on determining and creating all the records schedules programs need to weed and organize records; working with programs to develop work plans to complete records readiness activities; and staff training. Two sessions were held this week with these goals in mind: one with our Facilities Engineering Division and one with the DEC records liaisons team. In addition, SharePoint site demos were held with the On-site site designer program staff and the extended records liaisons team. Work continued on both the SharePoint proof of concept project and the scanning of stormwater back-files.

Fish and Wildlife

More Hunter Opportunities for Vermonters: Staff are working with The Nature Conservancy to develop a series of maps that will highlight hunting opportunities on TNC properties. These maps will likely be by county or region and be given out at hunter education courses.

Position on Seneca Wind Project: F&W staff met with ANR representatives to discuss how to respond to the proposed Seneca Wind Project. We worked together to develop a position on the effects of the project on wildlife, natural communities, habitat fragmentation, connectivity, and public investment.

Public Hearing for Future WMA: Staff participated in a public meeting held by Rep. Donna Sweeney in Windsor regarding the future of the Windsor Prison Farm lands. The stakeholders at this meeting seemed to support the property becoming a WMA.

Forest, Parks and Recreation

Land Transactions: We have received support from the Middlesex Selectboard to proceed with a 43-acre donation at C.C. Putnam State Forest and will soon be requesting Governor's approval for this acquisition. We are working with the Vermont Housing and Conservation Board and The Nature Conservancy to amend the conservation easement they co-hold at Alburgh Dunes State Park to reflect the approved land exchange at the park which will be finalized shortly. Work continues on other priority ANR land transactions including various Forest Legacy projects, transfer of a portion of Grand Isle State Park to the Town of Grand Isle, acquisition of a large

inholding in Coolidge State Forest, sale of a portion of the former Lafreniere homestead property at Camel's Hump State Park in Bolton, sale of a portion of Coolidge State Forest in Plymouth to Markowski Excavation for expansion of an existing stone quarry, transfer of the Woodchuck Mountain parcel to the Town of Newbury, and others.

Forest Legacy: The Department recently received a request from the owner of a portion of the former Hancock Timber lands that are encumbered by a Forest Legacy easement to develop a large-scale sugaring operation on site, including 100,000+ taps, barn, sugarhouse, and associated septic system. We will be reviewing the easement carefully in providing a response to this request.

Tourism and Recreation: Jessica Savage and Craig Whipple met with Megan Smith from Vermont Department of Tourism and Marketing and several researchers from UVM this week to participate in the "Growing the Tourism and Recreation Economy in Vermont" effort. This is a continuation of a longstanding relationship to identify and move forward with appropriate practical research initiatives.

District III Timber Sales: The timber sale at Lewis Creek WMA began Feb 4. Contractor Doug Edwards will be moving equipment onsite and will be walking the sale area with Matt Leonard.

Black Gum and Beavers: Bob Zaino from F&W joined Bill Guenther for a recon out at the Vernon Town Forest into one of the Black Gum Swamps where beavers had built a dam last year and were felling the rare Black Gum Trees in this S1 Natural Community. The dam was breached and the beavers were trapped, but the darn beavers dropped 17 black gum trees, which are very rare in Vermont. Oddly enough only black gum trees were bothered by the beavers. The site will be monitored to look for other possible changes. The flooding will cause a die-off of understory hemlock and pine and this could change the microclimate in this unique ecosystem.

Business Office

FY14 Budget: FY14 budgets through the first half of the year all appear to be ok at this point with DEC running pretty tight right now. The temporary lab lease costs are an open issue still to be addressed.

Phone Lines: We are continuing our efforts to reduce overall phone costs for land lines and for cell phone plans. Some of the changes will take a few months before we realize the savings on new invoices. We continue to track overall phone costs and are hoping to reverse to some degree the upward trend.

OutLook User Group: DII agreed to support having a user group for their Exchange/Outlook application (email). The Exchange Advisory Board held their first meeting last week. Email is clearly the most important application in Vermont State government. This is a welcome step.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: February 7, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

Regional Transmission/ISO-NE: We are continuing to work with other states toward having at least draft RFPs by the NGA conference for electric transmission of HQ hydro and gas transmission capacity. The Governors may wish to have a check-in at that point. I am of the opinion we will not be in a position to announce anything at the NGA, though some states do wish to have something done for the Governors to announce. At the moment, I consider this to just be a benchmark to target for continued progress, and at most the Governors would be in a position to announce "progress."

Meanwhile, the ISO Forward Capacity Market auction this week resulted in record-high payments beginning in 2017 for capacity. In six months, the conditions have reversed from an excess of capacity to a shortfall. Retirement of 3500 MW in the region, including VY, has contributed to this, but the announced closure of Brayton Point in MA (the largest remaining coal plant in NE) put us over the top. We fell 150 MW short in the regional auction, and it means prices for capacity will triple in 2017. We are still evaluating the impact, but Vermont is likely to be in better shape than most. Still – GMP and VEC are particularly vulnerable as,

despite press and putting a good face on this, they do not have capacity (Hydro Quebec contracts are for energy only – not capacity). In conversation with Susan Smallheer, I mentioned N. Springfield Biomass plant as helpful in this equation, to telegraph to the Board that that project would actually be beneficial to Vermont as a baseload plant in light of the changed circumstances.

With regard to infrastructure efforts, the states are more unified and supportive of the increased gas capacity projects in So. NE, but MA wants to link it with the electrical generation/transmission procurement, which would be a good idea (CLF will lambast them – even more effectively – unless MA can point to a concurrent effort to bring hydro in). Problem is, MA does not have the authority to purchase generation. Other states, including VT, are unwilling to procure transmission without specific energy generation (i.e. seek “transmission to nowhere”) and think the transmission and generation need to be linked in that procurement. Seeking a legislative change, MA is evaluating whether going with a NESCOE RFP that asks for generation when they don’t have that authority will help or hurt their relationship with their legislature. If they need to wait for legislative approval for NESCOE to even issue an RFP, and they insist on concurrent RFPs for gas and electric, it may delay release of RFPs and certainly delay the gas RFP beyond the time the states need to pull that one together. I think a NESCOE-issued RFP that reserves the right to reject all bids (as all do) and acknowledges that legislative approval in some states would be necessary to execute a generation/transmission contract, will actually help them with their legislature and enable a concurrent set of RFPs for gas and electric to move forward. We’ll see.

This all makes the merchant transmission lines proposed in Vermont (Anbaric and TDI, and to a lesser extent Highgate upgrade) look more and more attractive.

Finally, we are working through NESCOE comments on the Performance Incentive proposal ISO sent to FERC. Our utilities are opposed to the proposal, and it looks like a majority of states will agree to file objections to the ISO proposal this coming week.

EVT: We met with EVT this week to discuss their OPower contract for AMI and behavioral change credits, and when we will support recovery through the efficiency charge of that effort being “used and useful” – which will not be before the summer when benefits start to appear. We discussed with them our concern that they are not still fully understanding what it means to be a regulated utility, but made much progress on the relationship in general. We will not support them taking efficiency credit for behavioral change portion unless and until they can document those savings.

VGS: We met with VGS this week to strategize on the Meth issue and response. The subcontractor C&G has been ordered to stand down during VGS’s investigation, but C&G has retested all their workers (probably contrary to federal law, however) and found no evidence of drug use among their workers. Also, re-evaluation of all the welds by VGS is showing the welds are not only good, but above average. A final report is expected in a week or so on this. VGS and PSD are both filing today with the board in answer to questions the board posed last week.

I am confident the 5-mile pipeline construction is safe, and this situation has had no impact on pipeline safety. The multiple layers of QA/QC (at least 4, not counting our oversight – which we’ve reviewed and was reasonable during this construction period) protected the project, and I’m confident that we’ll be able to show this. We will not link this issue to pipeline safety and the Meth issue, but we will need at least one Limited Service Position to oversee construction of Phase I as it moves forward. We are evaluating the resource need and will make a proposal to the 5th floor and Jim Reardon shortly.

We also discussed the attributes and public benefit of Phase II, which I think are persuasive, and how they are dealing with Cornwall and Shoreham. I am in discussions with VGS on solar hot water and biogas options to enhance Phase II public benefits. VGS seems receptive.

We have received multiple complaints about condemnation proceedings related to Phase I, and have made VGS aware. They have addressed these with their contractor.

VELCO/IBM: The VELCO Board unanimously endorsed entering into a contract with IBM for the Deep Thunder project for Vermont. This will help in a variety of ways, not only with energy and storm outage and response planning, but with wind and solar getting into the day-ahead markets, and in other areas where accurate weather can assist as well – namely transportation and flooding being two of the obvious. I am working with VELCO to discuss next steps and planning for roll out.

IBM: We will continue to work on support for 0% increase in rates over next three years and think there is an argument to be made that all of the increase in GMP rates is due to regional transmission, and IBM being its own TO, perhaps should not be subject to that. Not a great argument, but the one we have. We will hold, though, waiting for outcome of discussion regarding job commitments we understand the Governor’s office is engaged in.

GMP: Solar Projects: We have had internal discussions on 248(b)2) regarding some staff belief that GMP has an obligation to show efficiency cannot be used to meet the project objectives at a lower cost, and I rejected that argument – as it would lead to the absurd conclusion that until all cost-effective efficiency measures were taken, no renewable energy project could be built.

GMP: Path forward on Deerfield: We met with GMP yesterday to discuss approaches to addressing issues on Deerfield and options to help them along in the process. We discussed suggested timing of any formal action by GMP relative to the legislature.

Propane questions from press: We continue to receive press inquiries about propane supply, and have spoken to VT Digger and BFP about Vermont’s supply (ok – some price impact) relative to rest of country (supply shortages and much higher prices).

Legislature:

- **Siting bills:** Senate Natural Resources continues mark-up of S. 201, S. 292, and S. 191, all bills aimed at changing siting and PSB process that we do not support. One recent addition is an amendment to say the PSB shall give no weight to the state Comprehensive Energy Plan unless the legislature explicitly endorses it.
- **Net metering:** Senate Finance Committee took up the House bill (H. 702) and held a hearing on it and S. 238 (Senator Bray's bill to direct pipeline taxes to CEDF). Our understanding is Bray's bill may be used as a Senate shell for the net metering bill and some other items as yet undetermined. Testimony went well, Darren testified for the Department and got generally positive feedback from the Committee. Senator Hartwell noted again his displeasure with the overall 248 PSB review process. GMP, Burlington Electric, Vermont Electric, and Washington Electric all testified in support of the House bill and the Department's proposal. One potential flashpoint is renewable energy credits. GMP wants to collect and sell them from net metering, Vermont Electric wants to retire them, and Renewable Energy Vermont and the Department support a customer option to keep the credits, or transfer them to the utility to be retired. The latter concept is what is in the House bill.
- **Gas Pipeline Safety:** The House Commerce and Economic Development Committee passed the Department's proposed update to gas pipeline safety violation penalties (H. 612). The bill has been on notice calendar but is being held till next week as Rep. Jewett works on an amendment to propose the PSB update its current gas safety rules to account for best practices and more stringent requirements already contained in Addison Phase 1. ***Federal law does not permit drug testing during construction of a new pipeline – only for maintenance/repair of active lines. Vermont law says we can test "in accordance with federal law." We would like to pursue an amendment to add "...I or state law or rule" so drug testing could occur on construction projects. We cannot do it here as this really affects labor and would not be a germane amendment to the underlying bill, but perhaps we could work on that in the Senate.***
- **Senate Finance draft telecom bill:** VTA was pretty much in the hot seat yesterday on this. Frankly, we at PSB support the Ashe proposal. Rest of the committee seemed supportive except Chris Bray, who defended VTA.

February 4: Staff testified in Senate Finance on EVT, and Net Metering (H.702) and S.238

February 5: Staff testified in House Human Services on H.576 Lifeline bill; staff covered hearings in Senate Natural Resources and Energy on S.191 and siting bills S.201, S.292; and Ways and Means (solar tax section of Miscellaneous Tax bill)

February 6: Staff testified in Senate Finance on Telecommunications bill; staff covered hearings

in Senate Natural Resources and Energy on S.202, S.302, S.191, S.201, and S.292.

February 7: Staff covered hearings in Senate Natural Resources and Energy on S.201 and S.292; and House Commerce on telecom bills in committee: H.693, H.696, H.698, H.760, H.768.

New Bills affecting the PSD:

- **H.787 (Gallivan et al)**—An act relating to weatherization measures in common interest communities. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-787.pdf>
- **H.788 (Botzow et al)** – An act relating to expanding the credit facility for the Sustainable Energy Loan Fund. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-788.pdf>
- **H.811 (Mrowicki)** – An act relating to the exemption level for solar renewable energy plants. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-811.pdf>
- **H.812 (Pearson/Hooper)** – An act relating to the impacts of climate change in Vermont. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-812.pdf>
- **H.821(Scheuermann et al)** – An act relating to Public Service Board proceedings under 30 VSA § 248. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-821.pdf>
- **H.835 (Hebert)**—An act relating to the taxation of towns hosting an electric generating plant. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-835.pdf>
- **H.856 (Keenan et al)**—An act relating to a statewide energy assistance program. <http://www.leg.state.vt.us/docs/2014/bills/Intro/H-856.pdf>

Significant Meetings/Events this week:

February 3: PSD met with EVT to discuss regulatory relationship, OPower, efficiency mandate; Chris met with Sen. Hartwell to discuss siting bills (S.201 and S.292)

February 4: PSD met with VGS to discuss Addison Phase II; Chris met with Bill Mohl of Entergy at Governor's office; Staff attended Regional Sun Shot Rooftop Challenge grant meeting in MA with other states and PV industry on establishing the benchmark for PV costs and how to lower soft costs over the next 3 years.

February 5: Chris and staff met with Rep. Kathy Keenan to go over PSD FY15 Budget; Chris spoke with Mary Powell; Chris met with ACCD re RPCs; Staff attended meeting at ACCD with Peter Rothstein, President of the New England Clean Energy Council.

February 6: PSD met with GMP re Deerfield

February 7: Chris attend follow-up meeting at ANR on VY decommissioning issues

Significant Meetings/Events next week:

February 9: Chris, Darren and Porter at NARUC winter meeting in DC

February 10: PSD NARUC-Team meet with Senator Sanders

February 11: Public Teleconference on Entergy's 4thQtr and YTD Financial Results; PSD NARUC-Team meet with Senator Leahy and Congressman Welch

February 12: PSD staff attend meeting with GMP and the NECPUC cyber security consultant to discuss GMP's cyber security practices

February 13: Thermal Press Conference; Chris meets with VELCO at Governor's office

February 14: Chris and staff present PSD FY15 Budget to House Appropriations Committee

Media: Chris spoke with John Herrick of Digger on VY Decommissioning, Susan Smallheer on FCM Auction, Will be returning calls to Terri Hallenbeck and Susan Smallheer this afternoon regarding VGS filing today on Meth issue.

Everything Else:

PERD

Legislative Activities

- Testified on Act 165 hydro report in House Fish, Wildlife, & Water Resources on both Tuesday, 1/28 and Wednesday, 1/29, in conjunction with partners ANR and ACCD. Sent summaries of additional testimony on Act 165 to Governor's office. Prepared additional information on hydropower economics for Representative Webb.
- Staff attended testimony on S.202 and S.302 in SNRE. Senator Hartwell said he was interested in discussing how to move EVT more into the thermal side and the implications of that. EVT discussed how electric efficiency provides benefits to the electric system and that it is a cheaper resource than other sources of supply. (Efficiency is a strategy to buy power at 3.5 cents per kwh. – Good point/way to phrase) EVT is also tasked with meeting the utility obligation of least cost strategy (on behalf of the utilities). BED and VGS pointed out that VGS customers would be “double paying” as they already pay for thermal through VGS and would be paying again to EVT, but wouldn't be eligible for those programs. Much of the discussion regarding S. 302 was whether it was fair that IBM is exempt from paying the EEC and whether the \$1M they have to invest is the right amount (only a portion of what they would have to pay in EEC). Also whether other companies should be able to get the same “deal” as IBM, do they have the capabilities to run their own programs, etc.

Net Metering

- Researched the requirements for the visible lockable utility disconnect switch for small scale PV (under 150kW). Seems there is debate as to if it is required by the NEC. Will work with PSD Engineering to come to a position on the matter as it relates to possible changes to the PSB's 5.100 rule on interconnections as well as GMP's recent announcement that they will not require disconnects for PV systems under 150kW.

Net Metering Activity 1/24/14 – 1/31/14

	Registrations	Applications	CPGs Granted
Count	6	4	16

kWAC	37.506	183.331	89.143
Ave Size kW	6.251	45.83	5.571

Cumulative Capacity of Registrations and Applications Submitted			
Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of CAP
750.85	617.75	39566.94	~98.92%

Total Energy Study

- Completed a synthesis of all comments received in response to the Legislative report open comment period and a summary of each individually authored comment document. The final count of comments received is 429, including 39 individually authored comments and 390 form e-mails.

ISO-NE

- Attended Distributed Generation Working Group meeting where ISO presented its interim PV forecast. Minor changes were made based on stakeholder feedback, and the forecast will progress through various committees (with appropriate market rule, tariff, etc. as necessary). These committees will continue to debate the use of the forecast – a number of Transmission Owners opposed its use due to interconnection standards currently not allowing ride through capability. Currently the amount of solar expected is too small for this to be a reliability concern, but ISO has been clear that in the future interconnection standards in states will need revision.

Engineering

Vermont Yankee Fire Protection System Water Leak Update

As of today, the status of this issue is that they have isolated the leaking section of pipe, and have completed an alternate water feed to the fire protection system from the cooling tower basin. They have installed via hot tap a valve on the intake structure to drain the isolated section of pipe. There was no excavation yesterday due to the weather, but they are beginning to excavate today down past the 5-foot level that they have been at for a few days (the fire protection pipes are approximately 8 feet underground).

Nuclear Engineer Position

Engineering is reaching out to the second round candidates to schedule interviews.

Gas Pipeline Inspection Activity

The Gas Engineer met with the Gillespie Propane Vice President to discuss the company's operation of a "jurisdictional" pipeline (subject to 49CFR192) without the provisions which are required to be established prior to operation. While no immediate hazards to public safety

were observed at the facilities, the company was informed of several items requiring prompt attention. The company will be formally informed of probable violations of the state and federal pipeline safety codes with a warning letter. A scheduled plan for remediation will also be requested.

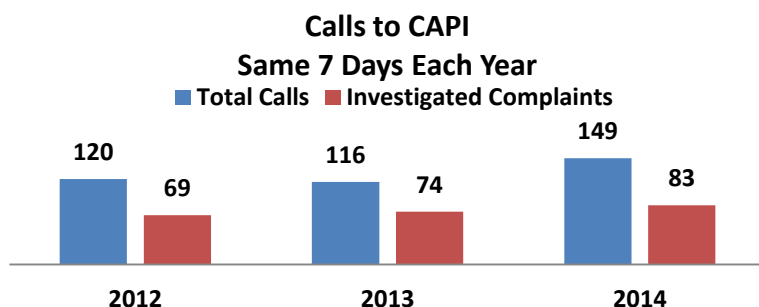
MEAV Meeting Highlights

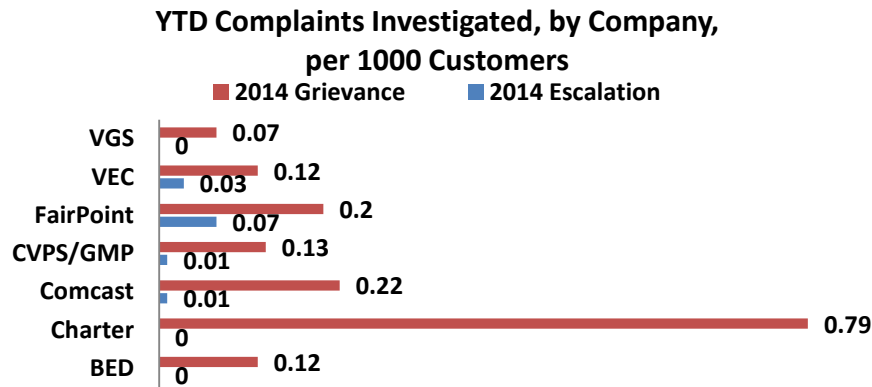
Engineering attended a meeting of the Municipal Electric Association of Vermont (MEAV) at the VPPSA offices in Waterbury. Highlights of the meeting included:

- A presentation by Photo Science, Inc. a geospatial solutions provider specializing in high-resolution aerial imagery of utility systems for routine surveillance and emergency response.
- Another area of discussion was what works well and what needs improvement in the ways the utilities obtain mutual aid and what they get when they request mutual aid. There were stories about getting a crew who did not cut trees or one that did not have any experience or equipment to climb a pole.
- VELCO provided an update on the status of its fiber optic deployment and their new radio system roll-out. Most of the municipalities are using the VELCO radio system, but some coverage issues were discussed as well as a problem of getting help for a crew from another radio group. VELCO stated that they could fix this situation by re-programming all of the field radios.

CAPI

Call Data from Sunday to Saturday, January 26 to February 1, 2014





CONSUMER COMPLAINTS

Complaint topics included, but were not limited to:

- Broadband availability (1)
- EAP fee (6)
- Energy Efficiency charge (1)
- Utility question on winter disconnection rules (1)
- Question about how a landowner can intervene in proposed net-metered solar installation (1)
- Radio interference from tower (1)
- Storm charge (1)

POST CPG WIND COMPLAINTS

- Lowell Wind (3), for noise, from two different consumers
- Lowell Wind (2), for health, from two different consumers

CAPI received two letters of support for the Lowell Wind project by people who lived near them.

OTHER DIVISION ACTIVITY

Dockets

- Sound Monitoring, docket 7628: Provided questions for PSD discovery requests on the continuous sound monitoring by GMP at Lowell Wind.

Public Advocacy

Entergy VY CPG – Docket 7862 – Hearings on the PSD/ANR/Entergy settlement went well, with Commissioner Recchia doing a fine job of defending the MOU under cross-examination, as did Secretary Miller. Mr. Twomey also did well in the circumstances. PSD is cautiously optimistic that the PSB will approve the settlement.

Barton Solar – Docket 8148 – The hearing officer issued his fourth procedural order in which he adopted a schedule for the remainder of the proceeding. ANR informed the PSD of its request

that the petitioner widen the stream buffer from 20 feet to 50 feet. This change required the petitioner to reconfigure his panels and will require major changes to the plantings maintenance plan that the PSD has negotiated with the petitioner. The PSD is reviewing the resulting new plantings plan and the new site plan. Joslyn Wilschek filed a request to withdraw as counsel for the petitioner and Leslie Cadwell has filed her appearance. The PSD has discussed our positions with Attorney Cadwell. Discovery from the interveners is due by February 14th.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – Petitioner’s counsel requested a conference call to discuss the schedule. PSD participated in the call which amounted to Petitioner’s counsel saying let’s put this discussion off until February 4th. Petitioner’s counsel then wanted to delay the discussion until sometime this week. Petitioner’s counsel has circulated another schedule that is unrealistic, and on the cusp of argumentative. ANR’s response to the proposed schedule is that petitioner can’t propound discovery upon ANR prior to ANR filing testimony. It is quite possible that the PSB will need to be involved in setting the schedule. GMP has informed the Department that they will motion to intervene. PSD believes the petitioner will object to GMP’s motion.

GMP Stafford Hill Solar in Rutland – Docket 8098 – GMP has filed its supplemental testimony, which the Department is reviewing. Additionally, in a response letter GMP informed the Board that it will no longer seek confidential treatment of the discovery response regarding the Granite Reliable Wind project price terms. GMP will continue to seek confidential treatment of the discovery response regarding Moretown Landfill Gas project’s price terms since the counterparty to the Moretown project objects to the price terms being released. GMP will be making a filing providing additional support.

Red Pines Development Water System Rate Increase – Tariff 8478 – In an attempt to resolve this filing PSD had a seemingly productive meeting with the petitioner. The petitioner is scheduled to provide the PSD with the requisite support for the contractor fee and the disconnection fee, along with a revised tariff and rules and regulations. The PSD’s recommendation regarding the rate increase is due to the Board by February 13th.

Willoughby Water – Docket 8117 – The petitioner has contacted the consumers and expressed his strong desire for them to form an association so he can abandon this system. The PSD’s impression from a prior conversation is that the customers are not willing to form an association. A status report is due to the PSB by February 13th.

VELCO/GMP Bennington Substation Project – Docket 7763 – The PSB approved the petitioner’s final designs for the 115 kV modifications and remaining fence line at the existing facility.

NextSun Solar – Park Street – Docket 8194 – The Department will participate in the prehearing conference that has been scheduled for February 10th. GMP has informed the Department they will request to intervene.

NextSun Solar – Main Street – Docket 8195 – The Department will participate in the prehearing conference that has been scheduled for February 10th. GMP has informed the Department they will request to intervene.

TracFone Wireless for Designation as an ETC – Docket 7817 – The Department filed comments on January 31st regarding TracFone’s request for renewal of its Eligible Telecommunications Carrier designation. The Department recommended that the Board grant TracFone the requested renewal for a period of three years, with the condition that TracFone be required to update the Board and the parties of the company’s progress in deploying its Lifeline service within 90 days of the issuance of the Order.

VEC § 248 to Replace Existing Madonna Substation – Docket 8171 – The Department will prepare a second round of discovery questions, due to the Petitioner on February 14th.

Regulation of VOIP – Docket 7316 – The Department is beginning to prepare its direct brief, which is due on March 14th. The Department will also be seeking a contract amendment to increase the maximum contract amount with its expert witness, given the need for technical assistance and the likelihood of further process beyond briefing.

ERWR Solar, CPG Amendment – Docket 8076 – The Department is reviewing Petitioner’s proposed changes to the MOU in light of the requested amendment and anticipates consenting to the changes. The Board issued a memorandum requesting parties’ comments by February 7th. The Petitioner proposes to file the revised MOU on behalf of all the parties on the 7th.

Demand Resource Plan Proceeding EEU 2013-01 – PSD is preparing to file comments on the Scenario Modeling Results submitted by Efficiency Vermont and the Burlington Electric Department. These comments will be the Department’s first opportunity to articulate our questions and concerns about EVT’s plans to implement behavioral measures.

Impacts of Act 89 on Energy Efficiency -EEU 2013-03 – PSD participated in discussions and reviewed a proposed Tri-Lateral Agreement between VEIC, BED and VGS to appropriately apportion certain costs of EVT and BED services delivered to VGS customers.

GMP Rate Case and Alternative Regulation Proposal – Docket Nos. 8190 & 8191 – A public hearing was scheduled for March 20 in these matters. GMP has begun to respond to informal discovery requested by the Department, and GMP and the Department are finalizing a protective agreement to be used in the course of this case.

Swanton Rate Case – Docket No. 8024 – On January 31, Swanton filed a depreciation study required by the Board’s final order in this case. Finance staff is currently analyzing the report and the Department will provide comments shortly.

Georgia Mountain Community Wind – Docket 7508 – GMCW amended its letter of credit for the Project decommissioning fund indicating a transfer of ownership of Project assets without

Board approval as required by law. The Board issued a memorandum requiring GMCW to “file a letter of explanation detailing the apparent transfer and why Board approval is not required.” GMCW’s response is due February 7, 2014. Department continues to work on comments to GMCW’s response to an icing complaint, which are due February 7, 2014.

Kingdom Community Wind – Docket 7628 – GMP has responded to the Department’s first round of discovery requests concerning the feasibility of continuous sound monitoring at the Project site. The Department’s second round of discovery requests is due to GMP by February 11, 2014. Department continues to work on comments to GMP’s response to an icing complaint; these are due February 7, 2014. The Board issued a memorandum seeking s status update concerning GMP’s application for FAA approval of the Object Collision Avoidance System (“OCAS”). GMP’s status update is due on February 14, 2014.

SBA/VTel 248a Application (Richmond) – Docket 8162 – The Department sought a one-week extension of time to file its aesthetic review of the Project site with the Board. That extension request was objected to by SBA/VTel, but the Board did not rule on the request before the Department filed its aesthetic review. The Department’s review (conducted by TJ Boyle Associates) concluded that due to numerous deficiencies in the applicant’s visual analysis, the Department cannot make a determination as to the Project’s aesthetic impact on the surrounding area. The Department has filed its analysis with the Board and has requested that SBA/VTel cure the defects so that it may make a determination on the Project’s aesthetic impact.

GMP West Danville Substation Rebuild 248(j) – Docket 8183 – The Department filed comments in response to the Board’s § 248(j) notice stating that the Project does not raise a substantial issue with any substantive § 248 criteria. The Department also filed a § 202(f) letter in support of the Project.

Addison Expansion—Docket 7970—The Palmers filed a further response to the responses of PSD and VGS, which opposed the Palmers’ Motion to Amend. The Palmers continue to argue that they do not have a final appealable Order due to the Old Stage re-route and attendant additional process for landowners; we believe this argument to be without merit and await an Order from the Board disposing of all pending motions.

Addison Expansion Phase 2—Docket 8180– CLF filed a Motion to Dismiss, very similar to those already filed by VPIRG and the Town of Cornwall, alleging a lack of board jurisdiction. Responses are due February 10 and the Department is drafting its response. We will urge the Board to continue the proceedings in this docket while the FERC determinations are underway and we will argue that not only can the Board proceed, but that it should proceed due to the potential loss to Vermont ratepayers if VGS cannot meet its commitments to IP on the agreed-upon timetable. PSD will acknowledge that there will be a period of time during which there is some uncertainty, the burden of which would have some impact on potential intervenors.

VGS Looping Phase VI—Docket 7929—The Board issued a memo to Vermont Gas and the PSD

requesting factual information surrounding the arrests of two former employees of a Vermont Gas contractor who was building the pipeline, as well as details of any investigations which are underway. The PSD has consulted with VGS regarding the status of its internal investigation, which the PSD believes to be appropriately robust. PSD has urged Vermont Gas to keep the public apprised of its actions and to release all results of the investigation to the extent possible given confidentiality/employment issues. PSD has also consulted with VOSHA and the Department of Health to gain information.

GMP/VELCO 248 Petition for Georgia Interconnection Project—Docket 8205 - Prehearing conference scheduled for February 20. PSD is reviewing the petition.

Finance and Economics

Legislative Issues

Staff has been working with Senator Bray regarding property tax valuations for VGS facilities.

Electric

GMP – PSB Docket 8190/Tariff 8384: Tariff filing of Green Mountain Power Corporation requesting a 0.03% or \$155,000 decrease in rates, effective October 1, 2014. The Board has suspended the tariff filing and opened Docket 8190 to begin the investigation. Staff is reviewing the filing documents and testimony and has prepared 3 rounds of discovery. This week GMP provided responses to the 1st round and staff has begun a review of the responses.

GMP – Docket 8191/Tariff 8384: Petition of Green Mountain Power Corporation for Approval of an Alternative Regulation Plan, pursuant to 30 V.S.A. § 218d. This was originally part of the Tariff filing 8384-Board has separated this from the rate case and opened a separate Docket 8191 for this Alt Reg Plan. Staff is continuing its review of the filing documents and testimony and is drafting discovery requests. Additionally, rather than issuing an RFP, we are considering retaining the services of Larkin Associates to conduct an independent review of the Plan and where appropriate develop alternative provisions for consideration to modify the Plan. The PSB held a prehearing conference on January 29 to set a schedule for case but the Board has not yet issued the schedule.

Stowe (SED) -- Docket 8074 Investigation into the existing rates of the Town of Stowe Electric Department—The PSB has scheduled a technical hearing for Friday, February 7, regarding the MOU between Stowe and the Department covering an agreed upon rate reduction of 3.5% that will require Stowe to make a refund to its customers effective as of July 8, 2013.

Swanton –Swanton Electric Depreciation Study has filed a depreciation Study that was required as part of the MOU on their rate case, Docket 8098. PSD comments and recommendation are pending that will likely include a recommendation to complete a full depreciation study in 2014 or before its next rate case.

Gas

Docket 8180 Vermont Gas Systems (VGS) Authorizing Construction of the "Addison Rutland

Natural Gas Project Phase 2 (ARNGP Phase 2)". Due to the interstate nature of the \$64 million Project, VGS has indicated it will petition for authorization to build the Project under the Natural Gas Policy Act from the Federal Energy Regulatory Commission (FERC). Concurrently, the PSB has solicited comments and positions from interveners regarding jurisdiction in the Docket and has drafted a Docket schedule with a decision due in December 2014.

Docket 7803/7843 VGS– In a collaborative effort VGS and the Department are developing a revised gas purchase hedging program as per the MOU in this Docket. A VGS draft is due this week. Concurrently, Department consultant, Blue Ridge Consulting, is developing parameters for a Vermont Gas performance based benchmarking program.

Energy Efficiency Utilities

EVT/VEIC - VEIC has filed its December 2013 invoice seeking recovery of certain software related costs for 12 to 18 months of subscription/license services that will not be delivered or available until March/April 2014. Our assessment is that under GAAP and traditional rate making, these costs would not be recoverable until placed into service and should be removed from the invoice. Additionally, it's not clear the costs were authorized expenditures as part of its 2013 budget. VEIC has had its external auditor review the accounting and has concluded such costs should be expensed and have declined to remove the expenses from the invoice. Under Board rules we are to authorize payment when there is an unresolved dispute. Upon resolution of the dispute any required adjustment would be made in a subsequent invoice. We have begun efforts to resolve the dispute.

Water

Pines Water – a meeting was held on 2/4/2014 to discuss the rate case and the CPG amendment; the Department now has until 2/13/2014 to make a recommendation.

Other

Report to PSB – Issuance of Refunds Pursuant to 30 VSA §226(b) – The PSB issued an inquiry into the capability of Vermont municipal and cooperative utilities to issue refunds. We are currently reviewing the responses to the inquiry and will prepare a Report summarizing the status of that capability to refund excess revenues collected above a just and reasonable rate. The report is due February 14.

Telecommunications

ECFiber– PSD telecom and legal staff met with representatives of ECFiber about the company's interest in seeking designation as an Eligible Telecommunication Carrier (ETC) which would allow it to potentially receive federal universal service support. Competitive providers are eligible for high-cost support and lifeline support, and designation may be a requirement for potential recently-announced upcoming grant opportunities. It appears that the FCC has scaled back high-cost support for competitive providers. Designees are required to offer services throughout their service territories (telephone exchanges) through a combination of their own service and services acquired from other companies (such as reselling FairPoint service).

Broadband Status – Stone completed the analysis of broadband availability as of 12/31/13. Out of the 295,065 locations, 29 are unserved with no solution; all but 4 of these are within the coverage maps of the mobile wireless providers, 2809 (1%) are unserved now but are projected to be served by projects in process, and 7,647 (2.6%) are served exclusively by mobile wireless. PSD asked ConnectVT about whether to post this information on broadbandvt.org website.

Unserved Address Analysis – Last week Senator Hartwell requested that the PSD provide a table that shows the number of locations, broken out by town, which are currently not served, but projected to be served by projects in process. PSD staff prepared the table and circulated it to ConnectVT for review.

Wireless Availability Analysis – The PSD commissioned Stone Environmental to analyze the wireless propagation plots developed by Pericle in November 2013. These results show that 91% of E-911 locations are within the coverage areas of a wireless provider. ConnectVT requested that the report be withheld, and required a quote from Stone on the cost to produce a similar analysis of the 2010 Pericle propagation plots.

Unserved address analysis – The VTA requested that lists of unserved addresses not be circulated. Instead, the list of 29 unserved locations (4 not served by wireless) was provided to ConnectVT.

248a Aesthetic Reviews: The Department has hired aesthetics experts to review three 248a petitions going through the permitting process. On Tuesday, the Department received the aesthetics review for a VTel tower in Richmond. The aesthetic expert concluded that while he saw no red flags with the project, the aesthetics analysis in the application was deficient. The expert raised several deficiencies, including the applicant's analysis of the Queechee analysis factors, as well as deficiencies with supporting materials. In the expert's opinion, these shortcomings would inhibit the Board's ability to make a final determination as to whether the facility will have an undue adverse impact on scenic beauty, historic sites and aesthetics of the area. While the tone, and format of expert's submission posed some problems, Telecom and P.A. staff worked together to correct these deficiencies. The Department will likely file the report with the Board on 2/5/14. The Department has also hired an aesthetics expert for a proposed VTel facility in Hyde Park and a proposed Verizon facility in Berlin. Reviews ongoing.

248a Application: Staff reviewed two applications this week, both of which were submitted on behalf of AT&T. The first application was filed as a de minimis application. However, staff discovered an error in the calculation of the aggregate surface area. The correct measurement would show that the aggregate increase of surface area of the faces of the equipment exceeds the maximum 75 square feet allowed under the de minimis definition.

Regional Policy

Forward Capacity Auction

The 8th FCA was conducted on February 3. The FCA is conducted three years in advance of the capacity period; in other words, the capacity that cleared in this auction must be available in 2017. The amount of capacity that cleared in the auction was short of installed capacity requirements by approximately 150 MW. This triggered the requirement that administrative prices be applied to existing resources. The existing resources, totaling 24,885 MW, will be paid \$7.025/kW-month, while new resources, totaling 1,370 MW, cleared at \$15/kW-month. Additional capacity will likely be obtained through an annual reconfiguration auction between now and 2017. The total cost of capacity in FCA 8 is approximately \$3.05 billion, which compares to \$1.06 billion in FCA 7 (conducted last year).

Sloped Demand Curve

NESCOE held a meeting with all the states on February 4 to discuss ISO-NE's proposed sloped demand curve. ISO-NE is required, pursuant to a FERC order, to submit a proposed sloped demand curve by April 1, 2014. States were generally in agreement that ISO-NE's proposed demand curve is overly focused on ensuring sufficient capacity, without regard for cost. NESCOE has drafted a demand curve and will be discussing this during the NEPOOL stakeholder process over the next six weeks. States also agreed that ISO-NE's filing should also include a proposed exemption for renewable resources. There is not agreement among the states regarding the scope of the exemption (i.e., whether it should be limited to 200 MW, should include all renewables, should include only those renewable resources that have entered into long-term contracts, etc.).

Curtailment of Dodge Falls hydro and Ryegate biomass

The owner of Dodge Falls hydro sent a letter to ISO-NE chastising ISO-NE for allowing a transmission line to be taken out of service during a recent cold spell, thereby requiring the hydro unit and Ryegate to cut back some level of output. Dodge Falls had particular concern because of the high energy prices at that time. Staff received a call from ISO-NE stating that it was still putting together information but it believed that the line in question was a sub-transmission line outside of its control. ISO-NE stated that the line is owned and operated by National Grid and that National Grid had proposed taking the line out of service and Green Mountain Power, which was impacted, agreed to the timing of the sub-transmission outage.



State of Vermont
Department of Public Safety
Criminal Justice Services
103 South Main Street
Waterbury, Vermont 05671-2101
www.dps.state.vt.us

To: The Honorable Peter Shumlin
From: Keith Flynn, Commissioner of Public Safety
cc:
Date: February 10, 2014
Subject: Weekly Report

Vermont State Police

A Troop

Troopers conducted (1) search warrant of a home recovering multiple stolen items to include drugs, stolen guns, stolen jewelry.... eventual solving of more than 9 burglaries spread out through four counties (likely more to follow). This case involved conspiracy to sell drugs (heroin, crack, molly) for stolen material, (jewelry, guns, electronics...). Drugs coming from NYS, guns likely going back to NYC. During sweep for subjects two NYC players arrested, two Vermonters supplying stolen guns arrested. \$32,000 cash, 10 guns, over 100grams heroin, 50 grams cocaine/crack, 40 grams molly, recovered. NIU, TSU, ATF and local police agencies assisted.

A single vehicle/single occupant fatal in Calais-elderly male

Untimely death at Sugarbush Ski Resort, 19 year old female went off trail and struck a 6x6 sign

B Troop

There were 5 arrests. One of the Arrests was the Coach of the North Country High School Hockey team for DUI

Arrest of Roger Pion (Drove farm Tractor over police cars in 2012) for violation of conditions of release (curfew violation.

There was one death investigation of a Dartmouth College Cross Country Ski team member who died while participating in a meet. Nothing suspicious

Initiated directed Patrols relating to DDACT initiatives

The Fairlee/W. Fairlee, Vershire area has been getting hit hard with residential burglaries. The initiatives have resulted in a search warrant on a facebook page that has resulted in strong leads to the suspects



1/Death case from Craftsbury over the weekend Cross country skier died, natural

C Troop

Rutland City has been experiencing numerous convenience store armed robberies.

One vehicle Fatal crash on VT 140 in Middletown Springs

Amber alert / abduction in Sunderland. Child located unharmed and mother arrested.

D Troop

Trooper stopped motor vehicle on I91 NP, MM9 and arrested John Arthur (6/3/82) for DUI. Vehicle seized for warrant. **Heroin located during search**

Motor Vehicle Stop on I91, MM25. Subject stopped and resisted arrest. **Heroin located on subject during search incident to arrest**

Robbery in Dummerston

Emergency Management/Homeland Security

Issues/Updates:

The Annual Senior Leader Training for Vermont agency Secretaries and Commissioners was hosted by DEMHS this week. The 3-hour session was well-attended by senior leadership from across state government.

FEMA Region 1 approved Vermont's 2014 Public Assistance Plan.

Public Assistance Applicant Briefings were held for DR4163 (Ice Storm of Dec. 20-26, 2013) in Enosburg and Hyde Park.

General Information/Other:

FEMA granted a further extension for HMGP applications from Tropical Storm Irene until March 1. RPCs were notified of this (narrow) additional open funding window.

FEMA Region 1 filed responses on 02-04-13 to first appeals filed by PAO on behalf of Halifax and Chester regarding Irene bridge projects. In both cases, FEMA agreed to modify the scopes of the PWs to include additional funding for the longer bridge spans sought by the applicants. A few other communities (Brattleboro, Cavendish, potentially Royalton) have PWs which may be re-submitted to FEMA for reconsideration based on these decisions

FEMA obligated an additional bundle of \$131,755 for DR4140, bringing the total federal share obligated to \$3.2M for that disaster. A final bundle of approx. \$1.65M, containing the last 12 PWs from DR4140, is anticipated by 02-14-14. Public Assistance federal share obligations remain unchanged from last week at \$207.4M for Irene, and \$1.8M for DR4120 (100% complete), respectively.



Legislative Contacts:

Recovery and Mitigation Chief attended Senate Transportation Committee hearing about Irene Recovery.

Administration

Policy, Audit, and Compliance Update:

Internal Audit Procedures: Marie has completed a draft of a new procedure for auditing various administrative processes. As soon as I've fully reviewed, we will schedule some time with you to discuss.

Statewide Senior Leader Training – EOC: Tracy, Marie, and I attended a very well done training put on by DEMHS staff and offered to all Secretaries and Commissioners and their senior management staff on the operations of the EOC. Commissioner Reardon gave a short presentation during the training announcing that he has asked me to head up organizing a meeting with all State Financial leads to work on a plan to develop a team of financial professionals to staff the EOC during responses and to help with developing more detailed financial procedures for emergency response

Fire Safety

The Director of Fire Safety has been asked to testify at House Appropriations on our two new inspector positions following the Senate testimony on February 13th. He will have supporting documentation available.

Robert Patterson will be testifying on February 13th (H.629) Elevators. We completed a bill review on this and will oppose the bill as written because it conflicts with Federal ADA Regulations.

Next week I will put together a bill review on the carbon monoxide/smoke alarm immunity bill exempting landlords from civil/criminal liability.

Other Legislative Activity

It appears S.247 changes to the marijuana program will be passed out of the Senate shortly. There may be an attempt on the Senate floor to expand possession limits to include hemp plants.

The Department is working on the development of guidelines for the Storage of Firearms that are surrendered as a result of a court order.

Testimony was provided on Friday 2/7/14 by Paco Aumand on S. 269 regarding Data Security Breach Notifications. The position of DPS is that it should not be law enforcement's responsibility to provide businesses with affirmative notice of their requirements under the law. Compromise language is going to be written making any notice informational.





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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: February 7, 2014

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Of Interest to 5th Floor from BGS Directors:

Discussion occurred in HCIC which focused on WSOC and additional authority for project contingency. Contingency due to structural issues being uncovered in historic core. BGS did not request additional funds but discussed language giving authority to add to the contingency during this coming construction season with possible conditions.

Yesterday the House Committee on Corrections and Institutions began discussions and mark up on the capital adjustment bill. Their goal is to have this bill completed by February 21. During markup we received a request for additional information, the purpose of the request is to assist them in their final decision, and they expect a quick, accurate response.

Significant Events/Meetings:

- Farmer's Market continued discussion with Lila Bennett, Pete Johnson, George Gross, Wanda Minoli, Bob Rea and Deb Ferrell. Discussed next steps.
- Land Management Plan for Windsor. Met with Patrick Berry, Michael Snyder, Kim Royar, along with Wanda Minoli to discuss turning part of Winsor land into Wildlife Management Area.
- Pittsford training Academy meeting with Keith Flynn, Marjorie Klark, Bill Sheets, Richard Gauthier, Commissioner Pallito, Richard Gauthier and Dave Burley to discuss governance of training facility

- Proposed Operational Governance of the Robert H. Wood Criminal Justice and Fire Service Training Center. Meeting scheduled for Friday with all interested parties; including Commissioner's Pallito.

Evolving Issues:

- White River Junction – Prospect Street lease
- Caledonia Court House
- 120 State Street – 4th and 5th Floors – internal meeting

FINANCE AND MANAGEMENT

Issues Update:

The kick-off stakeholder meeting for the VISION upgrade project occurred on Tuesday, February 4, 2014. Staff from the Agency of Administration, Finance & Mgmt, DII, Labor, Transportation, and BGS was present. The next step will be to conduct a needs assessment across state government.

Commissioner Reardon and Deputy Commissioner Clark plan to meet with the Joint Fiscal Office to begin assessing the FY16 budget gap on Friday, February 7, 2014.

HEALTH CARE REFORM

No report.

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy testified before the Senate Appropriations on H. 316, which would grant collective bargaining rights to child care workers. The focus of the testimony was the *Harris* case, which is now before the United States Supreme Court, and could make portions of the proposed bill unconstitutional.

Commissioner Duffy testified before the Senate Appropriations on DHR's budget request. The testimony was well received, but did not focus much on the actual budget. Issues related to child care unionization costs and EGWP dominated the discussion.

Commissioner Duffy appeared with representatives from the Veterans' Home during their testimony before House and Senate Appropriations and House General. The overall sense expressed by legislators is that real progress is being made at the home and supporting the proposed bill on the Vet's Home makes sense.

Commissioner Duffy and General Counsel Collier are scheduled to meet with Senators Campbell and Baruth and John Bloomer to offer suggestions on the Legislature's sexual harassment policy and potential problems with the existing policy.

DHR provided information to the Joint Fiscal Office on the fiscal impact of unionizing child care providers. Commissioner Duffy will suggest edits to the current fiscal note, which does not accurately reflect the administrative costs and costs of bargaining.

Commissioner Duffy testified before Senate Economic on VSEA's request to bargain arbitration rights. VSEA contradicted its prior testimony on the issue, indicating it does not know whether arbitration is faster or less expensive. Testimony from Tim Noonan and Commissioner Duffy suggested that it is not. Given the change, the Committee indicated it would not consider the bill further unless VSEA came back to it with information showing arbitration would be faster and less expensive.

Deputy Secretary Clasen and Commissioner Duffy have strategized on how to propose a pilot program to eliminate the cap on positions and focus instead on overall appropriations for positions, overtime, temps and other personnel costs.

DHR is working to prepare a presentation to legislators on EGWP, as well as talking points that could be distributed to legislators. Senator Sears requested the talking points.

INFORMATION AND INNOVATION

Legislative Issues/Contacts:

Commissioner Boes testified to Senate Appropriations this afternoon. The conversation went very well, without any contentious points, although they seemed less interested in the ups and downs of DII's budget and more concerned with IT activities going well or poorly throughout state government. This led to quick conversations about DII's oversight and business case template, projects going well like VDT's Integrated Tax System, Judicial's Network and VDI projects. For projects not going as well, they discussed VHC and the process we've been going through with CGI. Commissioner Boes will follow up with senator Westman, who was quite upbeat and thankful for the data DII was able to provide. The one item that may come back around is they asked about who within the legislature, besides H&S appropriations provided oversight for DII. The Commissioner responded that we dealt with many committees in H&S, and that GovOps had mentioned an interest in providing more oversight to DII but had not yet done so.

Press/Media Notes:

Commissioner Boes spoke with Morgan at VTDigger on Tuesday. Morgan had questions on 2 subjects:

- He noticed a cancellation of the IE RFP on the DVHA website and wanted to know the reason for the cancellation. The Commissioner responded that the original RFP was issued many months ago and that the scope had changed. Based on that, it was a standard part of the process to cancel and re-issue an updated RFP. He asked for specific things that had changed in scope and I mentioned that some of scope in the original RFP was part of CGI's current contract with VHC.
- He asked about CGI's current contract and would CGI be doing everything in the contract. Boes told him that we expect all vendors who have contracts with the state to complete all of the work in their contracts. He asked what changes were being made to the contract and Boes said the current contract is what we have. He asked if conversations were happening

with CGI to change the scope of the contract and I responded that it was DVHA's contract and he could contact Mark, that that wasn't DII's scope. He asked what DII's scope was in VHC and Boes talked about the difference between functional and non-functional requirements and that DII worked in partnership with DVHA to make sure the non-functional requirements enabled DVHA's functional requirements. He thanked Boes and said he would be calling Mark.

Evolving

Web:

- The first iteration of the new template design expected to launch in May 2014 has been completed. The redesign is intended to make Vermont Websites responsive to various screen sizes allowing state sites to display correctly on PCs, tablets and phones without having to switch to a mobile friendly alternate site.
- Action on the latest Web Portal Board activity has moved to the Appropriations Committee in the legislature. It is still not clear how the legislature intends to signal its decision to approve or reverse the board's approval of the relevant fee adjustments.

Security

- VHC Incident/Privacy Summary:
 - 1/31/14 - Payment processing contractor Bennaissance inadvertently assigning the payment and a scan of a check to a VHC account with the same member name. Status is open pending investigation.
 - 2/1/14 - A customer was given a Carrier ID number for another person with the same name. Status is open pending investigation.

LIBRARIES

Significant Meetings/Events

Testimony; U.S. House Subcommittee on Communications & Technology: Marty Reid will be in Washington on 2/10 and 2/11 to provide testimony, representing Vermont and the American Library Association (ALA), on the impact of stimulus broadband (BTOP) funding on libraries. Her testimony will focus on VT FiberConnect and the e-Vermont Broadband project. ALA is also trying to set up a meeting with the FCC so she can talk about these projects and the impact of federal e-rate discounts for libraries.

Heritage Preservation: Marty Reid has been assigned as the COSLA rep. to an Advisory Board for a grant project of Heritage Preservation (grant application pending to develop a national disaster reporting tool for cultural heritage institutions). She will be representing libraries. Others on the Board represent museums, national parks, archives and records, universities, etc. The committee will begin the planning process with the hopes that grant funding will be awarded in September. The first (virtual) meeting will be in March.

Project Updates/Partnerships:

Vermont FiberConnect Broadband project (VTA/Sovernet) Update: 39 (of 43) libraries are now online with Fiber - 3 libraries not yet online, turned-up by Sovernet, 1 library (Manchester) under construction.

New contract signed with E-rate Elite Services, Inc. (MD) to develop a centralized VTLIB e-rate management program for handling e-rate filings for the 43 libraries in this project. (Funds from Bill & Melinda Gates Foundation.)

Catamount Library Network: Bennington Free Library is now live with 5 other libraries on the consortial shared network. Libraries in Williamstown, Morristown, Bristol, and Underhill are new members and will join the network in 2014. Guilford (unautomated) will join the network in 2015. VTLIB will continue to manage the contract with Bywater Solutions (hosting and data migration services) through January 2015, but local libraries are now responsible for all associated costs. We continue to cover the cost of OCLC cataloging for the 6 libraries as a pilot and will evaluate the effectiveness of that service in May. New website: <http://www.catamountlibraries.org/>

\$3,000 Grant Award from National Network of Libraries of Medicine, New England Region: Funds will be used to enhance our webpage which lists online health and medical resources for libraries, as well as training for public library staff to use these resources and respond to health and medical questions from citizens. We are working with UVM's Dana Medical Library on this project. Current page: <http://libraries.vermont.gov/health>

\$19,690 Grant from VT Community Foundation for "Maker Space" Programming in Libraries: Grant awarded to the Craftsbury Public Library and the VT Public Library Foundation for a competitive grant program for public libraries to conduct STEM "maker" programs this summer, to correspond with the science theme of the summer reading program: "Fizz, Bang, Boom." VTLIB will manage the competitive grant process.

Other:

Board of Libraries: At their January meeting, the Board voted to change from bi-monthly to quarterly meetings, with committee meetings held between meetings. Committee meetings scheduled: geographic naming committee; library standards committee; vision for Vermont libraries committee. Deborah Granquist (Weston) and Bruce Post (Essex Junction) have been re-appointed to the Board.

TAXES

Legislative Update:

Miscellaneous Tax Bill: Ways & Means spent more time on the solar generation tax, hearing opposition from some towns (a South Burlington lister testified to a \$100,000 loss in revenue under the higher exemption) and asking for an estimate of the current loss to the EF at the 10kW exemption (over \$500,000). Rep. Sharpe is asking for information on the current medical products sales tax exemption, with an eye to limit the exemption rather than raising the health claims assessment (he also mentioned funding teacher retirement). The medical products exemption is quite broad, and one area often discussed is over the counter medicine (although Rep. Sharpe may be aiming to tax products covered by

insurance). W&M also spent some time in the weeds on some of the technical provisions (such as lister training).

Education Finance: W&M looked superficially at some scenarios for raising the base rates (5-7 cents, differential rate increases, raise the 1.8%); a consensus does not seem to have emerged. As happens periodically, there seems to be some interest in addressing the “look back” – income sensitized payers get adjustments based on last year’s income and property tax bill, applied against this year’s bill (in that sense, they do feel some of the impact of property tax increases in the year that they vote). In the same vein, the committee has discussed the CLA (some would like house values to be adjusted on the bill rather than rates; homeowners are not likely to understand this any better, particularly since they often appeal home valuations). The committee also expressed interest in having Dr. Picus testify on his report.

Economic Development Bill: House Commerce has asked to walk through the various credits and other tax measures contained in H. 736. The bill does eliminate tax on cloud software, which would be an administrative win, particularly as we struggle with cloud regs.

Compost and Potting Soil: House Ag is poised to vote to exempt compost and potting soil from the sales tax, and to rebate tax previously paid on compost.

Operations:

FAST Contract for Integrated Tax System: This week a very preliminary roadmap was laid out for determining benefit baselines with FAST’s senior consultant on compliance – a well-respected audit specialist who worked for NY. The former Acting Commissioner in NY, again very well-respected in national tax circles, was also in town for two days. She just joined FAST, and described herself as our high level contact for any issues on the project.

CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

From: Susan Spaulding
Date: February 7, 2014
RE: Boards and Commissions Update

Appointments made during the week of February 3, 2014

Chittenden County Senatorial Seat:

Michael Sirotkin, South Burlington – to begin February 11, 2014

Governor's Council on Emergency Preparedness:

Designated Phil Scott CHAIR

Deputy Commissioner of the Securities Division of the Vt Dept of Financial Regulation

Approved appointment of Michael Pieciak

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: February 7, 2014
Re: Weekly Report

Status of Governor's Priorities:

Legislative Issues/Contacts/Updates:

- S181-S289: would allow for licensees to serve flights of various products for comparison purposes. Current law does not allow that. The bill was voted out of committee favorably and sitting in Finance due to a malt tax issue.
- S226: Allows libraries to serve alcohol for fund raising activities. The bill is filled with problems of which I addressed. No license or permit required, liability issues for the library or town/city that allows it. Licensed caterers could do this and all the concerns would be eliminated. Still pending action.
- 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. The committee was in favor and the department made some changes that address our concerns. The bill was voted out of committee favorably.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 02/12/2014 - Enforcement Hearings.

Evolving Issues:

- Finalizing vendor contract for ERP/POS Project-ongoing.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. March Report.

Summary of Key Department Activity:

- January sales were +6.85% over last year and 5% year to date. Excellent month!

Commissioner's Commentary: Have a great weekend.