

# WEEKLY REPORTS

Checklist  
5/6/16

Darren Springer

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

Sue Allen

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

Sarah London

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

Jessica Gingras

- ☐ Boards and Commissions – Jessica Gingras
- ☐ Department of Liquor Control – Patrick Delaney

Laura Gray

- ☒ Agency of Agriculture – Chuck Ross
- ☒ VT Commission on Lottery – Greg Smith

James Pepper

- ☐ Department of Labor – Annie Noonan

**To: Governor Peter Shumlin**  
**From: Patricia Moulton, Secretary - Agency of Commerce and Community Development**  
**Date: May 6, 2016**  
**Re: Weekly Report**

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**PATRICIA MOULTON, SECRETARY**

**GOVERNOR'S PRIORITIES**

- **EB-5:** I have purposely kept out of the press the amount of fees we are owed from Jay peak until I could absolutely confirm the amounts. We now have confirmed the amounts and it is approximately \$121,500. Far less than I originally anticipated. This is due to the early MOU's for the early Jay projects contained no fee provision. And we needed to true up with the funds we have already been paid from Jay. We will have income shortly from other projects, but the Jay projects fees are tied to approvals of either 526 or 829 petitions by USCIS which also slows down collection.
- **Stratton:** Patti Komline arranged a meeting with Bill Nupp, president and COO of Stratton Mountain resort. They are planning a redevelopment of a former lodge presently used for employee housing into a 120 bed hotel. They also wish to add a campground on the mountain for summer use. We discussed financing to include VEDA and Windham County economic development funds.
- **Killington:** We have been talking to Steve Malone about a real estate development project at Killington utilizing EB-5 funds. He came to meet with Joan and Gene this week but also brought the New England regional center from Massachusetts with him. It was most awkward and it was apparent he is working with that regional center to find investors. Realizing that, we see no role for us. It was quite unprofessional as he did not indicate he was bringing the regional center staffers with him. The New England regional center is apparently approaching other Vermont projects, as have regional centers from elsewhere. Thus far, all are hanging with us.
- **NEG/ECP:** We participated in a webinar this week, with the second one next week, with the members of the NEG/ECP. Each State/province is presenting information about major industry sectors, and current relationships between Canada and US. The goal is to begin discussing reverse trade opportunities. The Eastern provinces wish to mirror a system they have set up with the southern states utilizing trade missions. However, we New England states agree that is a little different for us with three of us bordering Canada and all within driving distance unlike Georgia North Carolina etc. So we're trying to figure out the right approach. Starting with better understanding the economies of each other.
- **Main Street development Newport:** I spoke with Ernie Pomerleau this week and he is working with Rick Bove on a mixed-use commercial/subsidize housing development on Main Street in Newport. It is very much in the early stages, but this is promising. Rick has done these projects elsewhere in the state.
- **Richmond creamery:** Negotiations between the Richmond senior center and Buttermilk Development, have broken down. Buttermilk is the recipient of CDBG, and EPA funds to help with the redevelopment of the site. The Richmond senior center purchased the creamery properly about an hour after Buttermilk's option expired. This is due to Rep. Anne O'Brien. The Senior Center is not eligible to receive CDBG or EPA funds due to the lack of an environmental review prior to purchase. Anne asked to meet with me this morning "tell her story get some advice."
- **Kiersten Bourgeois reports: PayPal:** Have identified four sites in Chittenden County and two in Windham County for PayPal. In Chittenden County, we offered an existing facility at Tech Park owned by John Illick that is 54k sf that can be combined with a 'twin' building about 15 meters away. The second building is presently occupied but the tenant can easily relocate to other space nearer their HQ in Vermont. The second and third possibilities are on the GlobalFoundries Essex and Williston campuses and the fourth is the current VSAC building. In Windham County, the former Entergy Building and Marlboro Grad Center space have been proposed. In a call with the Governor, Pat and Kiersten on Thursday, PayPal has agreed to come visit Vermont. Their biggest concern is labor. They say they could grow to 1,400 employees over time.
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**LEGISLATIVE ACTIVITY**

- **H.872:** The fee bill conferees have settled on the EB-5 language. It's OK and we can live with it. We got them to temper the language that assumed we would be self-funding EB-5 operations from the EB-5 fund immediately. The fund is simply not healthy enough yet to do that, so they tempered the language with the "expectation The fund will reduce or eliminate the need for general fund appropriations." That is OK. Susan Donegan is OK with her language.
- **H.868:** The Economic Development bill should close Friday am. As of this writing, the Joint Fiscal Committee will hear requests to raise VEGI caps with the Governor calling the JFC to a meeting. We tried to get the Gov to sit on the JFC for this matter and only as a tie breaker, but thus far, that is not working. Rep. Ancel is digging in her heels on this. The House is still wrangling to get in creative economy funds for the Vt. Arts Council (\$30,000), \$50,000 for Bennington County CEDS, and \$40,000 for a housing study. These items are not decided as of this writing. The conferees are in a stalemate over lottery language.
- **Bill Reviews:** As the Legislature winds down, the work continues for weeks. One key activity is that bills need to be reviewed before the Governor signs them. DHCD staff have been working on drafting bill reviews for the Governor's Office. Thanks to Laura, Chris, Jess, John and Dale for your help reviewing bills that have passed both houses. You are all so quick, efficient and thorough!
- **S.257:** A bill pertaining to landlord-tenant law and subtenant agreements is positioned to be passed by the Senate with the House proposal of amendments. This bill was the result of much stakeholder negotiations and is much more balanced now than originally introduced.

**LUCY LERICHE, DEPUTY SECRETARY:** Lucy has been at the Statehouse all week on various bills and conference committees.

## **KIERSTEN BOURGEOIS, SENIOR PROJECTS MANAGER**

### **Vermont Quebec Enterprise Initiative**

- **Appalachian Engineered Flooring:** Working with NVDA and Senator Leahy's office in trying to help Appalachian Engineered Flooring (located in North Troy) to solve a customs tariff issue that has been recently imposed upon them, likely due to the (mis?)interpretation of their product within their HTSUS classification or the creation of a new harmonized code. This can only be solved/addressed at the federal level so we will support the Senator's office where appropriate. AEF produces the flooring in the US, sends it back to Cowansville where a finishing process is applied and then final product is shipped from Quebec. Failure to resolve this issue will result in no future investment in Vermont. It wasn't clear whether they would leave the state.
- **IT Reciprocal Event:** I am finalizing the June event in Montreal where we will be bringing four information tech companies to meet with pre-identified Quebec companies that are interested in potential partnerships with our companies. The meeting will be hosted by MPC in downtown Montreal and we are organizing this event in partnership with the Federation of Chambers of Commerce of Quebec. This is the reciprocal event to our February conference that we hosted here.
- **Green Building Cluster:** Working with the Montreal Board of Trade, we have formed an early-stage relationship with Loic Grandury, the Development Director for the Canada Green Building Council. We talked to them about the Green Building cluster that BDCC is supporting and the CGBC team has invited BDCC's group to present at an upcoming seminar to its membership with the hope that new alliances will result.
- **Late Fall Event:** At this point, we are working to finalize the sector around which we want to base this event. It is our hope that we can focus on Vermont beer/wine/spirits with other specialty food. I have had extensive conversations with Food Export, FAS and a Canadian-based customs broker that is willing to work with the VQEI at the suggestion of Deringer. We think that Vermont companies will be able to move samples of their products over the border for the event but are doubly confirming this so there will be no surprises. Additionally, the event will include information on how to sell US alcohol into Quebec via their SAQ system.
- **VCWA Presentation:** Preparing a presentation to about two dozen foreign visitors to Vermont interested in learning more about our economy, economic development and Quebec Program.
- **Remote Camera Technology:** This is the second company that has contacted the VQEI interested in setting up a Burlington location. This, like Maerix, is small, but will add to the growing IT sector in this region.

### **Brownfields**

- **Fonda:** Held a productive, 18 minute BERA meeting to discuss next steps, particularly as it relates to PCB contamination. This particular contaminant is regulated by another part of EPA, called TSCA, so we had to ensure that the proposed redevelopment was acceptable to them. So far, it is. The City of St. Albans is

considering consolidating some of their public safety/public works operations at the site which would free up other sites in the City for better uses.

- **Bellows Falls:** I led a very long BERA meeting in Bellows Falls earlier this week. Good progress from the environmental side continues and we reviewed the draft CAFI/CAP and discussed the various clean-up alternatives. EPA has a little money left over and agreed that they could do a little sampling close to the NAPA building, but couldn't go onsite. It is likely that some of the LNPL found in two MWs at Robertson have come from an offsite source. It should be noted that the EPA work considered the soils/petro issues at the site and not the asbestos in the building. I can fund \$200,000 of the soils/petro contamination and WRC can contribute to this as well. The conversation then drifted to the WCEDP funds that are available. BDCC offered to administer the award from this point and Dutch indicated that someone (not defined) needs to talk with ACCD about this. Overall, it was a productive meeting from an EPA update perspective, but there was no representation from BFADC, the entity that is both the property owner and will be the recipient of the EPA funds for clean-up.
- **Green Mountain Drive:** Met with the Redstone team to see this project. Approximately 65 new housing units are being constructed at 27 Green Mountain Drive (behind Allscripts) by Redstone. There is PAH contamination at the site and we will be considering a \$300,000 loan from the Brownfield RLF.
- **Red Roberts/Flynn and Pine:** Also talked generally about this project which has received some media attention recently. There will be environmental clean-up needed there as well.
- **City Market:** Met with Pat Burns to walk the Flynn Avenue site and talk about their redevelopment plans, which are incredible. Presently, I have \$30k allocated for this project and will add more if possible.
- **EPA Visit:** EPA Project Officers Frank Gardner and Alan Peterson attended the Bellows Falls meeting, then Frank and I visited Green Mountain Drive, Red Roberts, Flynn Ave/City Market, Blodgett and 151 South Champlain sites. He also confirmed that our RLF is the most active and productive in the entire US.

#### Other

- **IBEX:** Working with a large cast on helping IBEX find a site for their expansion. There is one possibility in WRJ that I would classify as being lukewarm and over a dozen in the Chittenden County area that from a real estate perspective are much better. Further, I am working with Tony Blake of V/T Commercial to identify possibilities in Central Vermont as well. This expansion could result in the creation of about 20 new jobs and cement their future in Vermont.
- **Elmet Technologies aka Project Patrick Dempsey:** We have been in communication with them, but to date have not scheduled a visit to Vermont.
- **New England Governors/Eastern Canadian Premiers:** Prepared a presentation for the NEG/ECP webinar that will be taking place today.
- **Fortune 100 Company (distribution):** Working with Fischer Company on identifying sites for their Fortune 100 client. Have submitted three possibilities to them in the Central VT/WRJ region. This would be an enormous investment for a community and create over 100 p/t time and 30 FT jobs. As an aside, Fischer was the group that worked with us on the Mylan project – great team.
- **Pioneer Cold:** Still working with this company and narrowing down site options. As mentioned in previous weekly reports, this company is seeking to construct a refrigerated/freezer warehouse to satisfy some of their larger clients in Vermont that presently have to send product to MA. This new facility would help existing companies with costs and also possibly free up space for expansion.

#### KEN JONES, ECONOMIC RESEARCH ANALYST

- Ken Jones attended a workshop put on by the Agency of Education to determine what should be **accountability metrics for Vermont's public schools**. These accountability metrics are a new requirement under federal law (ESSA – Every Student Succeeds Act). Ken's participation was based on a need in the business community to ensure that schools keep employable skills as one focus for considering the progress the education system makes in educating children. The current, primary focus of school measurements are to help students progress towards higher education. While this is an admirable goal, there are many students that do not pursue college and a gauge of a graduating high school student's preparation for the work force require an additional, often overlooked set of metrics. The result of the workshop was a pruned set of measures that will be the subject for continuing discussion. Those future discussions will consider how the measures are reported and how those reports are used for education planning and resource allocation.
- Ken has been attending the meetings of the **Work Group convened to prepare for Vermont's participation in the bid for the hydroelectric dams on the Connecticut and Deerfield Rivers**. The potential that this purchase

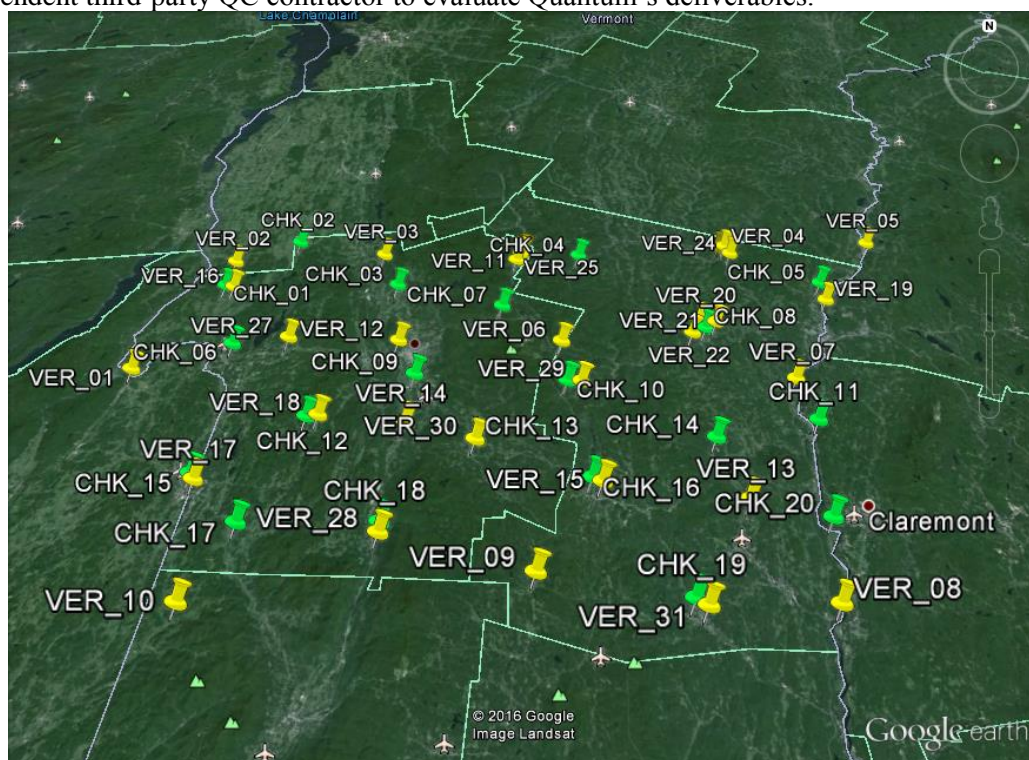
can be used to provide lower cost power for economic development interests is one factor that drives the state's interest in purchasing the dams (and the associated 20,000 acres of land adjacent to reservoirs). This potential overlaps with discussions that ACCD and the Public Service Department are having with large industrial and commercial electricity users about the possibility for Economic Development Incentive rates for electricity purchases. The changing mix of electricity generation capacity in Vermont and the northeast opens new opportunities for electricity purchases that may provide benefits to large users.

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

- **Mapping the Music Economy:** With Deputy Commissioner Cook, Heather participated in virtual meeting with a London-based consulting firm, Sound Diplomacy, to learn more about strategies to develop a nighttime economy and destination marketing around music. The meeting was organized by Jim Lockridge of Big Heavy World, who is building a coalition of partners to undertake a mapping exercise to assess the value and potential of the music sector in Vermont, and what possible tactics, on both a policy and promotional front, the State might undertake to grow the sector. Champlain College has already expressed an interest in participating by making student volunteers available to assist with data collection for an economic impact analysis.

#### **VT CENTER FOR GEOGRAPHIC INFORMATION (VCGI) ♦ Steve Sharp, GIS Operations Manager**

- **VCGI Imagery Program**
  - **Orthoimagery:** Quantum Spatial (our acquisition contractor) has completed their ground control survey work. This involved field crews collecting field survey data within the acquisition area. This data will be used to geo-reference and ortho-rectify the acquired imagery. Some points will be set aside for quality control. Meanwhile, VCGI has been working with BGS to release an RFP on May 9<sup>th</sup> in our effort to procure an independent third-party QC contractor to evaluate Quantum's deliverables.



*Figure 1- Ground Control Survey Complete*

- **LIDAR:** In support of the 2016 Vermont Middle Connecticut River LiDAR collection effort drafted Memorandum of Agreements with our state funding partners are in process and contracts for our Regional Planning Commission partners are being researched for the June 1, 2016 deadline. Once these agreements are signed, ACCD can move forward with officially signing the Joint Fiscal Agreement (JFA) with USGS. Data development efforts in support of the LiDAR Web Services Plan (see Table 4. "VCGI LiDAR Data Delivery Services" of the [VT State LiDAR Plan](#)) are finalized and updating metadata documentation is now underway. The last step before generating the web services will be to migrate the processed data to its final repository location.
- **Projects and Technical Support Services**



- **VT Open GeoData Portal:** The team has decided to use the SCRUM methodology as we move forward with the development phase of this project. We have initiated our first SCRUM “sprint” to prepare for the arrival of a temporary GIS technician who will be helping with a variety of tasks.
- **Statewide Parcel Data:** Leslie, Steve, David and Noelle are preparing to meet with VTrans to discuss roles and responsibilities of the nascent VT Parcel Data Program.

**DEPARTMENT OF TOURISM & MARKETING: Megan Smith, Commissioner**

- **Happy National Travel and Tourism week**



- **VDTM’s partnership with Amtrak and VTrans** on bringing bikes on the Vermonter has finally resulted in a 2-year pilot program which kicked off last week with a press conference at the Essex Junction train station. Several riders “rolled” onto the train and took it to Waterbury. The enthusiasm was very encouraging.
- **Manchester Chamber of Commerce Closed:** Megan attended the official closing of the Manchester Chamber of Commerce and met with regional businesses to talk about what is next for the region. Both Steve Cook and Megan will be spending time there over the next several months to ensure their place in the Tourism Marketing partnerships and PR efforts.
- **Regional Chambers:** Megan is continuing conversations with the Jay Chamber, Northeast Kingdom Chamber and the Northeast Kingdom Travel and Tourism Association. The emergence of Regional Chambers is something we anticipated after the ability to raise money in local chambers with Health Insurance went away. Hopefully we can help in this process.

**Steven Cook, Deputy Commissioner**

- **1-800-VERMONT Call Center:** The Vermont Department of Tourism & Marketing has begun discussions with the Bennington Chamber of Commerce in regards to managing the inbound calls to 1-800-VERMONT. The Bennington Chamber is moving to manage and support services previously provided by the Manchester Chamber of Commerce which would include phone support. Given the drop in call volume to 1-800-VERMONT the Bennington Chamber feels that they will have capacity to support inbound calls.
- **Vermont Days:** VDTM, in collaboration with the Chief Marketing Office, Vermont State Parks, Vermont Fish & Wildlife and Vermont Historic Sites, have been working on plans for the 2016 Vermont Days. This year, the team plans to gather information from guests who use the free weekend access in order to better understand users and develop a database for future promotions of each departments’ offerings.

**COMMUNICATIONS ♦ Philip Tortora, Director of Communications**

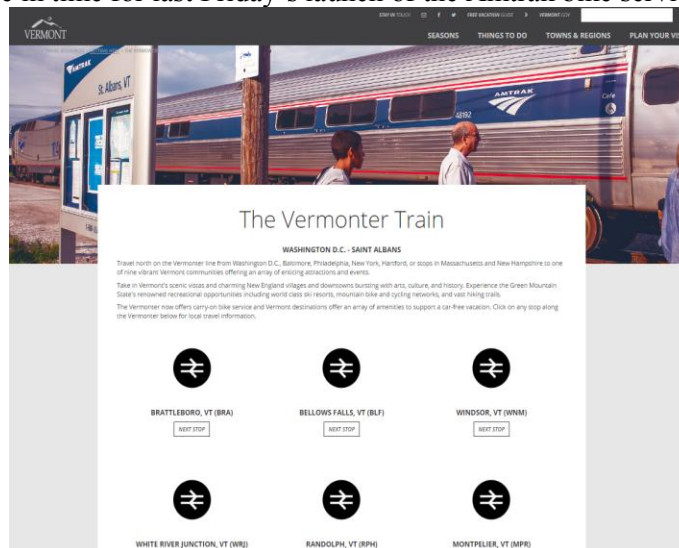
- **Vermont Vacation Guide winter nightlife piece:** Wrote a piece on Vermont bar-restaurant nightlife for the winter edition of the Vermont Vacation Guide. Work entailed a trip to southern Vermont this past Saturday to visit some of the places being featured. Article will contain brief profiles on establishments from around the state, particularly those near ski resorts and towns that attract a lot of tourists.
- **Facebook Highlights:** From Facebook video, our segment on the Mad River Byway received over 7,600 views (as of 5/3) after going live Friday evening, and it was shared over 150 times. The Vermont Arts Council video from the previous week has now topped 8,700 views. Video views on Facebook can often climb significantly

several days after they're shared, and that is the case with these two. Also, we streamed the Amtrak press conference live on the Vermont Tourism Facebook page, and that has picked up over 1,500 views. An "Only in Your State" piece on Vermont covered bridges reached over 10,000 people in a half-day after posting Monday night, including dozens of shares.

From Sunday, a Vermont Journal piece on a bike trail being developed in Killington reached over 19,000 people, and also saw dozens of shares.

### **MARKETING ♦ Hilary DelRoss, Heritage and Recreation Specialist**

- **Amtrak/Downtowns:** Thanks to Kathleen Kolva and Gary Holloway's collaborative effort to round up data about the downtowns along Amtrak's Vermonter line, we had enough data about car-free travel in these locations to revamp the train travel section of [vermontvacation.com](http://vermontvacation.com) to include a landing page for each stop in Vermont. Start at [vermontvacation.com/amtrak](http://vermontvacation.com/amtrak) and click "All Aboard" the Vermonter or Ethan Allen Express for stop-by-stop information. These pages were made live in time for last Friday's launch of the Amtrak bike service thanks to



quick work done by David and Steven.

### **SALES ♦ Kathleen Kolva, Sales Manager**

- **Quebec Sales Mission:** Kathleen is currently conducting a two-day sales mission in Quebec, Canada. She will have eleven 30-minute appointments with tour operators and travel agencies around the Montreal area. Bags with up-to-date Vermont collateral have been prepared for distribution. In order to attract more Canadian travelers to Vermont, she will be working with each appointment to deliver personalized marketing material based on their business model - groups, FIT, outdoor rec., RVs, etc.
- **Vermont African American Heritage Trail:** Kathleen has been working with David Burnell to develop a pull-up that will be utilized by Paula Maynard of Hildene and Jane Williamson of Rokeby to promote the VAAHT at the New England Travel Showcase in June.

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

- **Advertising:** Sales director Chris McGee is heading out on targeted road trips to invigorate relationships with existing clients and seek out new ones. He will be laying the groundwork for Autumn 2016 issue sales and looking to build momentum, particularly with an eye toward multiple-issue programs. Our media kit is also in the process of being updated and improved.

### **DEPARTMENT OF ECONOMIC DEVELOPMENT: Joan Goldstein, Commissioner**

- **Ogee** is a startup cosmetics firm in the luxury organic segment. They are pitching at Launch Vermont (DED is sponsoring). Ideally they would like to build their business in VT (bringing their manufacturing from NJ) but they have a bit of runway to get here. They need to raise an additional 500k, build up their ecommerce platform, and get to a quantity where it can make sense. We described VEGI, VTP, EB-5 programs. They have a professional team in place with experience in the cosmetics, luxury goods, and logistics sectors.
- Met with a prospective EB-5 project for **Killington (Bear Mountain)**. The problem is he – Steve Malone, who has also done a project at Loon Mountain in NH - was traveling with the New England regional center out of Boston. These are the same folks who did the Hotel Taconic in Manchester. They are vulturing- (not sure if that is a word)- around to poach our existing projects and the investors to take advantage of any 'distractions' we may

have due to Jay Peak. The meeting came to an abrupt end. We do want to learn more about the Killington project and will keep that door open. We subsequently advised the project developer that this New England regional center is a competitor and if further discussion is to be had it would be without them. We are scheduled with a follow up in a few weeks.

- Met with David Young, Superintendent of schools for South Burlington District. He is very interested in working with us to develop pilot programming with employers to introduce middle and high school students to the area employers with tours, classes, etc. We are keen to work with him and will follow up with some of his resources and ours to come up with an implementation plan.
- Met with Ted Adler of Union Street Media. Their expertise in digital media marketing may be able to provide insight on our commercial property site locator. Additionally, they may also be helpful with the Economic Development Marketing Plan. Will be in touch.

#### **BUSINESS SUPPORT - Economic Development ♦ Jared Duval, Director**

- **Seventh Generation:** Business support visit with Seventh Generation (Chris Lyon, Manager of Community Services) alongside Seth Bowden from GBIC. 130 employees in Vermont. Referrals to Fred Kenney re: VEGI; John Young re: VTP.
- **Building Energy:** Business support visit with Building Energy (Scott Gardner, Elizabeth Austin, and Russ Flanigan). Currently at 30 employees. Some new training needs. Discussed Vermont Training Program (application likely).

#### **BUSINESS SUPPORT ♦ Brett Long, Director**

- Attended Hannover-Messe tradeshow.
- Attended workforce meeting at Champlain College.

#### **FINANCIAL SERVICES ♦ Dan Towle, Director**

- **Key Note Presentation on State's Self-Procurement Taxes at the Chicago Captive Owners Summit:** Dan Towle, Director of Financial Services, presented with a panel of captive experts on self-procurement taxes and the applicability to captive insurers. Dan presented on how this is effecting Vermont captives and the formation of prospective new captives. He also spoke about the Non Admitted Reinsurance Reform Act (NRRA) and how some states are using it as a recruitment tool for home state companies. The presentation was well received by attendees.
- **Captive Owners Summit - Chicago:** Dan led two captive owner round table sessions on the topic, "Justifying Your Captive and Communicating Its Value". This day long educational and networking event proved to be an excellent way to meet new captive owners and identify several prospects.
- **Non-Admitted Reinsurance Reform Act (NRRA) Advocacy in Congress:** Dan was in Washington, DC along with Richard Smith of the Vermont Captive Insurance Association. The purpose was to meet with several advocacy firms to see if they are a good fit to assist the State in its efforts for a legislative fix concerning the confusion surrounding NRRA and if it applies to captive insurers. Two firms were identified as both extremely qualified and potentially a good fit. Proposals are expected this week. NRRA has caused vast confusion among captive insurance companies and the State's efforts have been ongoing to solve this issue.

#### **INTERNATIONAL TRADE (VERMONT GLOBAL TRADE PARTNERSHIP) ♦ Katie Corrigan, Manager of International Trade**

- Toured Hypertherm with ExporTech companies to see a Lean Sigma Six and 5's company. The ExporTech companies were very intrigued and engaged with the Hypertherm staff.
- Met with Craig DeLuca of Inntopia to discuss International pieces of their businesses and how STEP funding can and cannot assist.

#### **VT PROCUREMENT TECHNICAL ASSISTANCE CENTER ♦ Robin Miller, Director**

- **Hanco LLC dba Williston Workwear – Williston:** Matt Cohen informed Babette Lizotte that he won an award from CCTA for \$30,000 for uniforms. Williston Workwear is currently preparing samples to show the committee to verify that they are in compliance with CCTA request. Matt also stated they are working on a \$200,000 bid from VTRANS for High Visibility Clothing and he had a couple of questions. He has been in contact with Deborah Larose at BGS to discuss the bid. But Matt might need to look into funding for this bid. Babette suggested he reach out to Steve Densham of the SBDC to see about funding. Matt needed clarification on some wording in the bid such as option years and start date. Babette was able to provide answer on wording within the bid while reviewing the bid.
- **Companies PTAC is currently working with:**
  - Accuworx USA, Inc. – Barre
  - Brown Electric Co. Inc. – Williston



- Button Bay Productions – Vergennes
- Control Technologies – Williston
- Green Mountain Towing and Repair Inc. – Vergennes
- Numia Medical Technology, LLC – Newport
- Parker & Ankuda, P.C. – Springfield
- R. R. Charlebois, Inc. – Milton
- Richard Electric, Inc. – Barre
- Solinsky Farm – Sutton
- Sterling Technologies, Inc. – Morrisville
- Summit Landworks, LLC – Shelburne
- Teacher’s Tree Service, Inc. – Charlotte
- Voice Over Vermont – Shelburne

## **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Commissioner MacKay**

- **Mutual of America: Community Partnership Award Ceremony:** Noelle attended an award ceremony where Champlain Housing Trust’s Harbor Place was one of ten finalists for the 2015 Community Partnership Award from Mutual of America. Harbor Place is a 59-room motel in Shelburne purchased and provide on-site support services to provide emergency shelter for those that are homeless. Partners also included in the award included the VT Department for Children and Families, Safe Harbor Health Care/Community Health Center of Burlington, UVM Medical Center, United Way of Chittenden County, Fanny Allen Foundation, VHC VT Community Loan Fund, Howard Center, Women Helping Battered Women, and CVOEO. CHT’s Executive Director, Brenda Torpy, said it all when she said that partnership is tough and it is not just during this time when we are all being recognized, but the times we don’t agree and keep working together so that we can make difficult things possible and make a difference in people’s lives. Great to see such a wonderful organization receiving national recognition.

### **Deputy Commissioner Hanford**

- **Elm Place:** Spoke at the ground breaking event for this affordable senior housing project in Milton. The Agency provided a \$554,000 VCDP grant, which helped leverage an additional \$8M in other resources, to support this first of its kind “Passive House” project in VT. Cathedral Square plans to finish construction of the 30-unit senior affordable apartment complex by next spring.
- **City Center Senior Housing:** Held discussions with staff from the City of South Burlington and Cathedral Square as VCDP staff review the \$590,000 grant request to build 35 new units of affordable senior housing in South Burlington. The project was not awarded Low Income Housing Tax Credits (LIHTC) by VHFA and will not be able to move forward until the next round of LIHTC are available in spring 2017. With 17 projects seeking over \$6.5M from the available \$3M in CDBG funding on June 9<sup>th</sup>, it makes sense to encourage projects that cannot move forward to consider withdrawing their application until a later date.
- **Richmond Creamery:** In good faith and in an attempt to salvage the brownfield clean-up grants that had been awarded to the Town & Buttermilk, Buttermilk has offered to purchase the property back from the Senior Center Group for their increased price of \$125,000, \$15,000 more than Buttermilk’s original Purchase Option Agreement they had with the former owner when the Senior Center Group purchased the property. Negotiations between Buttermilk and the Senior Group continue as no resolution was reached as of this week’s select board meeting.

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

### **Partner and General Report**

- **Vermont Planners Association (VPA) Awards:** John attended the VPA Awards ceremony at the State House, where municipal planning grant awardees, the Town of Waitsfield and Town of Essex, were respectively awarded project and plan of the year. ANR Secretary Markowitz presented Brian Shupe, Executive Director of the Vermont Natural Resources Council, with an award celebrating his acceptance to the College of Fellows of the American Institute of Certified Planners. This is the highest level of professional recognition for planners and Brian is the second Vermonter to receive this award. The outstanding quality of the nomination (prepared by John and endorsed by Noelle and Governor Shumlin) was recognized by the selection committee and will serve as a model for future nominations.
- **Strong Communities Quarterly Newsletter:** We had almost 600 initial ‘opens’ and received positive feedback on the spring edition of the newsletter. Top links clicked included the VTrans bike/ped Program, MPG survey, barn grants and the V-DAT article. Thanks to all who submitted news items by the deadline.

### **State Designation Program Report**

- **Cabot:** Gary met with town officials and members of the Cabot Community Association to discuss a plan to bring more people and vitality to the village. It was noted that Cabot Creamery brings thousands of visitors to their plant and retail store each year and suggestions were made to improve the pedestrian connection between the store and the village. With help from VTrans bike/ped grants, an existing streetscape design plan could be implemented in phases. Gary also suggested applying for a Municipal Planning Grant to advance top goals identified in both the town plan and the 2012 ‘Community Visit’ report by the Vermont Council on Rural Development.
- **Newport:** Gary met with the Newport City Renaissance Corporation (NCRC) board to provide guidance on hiring a new executive director and to keep the vibe positive in Newport in the wake of disappointing news about the future of the Renaissance Block. Gary encouraged NCRC to work closely with the City as they develop a plan of action and collaborate with NVDA, Northern Community Investment Corporation, local businesses, nonprofit groups, and ACCD to support implementation.

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

- **Preservation Month:** May is National Historic Preservation Month—it’s also National Strawberry Month but that’s a different story. Please take an opportunity to shine some spring sunlight on all of your favorite and special places in Vermont that matter. When traveling about this month, please take pictures of the places that matter to you and share them with us in the Division for Historic Preservation. Get your bright orange “This Place Matters” sign from us or download it here: [https://savingplaces.org/this-place-matters#.Vyi8\\_ajD85s](https://savingplaces.org/this-place-matters#.Vyi8_ajD85s) Contest to see which Department has the most submittals!



- **Vermont Story Lab:** Laura and Caitlin attended the first annual Vermont Story Lab. The event brought together a very diverse group of nonprofit organizations and state agencies for idea sharing and strategies for shaping powerful narratives that serve our missions. The sharing of ideas for promotion, marketing, storytelling, collaboration, and engaging others was very useful for staff of VDHP, which relies on the public to help guide the preservation movement in Vermont.

#### **State Architectural Historian**

- **Bennington:** Devin spent several hours walking two residential neighborhoods immediately south of downtown Bennington. As a result of two possible Act 250 permit violations in the neighborhoods, DHP has been asked to identify supplemental environmental projects in the area. One thought is to use the funds to hire a consultant to research and write a National Register nomination for each neighborhood, documenting the patterns of developmental and architectural significance of the houses. Based on Devin’s preliminary assessment, the neighborhoods appear to be eligible for the National Register of Historic Places.
- **Lareau Farm, Waitsfield:** Devin met onsite with historic preservation consultant Scott Newman to review the eligibility of the Lareau Farm for the National Register of Historic Places. Listing is a requirement of applying for federal tax credits to rehabilitate the barn, and after touring the property Devin and Scott reached consensus that it is eligible for the National Register and he should proceed with preparing the nomination materials.

#### **Project Review**

- Thursday, Scott and Elizabeth attended a kick off meeting for the rehabilitation of the Sweet Pond Dam in Guilford. The project involves modifications to the existing 1928 dam and recreational improvements to the park. Scott and Elizabeth will visit the dam to identify possible areas of sensitivity for the historic resources.

#### **Historic Sites Section Chief and State-Owned Historic Sites**

- On Thursday, April 28, Tracy and Jamie spent the day at the Justin Morrill State Historic Site with Joe Aja of BGS and two engineers from EMG. The EMG team was on site to conduct building assessments of the historic house, barns and outbuildings that comprise the Morrill farmstead. From basements and crawlspaces to lofts and attics, all eight historic structures on the property were thoroughly examined. The resulting report should be a great help in planning for major maintenance and restoration projects and, perhaps more importantly, may improve our approach to cyclical maintenance at the site in years to come.
- **Bennington Battle Monument:** Week two – a lot colder and more rain than sunshine, even a hint of snow, resulting in fewer visitors but almost twice as many youth tickets than last season. The lawn is very green but very long; DOC will need a break in the rain before they can cut it. The new elevator is running smoothly, a few things need to be worked out with buzzers and a heater but it is operating very nicely. Visitors came from France, the Netherlands, the Philippines and Germany, New York and Vermont; one small school group and several reporters from the local newspapers. We are getting a lot of inquiries about our 125<sup>th</sup> celebration this season, August 20<sup>th</sup>, save the date.
- **Coolidge Site:** Final edits and rewrites for the presidential gifts exhibit have been sent to Chuck Gibson Design. The Forbes Library in Northampton, MA, confirmed they will loan several beautiful Native American objects that were given to President Coolidge during the 1927 Summer White House in South Dakota.
  - We had the excellent news that Caravan Tours will be sending their motor coaches again this season: 84 – a record!
  - The “American Ride” filming on April 28 went very well. This BYUtv history show, designed mostly for high school students, has 60 million viewers. The program tours the United States, visiting the homes of the Founding Fathers, presidents, etc. The 12-person crew arrived at 10:00 with a big bus and two support vehicles (including one to haul the Harley Davidson that’s featured on the show.) They stayed nearly four hours. Bill was both on and off camera most of that time, working with the show’s star, Stan Ellsworth. The program will air in May 2017. It was a fun and worthwhile day, to say the least!



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

- **Triangle Court MHP:** Vermont gained its 11<sup>th</sup> resident owned mobile home park with the sale of Triangle Court MHP in Brandon to the Triangle Cooperative, Inc. on April 18, 2016. The sale of the 12-lot park off Route 7 resulted in a lot rent decrease from \$383 to \$370 per month. For the time being, the board and CDI plan to manage the park together rather than hire outside management.
- **“Trailer Park” Ordinance Issues:** Unfortunately, a few municipalities in Vermont continue to try to charge license fees for mobile homes parks, despite the State law abolishing this kind of local ordinance in 2008, and repealing any existing licensing ordinance in 2010. The mobile home park managers at VSHA contacted DHCD with concerns after being asked to pay license fees to the Village of Swanton and Town of Dummerston. Arthur again confirmed that these ordinances are no longer allowed, and asked the Vermont League of Cities and Towns to please educate their municipalities of this fact.
- **Lot Rent Increases:** Twelve mobile home parks issued lot rent increases for July 1. Five of the increases exceed the 3% mediation threshold. The new owner of the MHP in West Fairlee announced a \$100 / 40% increase but

this did not result in a request for mediation by the deadline. CVOEO was contacted by residents interested in disputing a \$25 increase at the MHP in Barton, which the park owner indicated is entirely due to increased water costs over which he has no control.

- The Fair Housing Committee met this week. Shaun facilitated a discussion about the new Assessment of Fair Housing Tool, which HUD has previewed and is awaiting comment on. This Tool will replace the existing fair housing analysis that is required for the Consolidated Plan. The Department, and Fair Housing Committee members, have significant concerns about the proposed Tool as it is requiring an analysis of a number of sectors beyond housing and at an incredible level of detail. HUD has estimated this process will take 1,500 hours (1 FTE for 37 weeks), which is likely an underestimation. Comments are being compiled to be sent to HUD.

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

##### **CDBG-Disaster Work**

- **City of Barre:** Since the grant agreement for the City's \$1.3 million Implementation Grant to redevelop Enterprise Alley (cleaning up the highly contaminated former Howe Dry Cleaners site and doing flood remediation work) has been executed, written guidance was provided to the City in meeting the Special Conditions. The work is essentially done, other than continued testing for the contaminants, so a requisition is expected in the very near future. This is especially important since the grant is scheduled to close as of June 30, 2016.

##### **Regular VCDP**

##### **Applications**

- **City of South Burlington:** Josh and Claire spoke to Cathedral Square, City of South Burlington, VHFA, and VHCB regarding the City Center Senior Housing project application. They submitted a \$590,000 VCDP application intending to be on the June CD Board Meeting agenda. The project timeline and readiness was discussed since the project was not awarded 9% in tax credits and VHCB is not recommending funding at their May 11<sup>th</sup> Board Meeting, only HOME funding. The applicant team is going to discuss this further and decide on whether to withdraw their application at the June Board Meeting and apply in the Fall or continue with their application.

##### **Existing Grants**

- **Town of Milton:** Cathedral Square Corporation held a groundbreaking ceremony for the Elm Place Senior Housing project on Monday. The project was awarded \$560,000 in VCDP funds with an overall budget of \$8.5 million. The project will be centrally located in the area delineated as the future downtown and will provide 30 one-bedroom affordable units for seniors. It will be the first multifamily building in Vermont certified to Passive House standards. Passive House is the world's highest building efficiency standard and uses features like super insulation and high-performance windows and doors to dramatically cut energy consumption. Elm Place residents will benefit from Support And Services at Home (SASH) care coordination which supports aging in place.



##### **Potential Applications**

- **Town of Brattleboro:** Nathan provided programmatic information to staff at Westgate Housing, Inc. a tenant-led non-profit organization that operates a 98-unit affordable housing complex in Brattleboro. The organization is seeking information on a VCDP Planning Grant application to help with their re-organization efforts. The property has been maintained as quality affordable housing since it was built in 1971 by a private contractor who partnered with HUD. The organization is currently owned by a partnership between Housing Vermont and Westgate Housing Inc., (WHI) and WHI is interested in reorganizing the partnership. This reorganization would see Housing Vermont removed from the partnership and Windham & Windsor Housing Trust added.

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

### **Activities and Accomplishments**

#### **ITS**

- Attended I95CC TISPTC meeting.
- Attended I95CC Connected and Autonomous Vehicles Committee meeting.
- Kicked off discussions with eX<sup>2</sup> and several broadband and telecommunications providers for interest in public/private partnership to build fiber and ITS infrastructure along I89 and I91.
- Monitored launch of new 511 website.

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

- Attend meeting with Derby Port Reconstruction team to discuss ITS needs.
- Attend Statewide ITS Architecture update kickoff meeting with Cambridge Systematics.
- Present ATMS-511 System overview to CCRPC TAC.
- Attend PSBN Commission meeting.
- Continue discussions with eX<sup>2</sup> and private sector entities for public/private partnership.
- Finalize MATS AID with input from FHWA.

#### **Obstacles and Opportunities**

- none





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

For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
[Banking] 888-568-4547

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: May 6, 2016**  
**Re: Weekly Report**

*Susan L. Donegan*

**Insurance Division:**

To date, 342 Vermonters have received almost \$7.6 million dollars from settlements with 20 major insurance companies stemming from a multi-state investigation (including DFR) into the use of the Social Security Administration's death master file. For many years, life insurers have used the death master file to stop annuity payments to policyholders who have died but until recently had not been using the list to notify beneficiaries of benefits due them from life insurance policies. The settlement requires companies to regularly check the death master file for its life insurance policyholders who have died and then must make efforts to locate beneficiaries and pay claims. If a beneficiary cannot be located within one year, companies will report the funds as unclaimed property to the appropriate state. Between 2012 and March 2016, almost \$6 billion in unpaid benefits have been claimed nationwide. In the fourth quarter of 2015 alone, 13 Vermonters received a total of just over \$1.1 million. The examination was coordinated by the National Association of Insurance Commissioners (NAIC) Investigations of Life and Annuity Claims Settlement Practices Task Force, which was formed in 2011.

**Securities Division:**

Three Vermont companies have met the regulatory requirements necessary to raise capital through the Vermont Small Business Offering, which was enacted in July 2015. The New England Food and Travel Network of Barre is an online television network that airs cooking and travel programs. Sap!, which produces non-alcoholic beverages made from pure maple sap, is a family owned business located in Underhill that promotes an alternative to sugar-based sodas. And the Morrisville Co-op will today begin to raise capital to open a food co-op store in Morrisville. Several other Vermont businesses are working with Christopher Smith, director of capital markets, to obtain information about the process and requirements of VSBO.





**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: May 6, 2016

Subject: Weekly Report

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**Governor Level Issues:**

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

**Legislation** – All up in the air as of this writing. Seems like we reached a compromise on Public Advocacy. Darren handling S.230. Telecom bill pieces perhaps being incorporated in other legislation but seems clear Senate will not support VUSF increase.

**VY** - To express my disappointment in the decision we reached on today is an undersatatement. This is a prime example where legal opinion about protecting against the worst possible outcome generates fear and cowardice in actually getting things done. It is why I did not become a lawyer. I am distressed that we did not find a way to go forward with the deal even if we'd have to assume some risk about the Department position relative to a transfer of the CPG for Entergy – a risk I felt was manageable and that if we needed to oppose the transaction we could. Nevertheless, I am expecting Entergy will return with a new Governor and a new Attorney General to try again. The good news is, we were nimble enough to get bill-back authority included for VDEMHS, which with the ANR and DOH bill-back, significantly undermines the down-side of not proceeding at this time.

**Net Metering Rulemaking – No Docket** – Public Hearings were held on May 4 and 5 with comments due on May 12. Turn-out at the hearings was strong and general support for ongoing solar deployment was expressed. Many commenters focused on REC's and characterized the current draft of the Board Rule as penalizing Vermonters who wish to retain the REC's produced by their projects. Department staff met to discuss general items to comment on and to divide up responsibility for comments. Comments will be prepared for submission early next week.

**Meetings/Calls this Week:**

May 02– Meeting with Darren Springer, Discussion on Wind with Pat McDonald  
May 03 – VY meeting, GMP Vegetation meeting  
May 04 – Hydro Power Working Group  
May 05 –  
May 06 –

**Meetings next Week:**

May 09–Multi-Family Housing @ VT College; HQUS Pre-meeting call  
May 10 – VGS Financial Matters meeting, HQ meeting,  
May 11 – NECA Panel discussion,  
May 12 –  
May 13 –

**Media:** Times Argus on NRC Ruling that Entergy should not have taken money out of DTF for spent fuel before approval. ORCA and Pat MacDonald on CEP and Wind.

**Public Official Contacts:** Commissioner met with almost all members of the Senate Finance Committee to address the Public Advocacy proposal they had – think we successfully sidelined their proposal.

***PERD***

**EEU Related Public Service Board Dockets**

- Docket 8486: VEIC RUS EECLP: The Board issued an order on 4/22/16 satisfying certain loan conditions including but not limited to, the incurrence of indebtedness in an amount of up to \$46 million by VEIC in connection with the EECLP is consistent with the general good to the state, VEIC, operating as EVT, is authorized to participate in the program subject to the Board's review of the loan documents and to enter into and execute loan documents, VEIC's implementation of the EECLP will be subject to the continuing jurisdiction of the Board, enter into deposit account control agreements with RUS including loan loss reserve and debt service reserve accounts and not associated with any State of Vermont accounts, VEIC rights for reimbursement of loans made that are past due by the Fiscal Agent without the need for any other proceedings, VEIC entitlement to cost recovery procedures until the loan is repaid in full, fourth year operational budgets as part of the DRP planning process updated every three years

available as loan collateral until the loan is repaid in full, loan program to have no effect to non-VEIC collection held in the Electric Efficiency Fund, no authorization of interest in any account or fund held by the State of Vermont, and the actions authorized in the Order are subject to the Board's review and approval of loan documents related to the RUS Loan as well as an updated plan setting forth the proposed use of the loan proceeds and revised projections of costs and expenses related to VEIC's participation in the EECLP, including estimated cash requirements, start-up costs, ongoing expenses, bad debt costs, and projected impacts on Efficiency Vermont's budgets and operations.

#### Heat Saver Loan Program

- 4/29/16: Convened first evaluation meeting including key partners: VSECU, Opportunities Credit Union, Efficiency Vermont, Energy Futures Group and some representatives from the Efficiency Excellence Network. Prepared preliminary program data for review.
- Gathered initial input on elements of the Heat Saver Loan program and recommendations for moving forward. Staff will continue to work with participants over the next three months to consolidate input and report on the outcomes of the pilot. Based on the initial success with the program, the participants offered unanimous support for continuing the effort into the future.

#### Clean Energy Development Fund

- Discussed the old Business Solar Tax Credit with Tax Department Staff. They continue to have citizens applying for this tax credit that expired in 2010. I spoke with staff about getting rid of the Business Solar Tax Credit line on the Tax form. They had not realized that now that the 5 year carry-forward was over they could remove that line from the form. Making this change will help to reduce the confusion between the old business solar tax credit and the current investment tax credit (which includes solar). It will also hopefully be the final nail in the Business Solar Tax Credit's coffin, which will be cause for celebration for the CEDF Fund Manager.

### ***Regional***

#### Hydro Working Group

- The legislature is poised to pass a bill that would create a working group to:  
(1) Review and study the principal policy, economic, environmental, and engineering issues involved in a purchase of the dam facilities, including: (A) the administrative and structural options for the ownership of the dam facilities and the sale and distribution of their power output, including ownership through the creation of a limited purpose State public power authority, the Vermont Public Power Supply Authority, by one or more Vermont utilities, or by a public-private partnership; and (B) the alternatives for disposition of the power output of the dam facilities, including wholesale and retail sales within and outside the State and use of the power within a portfolio to support advanced and renewable energy technologies, and the impacts of these alternatives on the credit-

worthiness of the State and the ability of Vermont utilities to access investment capital on reasonable commercial terms.

(2) Prepare recommendations on the purchase of the dam facilities.

- ANR prepared a report on the potential outcome of the relicensing process for the Wilder (36.6 MW), Bellows Falls (40.8 MW) and Vernon (32.4 MW) dams. ANR and its counterpart in New Hampshire are both issuing 401 Water Quality Certifications and reviewing impacts to state-listed species.
- These dams currently have the ability to operate as peaking units; however, ANR anticipates that the new 401 Water Quality Certificate will require less impoundment and the operation of these rivers more similar to run of river than peaking units. In addition, depending on the results of environmental studies currently underway, the fish passage facilities may need to be modified. ANR notified the working group that it should anticipate that there will be a reduction of up to 30% in revenue as a result of the relicensing process. It's not clear whether the change in hydro operations away from peaking would reduce the overall MWhs produced by the facilities or simply change the timing of the output.

## ***Engineering***

### **New Pilot Drilling Shows Tritium Concentration**

In locating additional sealant injection points, two new pilot well holes (named TB-08 and TB-09) have been drilled in the VY Turbine Building. These new holes are located between the Condenser Sump Pit walls and the previously drilled TB-05 pilot hole. Initial water sampling from TB-08 showed tritium measured at a similar concentration observed at the TB-05 pilot hole in mid-February. Due to the proximity of TB-05 to TB-08, this latest detection is likely part of the same tritium contamination reported in mid-February. Reductions in the tritium concentrations have been seen in follow-up samplings made at both locations.

### **Vermont Gas Systems Addison Transmission Pipeline Project Construction**

Contractors continue to clear the project ROW between Williston and New Haven. Approximately 90% of tree and vegetation removal is complete. Approximately 75% of exploratory probing for rock and the subsequent rock blasting and crushing (when needed) has been completed. Representatives from contracting companies which will perform main line construction, inspection services and other project activities met with VGS representatives to plan project management required when construction is initiated later this month or early June. Several primary categories of project management require assignments of responsibility, reporting structure and program completion, including documentation control, qualifications of individuals and project quality control. The Gas Engineer and Gas Inspector continued to review material specifications, testing data and company plans for compliance with gas safety regulations and PSB Certificate of Public Good requirements.

## ***Finance and Economic***

### **Electric**

GMP: Innovation Service, Off Grid – GMP presented a proposal for an innovative service program that would provide off grid system management. GMP presented the service as an



opportunity/option for their customers who do not want to be served energy in the traditional way and want to become energy independent in a way that does not put the entire burden on them to manage the technology and process. Cost of the program would be recovered through electric rates. Staff requested supporting economic data.

### ***Public Advocacy***

VGS Rate and Alt Reg Filings – Docket Nos. 8710 & 8698 – On April 19, Vermont Gas filed a request for an accounting order and indicated that it would support the Department’s proposed schedule if the accounting order is approved. The accounting order would allow Vermont Gas to record the difference between whatever the authorized rate increase granted is on Feb 2, 2017, as if it were retroactive to Nov 2, 2016. The Department opposed the request with an April 25 filing. On April 26, Vermont Gas met with Department staff to provide an update on construction of Phase I. The meeting was informative insofar as Vermont Gas characterized a November in-service date, which its rate request is based on, as a “goal” rather than a firm expectation. This is important as it indicates that Vermont Gas’s expectations re timing of project completion are likely slipping.

On April 25, DPS served a 3<sup>rd</sup> round of discovery in the rate case. On April 26, Vermont Gas responded to the first round of discovery on the alt reg case. This week, the Department is working with the parties to establish a time in mid to late May for a public hearing.

GMP Base Rates Filing – No Docket – GMP has submitted its list of proposed capital additions for the 2017 Base Rates filing to the Department’s rate consultant. An initial review demonstrates that the proposed additions are increased from last year by about \$40 million. Our consultant has highlighted projects for in depth review and an on-site visit will be scheduled this week for later in May. Of note, GMP appears to have included \$3.5 million for a distribution danger tree program, which sounds very much like the program that the Company’s CEO indicated was not worth doing at the meeting on April 28. The company is also aware that the Department opposes the capitalization of this program (per our response to their proposal) given the under-investment the company has made in routine maintenance. So it is concerning that they would choose to begin the Base Rates proceeding by placing it as a capital addition.

Spencer-TGC Westminster, LLC 1.8 MW net-metering facility to serve Vermont Army National Guard – Docket 8699 – On May 3, 2016, the Department received a copy of a letter from the Town of Westminster expressing support for this Project, notwithstanding the Town’s strongly-worded concerns that use of the Town’s only Industrial Park will be dominated by solar projects at the expense of other commercial ventures. The Town’s letter made it clear that their support for the Project is based on the fact that the National Guard will be the sole off-taker of the electricity generated by the Project. Comments on this Project are due to be filed on May 9, 2016.

SunCSA 22, LLC 150 kW Group Net Metered Facility in New Haven – CPG #NM-6199 – On April 29, 2016, the Town of New Haven filed comments on the Hearing Officer’s Proposal for Decision of April 18. The Proposal for Decision recommended that the Board decline to issue a CPG in this case because the Applicant had failed to carry its burden to demonstrate that it has taken the generally available mitigating steps that a reasonable person would take. The Town of New Haven urged the Board to adopt the Hearing Officer’s recommendations in the Proposal for

Decision. On May 2, 2016, the Applicant filed comments on the Proposal for Decision, requesting that the Board reject the Proposal for Decision. Applicant alleged that the Hearing Officer's burden of proof analysis was in error and that the Proposal for Decision violates due process under the Constitution. Specifically, the Applicant believes that the Town needed to propose specific mitigation measures to effectively challenge the Applicant's proposed aesthetic mitigation measures, which the Town did not do; only then would the burden shift back to the Applicant to show that the Town's proposed measures are not reasonable in the circumstances. The Applicant suggests that the Proposal for Decision will have the effect of discouraging good faith settlement efforts and urged the Board to issue a CPG subject to conditions.

SunCSA 58, LLC 150 kW Group Net-Metered Facility in Addison – CPG #NM-6841 – On April 29, 2016, the Hearing Officer held a pre-hearing conference for this proceeding, which is limited to the issue of reasonable aesthetic mitigation measures. At the pre-hearing conference both the intervenors and the Applicant were represented by counsel. The Department understands that counsel for the Applicant and the Intervenors had attempted to negotiate an agreed schedule prior to attending the pre-hearing conference, but were unable to reach agreement. The intervenors and the Applicant proposed two competing schedules. The Department indicated that it could accommodate either schedule. The Hearing Officer determined that the Intervenors' schedule was reasonable and adopted that schedule. A site visit will be held on May 16.

Vermont AllSun Solar XI, LLC 500 kW Group Net-Metered Facility in Newport – CPG #NMP-7180 – This matter concerns VEC's net metering cap: the Applicant filed its CPG application after VEC met its net metering cap, but filed its 5.500 interconnection application prior to VEC reaching its net metering cap. VEC administers its net metering queue based on when an applicant files its CPG application, not the 5.500 interconnection application. VEC notified the Applicant that it would reject the application because it was filed after VEC reached its net metering cap. The Applicant challenged VEC's method of administering its net metering queue and asked the Board to determine that its application fell within VEC's net metering cap. The Department commented that VEC had established a reasonable process for administering its net metering program and that the Board should decline to issue a CPG at this time because VEC's net metering program was now closed. On May 2, 2016 the Board issued a Procedural Order finding that it is appropriate and reasonable for VEC to order its net metering queue by the date of each CPG petition, that the application should remain in VEC's net metering queue so that the Applicant can participate in the net metering program if any additional capacity becomes available in 2016, but that if no additional capacity becomes available in 2016, the application will be deemed dismissed effective December 31, 2016, without prejudice to refile.

Gilman Renewable Solar, LLC 2.1 MW Net Metered Solar Facility in Lunenburg (Gilman Landfill Solar Project) – Docket 8725 - The proposed project is a solar facility to be installed and operated on a closed and capped landfill under 30 V.S.A. § 219a(m)(2). A project under § 219a(m)(2) may only be approved if the interconnecting electric company agrees. On April 29, 2016, the Department received a copy of a letter from Michael Lazar (who works with other developers) to the Board alleging that GMP, the interconnecting utility in this case, has not agreed to this project and speculating that GMP is unlikely to grant its approval. The Department has not yet fully explored this threshold issue with the parties. A pre-hearing will be held on May 9, 2016 and the parties are currently in the process of negotiating a schedule.

GMPSolar Williamstown – Docket 8682 – Petitioner GMPSW responded to both the Department's and ANR's discovery requests. The Department is reviewing these responses. The hearing officer granted the motions to intervene filed by GMP, VDHP, the Town of Williamstown Planning Commission, and the Thygesens. The hearing officer denied Allco's intervention. Subsequently, Allco moved for the full Board to reconsider the hearing officer's decision denying Allco intervention.

GMPSolar Hartford – Docket 8580 – Petitioner filed second supplemental prefiled testimony of Kirk Shields, Mark Kane, and Rod Viens regarding distribution upgrades necessary for interconnection of the Project and updates to the site plan, and third supplemental prefiled testimony from Doug Smith regarding the estimated value of the project output. Petitioner also filed an addendum to the stipulation with ANR addressing the required distribution upgrades, as well as a Proposal For Decision. With regard to Allco's appeal to the Supreme Court (from denial of its intervention requests), the PSB Clerk certified to the Court the notice of appeal and the docket entries.

Enosburg Falls Water & Light Department Section 108 Petition (Hydro Repairs) – no docket – During the course of the Department's review of the petition's consistency with the Comprehensive Energy Plan, a number of questions arose relating to repayment of the proposed loan under the new hydrology standards that will be in place under Enosburg's renewed FERC license. Enosburg provided a response to the Department's request, and the Department will be issuing a supportive 202(f) consistency determination, pending ANR's review of the Department's draft letter.

Petition of Robert Garthwaite to Revoke CPG #NM-1771 – no docket – This case involves a complaint that the holder of the CPG, David Blittersdorf, did not construct the turbines in accordance with the CPG application. On April 15<sup>th</sup> the Board issued a memo requesting Mr. Blittersdorf's response by April 29<sup>th</sup>, and comments from the Department on May 6<sup>th</sup>. On April 28<sup>th</sup>, counsel to Mr. Blittersdorf filed a Motion to Dismiss the petition on the basis that Mr. Blittersdorf was not properly served a copy of the filing as required by the VRCP and Board Rules. The Department will be filing a letter on May 6<sup>th</sup> indicating it is unable to provide comments at this time given Mr. Blittersdorf has not provided a substantive response to the allegations, but recommending that the Board open an investigation irrespective of its disposition of Mr. Blittersdorf's Motion to Dismiss.

Irasburg/Blittersdorf MET Tower Investigation – Docket 8585 – The Department provided feedback on Blittersdorf's proposed stipulation, stripping it of superfluous finding and recitals. The Department continues to mull over whether the proposed \$2000 scholarship payment to a VTC student is an appropriate remedial action in lieu of a penalty payment under 30 V.S.A. § 30. The Department and Blittersdorf anticipate discussing the markup by the end of the week before circulating the proposed stipulation to the other parties in the proceeding. A stipulation deadline is set for early June.

Kingdom Community Wind – Docket 7628 – The Department has received a request from GMP for all raw data used in developing the Acentech May 2015 continuous monitoring summary

report. The Department is working with Acentech to determine the scope of the data in Acentech's possession and the best way to present and transmit the data. If the data is provided to GMP it should be available to all parties to the docket.

GMCW/McLane Icing Complaint – No Docket – GMCW has approached the Department about the possibility of entering into discussions between GMCW, the Department, and the McLanes in an effort to identify the McLanes' concerns related to turbine operation during icing conditions and possible modification of the winter operation protocol to satisfy those concerns. The Department has tentatively agreed to approach the McLanes to gauge their interest. The Board is currently reviewing initial filings made by the GMCW and the Department (which has recommended opening a penalty investigation) but has not issued any kind of order in response.

### ***Telecommunications***

FairPoint Presentation in Canaan – FairPoint gave a presentation to the Canaan Broadband Committee about its service throughout town. FairPoint presented address level data to the town, which showed that the village area and most of Beecher Falls are covered with very good DSL service. Two neighborhoods are not served by FairPoint: Wallace Pond and Canaan Hill. Other providers serve Canaan as well, but all of those providers cover the village area. The village is served by FairPoint, a cable company, Great Auk Wireless, and now VTel. None of these providers bring service to Wallace Pond or Canaan Hill. FairPoint stated at the meeting that a CAF II funded project in Wallace Pond was in the design phase but that it would require a significant fiber build along Route 114. Department staff chimed in that the Department has fiber along that route which is available for lease. FairPoint Vermont's president quickly countered that her company likely has fiber there and that it was not yet entered into FairPoint's system. The Department's fiber could be used to serve Wallace Pond. There is no plan in place to address locations on Canaan Hill, and residents report that VTel techs have been to locations at Wallace Pond and Canaan Hill and could not get a signal. Once the Department verifies from VTel that Canaan Hill is not served (or the Department receives no response from VTel), locations on Canaan Hill should be added on to the list of eligible addresses. Division staff can point on a map where these locations are located.

Cavendish Meeting – Staff met with the Cavendish broadband committee to discuss grant proposals and underserved addresses. The town has 134 locations that are not served by TDS and which may or may not be served by VTel. Some of these locations are likely eligible for VTel service but the Department has no data on which ones are and are not serviceable by the company. TDS is not applying for state high cost money.

NHOS Interconnect – Staff worked through an implementation plan with the state's contractor and VEC to connect New Hampshire Optical to the state's fiber network. Department staff is also working on an interconnection project with AoT which should be finalized early next week.

ECFiber Ride-out – Staff has scheduled a ride out of the OCFC-West with ECFiber crews on Friday to view the fiber project and discuss ongoing issues with other projects, such as the "Central Greens" project.

Comcast CPG Renewal (Docket 8301) – Comcast served responses to the second round of discovery from the Department and VAN on April 26. Comcast objected to most discovery requests on the grounds that issues that VAN and the Department are pushing are outside the scope of the Board’s CPG renewal process or are preempted by federal law. The Department’s rebuttal testimony is due by May 11, 2016.

Burlington Telecom CPG Renewal (Docket 8719) – The Board held a prehearing conference for the docket on April 27. CAPI division staff also held a community needs assessment focus group meeting on the 27<sup>th</sup>. The parties presented a stipulated proposed schedule to the Board, which contemplates that the Department will serve its first round of discovery in mid-June and its prefiled testimony in mid-July. The proposed date and location for a public hearing are May 27 at the Burlington City Hall building. Technical hearings will be held in late September, if necessary.

VTel Cabot § 248a Petition (Docket 8549) – The Board has requested that the Department and VTel respond to comments filed by the Town of Cabot in response to the hearing officer’s proposal for decision. The Town has renewed evidentiary objections that it made during the technical hearing that challenged the competency of VTel’s expert witness on several technical criteria. The Town has also requested that the Board include several additional conditions that relate to vegetative screening and setbacks that go beyond what was required by the hearing officer in the PFD. The Department is reviewing the Town comments and will file a response by Thursday, May 5.

Broadband analysis – Analysis of data from broadband service providers indicates that 77.6% of Vermont building locations are served at 4/1 or better while 70.8% are served at 25/3 or better. There are 68,375 locations that potentially lack access to broadband at 4/1. This analysis includes locations that are affirmatively reported as served by specific providers. Most of the other locations are served by FairPoint at lower speeds, and many are served at 4/1 or better but FairPoint is not able to identify locations served at 4/1.

Broadband census blocks – About ½ of the building locations in the state are in about ¾ of the town-center census blocks where all locations are served at 4/1 or better. The other ½ of Vermont building locations are in the remaining ¼ of census blocks that are partially served at 4/1. About ½ of the 68,375 locations that lack access at 4/1 are in the VTel ARRA territory, and about ½ are in the FairPoint CAF II territory. These territories substantially overlap but about ¼ of the locations lacking 4/1 (about 18,000) are in neither territory.

Carrier letters: Staff drafted a letter to VTel asking for verification of addresses in Canaan which are served in ARRA funded territory. Connectivity staff has heard from six households in town that have had VTel technicians visit and which have been informed that service is unavailable to their location. Staff provided a list of the E911 locations in Canaan, to assist with compliance of the request. The group seeks verification of the noted addresses, in addition to the complete town address bank.

VUSF – Staff prepared an updated FY2016 spreadsheet for VUSF to provide to Senate Finance committee. Revised FY2016 budget projection reflects a negative ending balance at June 30,



2015 if \$425,000 is taken out of the fund for PSAP transition costs per FY17 Big Bill H.875 (still in conference committee). Staff also worked with fiscal agent Solix to create a template for monthly statement of VUSF performance that more accurately reflects actual funds available after the FY15 and FY16 designations for use by Connectivity Fund per 30 VSA 7516 have been deducted (\$3,067,365). The March 2016 statement of VUSF fund performance is reflective of the new template, and has been uploaded to the Department's website. Finally, staff created a monthly Connectivity Fund template that will show aggregate funds available, as well as funds available as split between the Connectivity Initiative and the High Cost Fund. Solix reviewed the draft template and replied that it was fine, offering no recommended revisions.

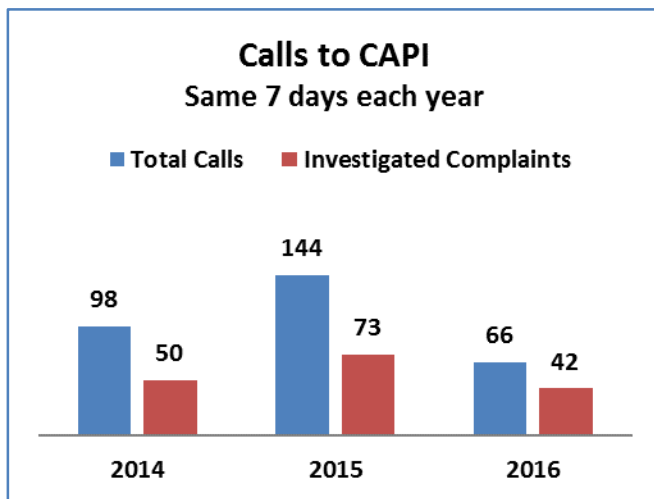
Annual Report –Stone Environmental has completed the mapping of broadband availability at speeds 4/1, 25/3 and 100/100 and staff is working on incorporating the results into the annual report to the legislature.

### ***CAPI***

*Report period for Sunday, April 24 to Saturday, April 30, 2016*

Communications planning – CAPI has now met 3 times to plan its communications activities for the next year. We look forward to a work plan with specifics within the next two weeks.

Lifeline – ESD has assigned working with TracFone to a new employee who is taking initiative in communicating with the company to establish procedures for applications. QLink reports about 300 applications still pending at ESD, although some are more recent than the original backlog. The FCC released its order last week about changes to the Lifeline program. We participated in the joint USAC (Universal Service Administrative Company)/APHSA (American Public Human Services Association) webinar on “The Lifeline Program Impact on State Social Services Agencies” to learn more about the changes to the Lifeline program that will now include a discount for broadband services (with a gradual phase-out of a phone-only discount. One of the major changes is that eligibility for the federal School Lunch Program, LIHEAP (Low Income Home Energy Assistance Program) and TANF (Temporary Assistance for Needy Families) programs to qualify a consumer for Lifeline will be discontinued, primarily because the number of consumers whose Lifeline eligibility is determined through these programs is very low. Other issues discussed included: 90% of Lifeline subscribers currently choose wireless for their phone benefit, 38% of Lifeline subscribers qualify through SNAP (Supplemental Nutrition Assistance Program) called 3Squares in Vermont, 38% of Lifeline subscribers qualify through Medicaid, 3% of Lifeline subscribers qualify through income verification and in some states that don't have a verification process, SNAP has made



their data available to carriers to facilitate consumer eligibility.

#### CASE OF THE WEEK

**Washington Electric** -- A consumer contacted CAPI for assistance straightening out his billing from WEC. The consumer is a net-metered customer and has concerns about being billed a “grid service fee” for generation that is used before it hits the meter, along with generation that is pushed back into the grid. Additionally, the consumer said that he found out that WEC has overbilled him at least once since his system went online in August 2015. Because of this, WEC has been hand-calculating his bills and resending them to the consumer. The consumer is part of a group system, which he believes is complicating the issue. The consumer said he has been reviewing his bills online and comparing them with the paper bills WEC is sending and has found discrepancies. He’s concerned that WEC has been overbilling all along. According to the consumer it’s not clear how WEC will resolve the problem of having to hand-calculate his bills each month. CAPI has asked the consumer to provide a copy of some of the bills to review prior to contacting WEC.

#### POST CPG WIND COMPLAINTS

We received an email that had been cc’d to PA from a consumer who reached out to Rep. Tony Klein about Sheffield Wind and how S.230 doesn’t address the problems experienced by residents who live near existing wind projects. We recorded a separate complaint as an objection in our database about wind sound levels.

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary, Agency of Human Services  
**Re:** AHS Weekly Report  
**Date:** May 6, 2016

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**Secretary's Message:**

On Monday this week, I was happy to welcome the cast of the one-act play "Baggage" to the Sally Fox Conference Center in the Waterbury State Office Complex. "Baggage" is a collection of stories of VT foster care kids written by VT playwright Mary Beth McNulty with contributions from members of the cast, students from U32 High School. I had seen this play performed at a Vermont high school drama competition in St. Johnsbury and found it to be a moving piece that looked at our foster care system from the eyes of the children who have experienced it. The cast did an incredible job and the conference center was standing room only. U32 may film the performance and, if they do, I look forward to being able to share it with the entire Agency.

On May 2, U.S. District Judge Landya McCafferty (District of New Hampshire) issued a memorandum order denying a motion to dismiss that had been filed by the Vermont Agency of Human Services, and by our federal partners at HHS and CMMS, seeking an early pre-discovery dismissal of the law suit filed last year by Dartmouth-Hitchcock Memorial Hospital. In a federal complaint filed last fall, Dartmouth-Hitchcock complained that Vermont had unlawfully discriminated against it by, among other things, paying Dartmouth-Hitchcock reduced discriminatory hospital reimbursement rates for the treatment of Vermont Medicaid beneficiaries. Dartmouth-Hitchcock complained variously that not only were Vermont hospitals paid higher hospital patient rates for the treatment of Vermont Medicaid beneficiaries, but that Vermont had improperly refused to pay Dartmouth-Hitchcock certain Medicaid "DSH" payments that had been made to Vermont facilities and by favoring the University of Vermont Medical Center by funding physician training.

The motion to dismiss challenged the legal theories underlying the Dartmouth-Hitchcock complaint, and did not request a final adjudication based on the facts that led to the legal dispute. In rejecting the arguments made by the Agency of Human Services and by our federal partners who were also named as defendants, the district court made clear that the parties could revisit these arguments after the parties had opportunity to develop a factual record through pretrial discovery. Still, the 38-page memorandum issued by the court discussed in some detail the factual and legal underpinnings of the controversy and bears a close reading and analysis. The Attorney General's Office is now preparing a formal legal "answer" to the complaint. A pretrial conference will be held before Judge McCafferty on May 23 in Concord, New Hampshire. At that time a scheduling order will issue governing the timetable for conducting discovery and for the filing of "summary judgment" motions by which the legal and factual defenses will again be tested.

AHS received a letter from the Office of the State Auditor stating that they will be conducting an audit of eligibility and enrollment related to the MAGI Medicaid program. It appears that the audit will relate to the process of for enrolling applicants and establishing eligibility. However, they were clear in their letter that in the course of their audit the objective may change based on the information gathered during the planning phase of the audit. They are requesting a significant amount of documentation prior to the start of the audit that includes, reports that were generated as part of the work around

process as well as all AHS, AOA and Chief of Health Care Reform correspondences to a list of CMS individuals that they identified in their letter.

As you know, AHS is deeply committed to suicide prevention. To that end we developed and distributed a suicide prevention protocol for all AHS staff. This protocol includes recognizing suicidal ideation among co-workers and describes appropriate interventions. It is our understanding that AHS is the first agency in state government to develop this protocol for its staff and we hope that all agencies in state government will follow.

### **AHS Highlights:**

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

##### **Vermont Health Connect**

*VHC Medicaid Renewals:* The first 9,000 VHC Medicaid Renewal (VMR) notices were mailed April 15. VHC is working through data discrepancies with its reporting partner Archetype in order to be able to provide metrics regarding VMR responses next week.

*Medicaid Billing:* Currently VHC's premium functionality is not compliant for Medicaid customers. Optum's current contract with Wex Health (formerly Benaissance) does not allow for new Wex Health development work. A new contract is currently in the internal state review process. This contract only contains the work needed to be completed by Wex Health. An additional contract mechanism will need to be put in place in order to integrate the Wex Health solution within VHC. Information related to this outstanding scope has been forwarded on to the Agency for consideration.

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

Central Vermont Substance Abuse Treatment Hub Providing "Treatment on Demand" announced it eliminated its wait list on May 4, 2016.

This effort is to be commended and represents a true partnership between the Blueprint Community Health Team, the local treatment staff and other committed partners.

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

##### **Vermont Psychiatric Care Hospital**

VPCH census is at 24. Call outs by hospital staff remain at 30% higher than usual and mandated staffing for patient coverage continues. Patient acuity and 1:1 staffing needs are also higher than previous weeks. VPCH anticipates reaching full census again shortly and considers patient acuity and 1:1 staffing needs daily with the DMH care management team.

##### **Emergency Departments**

This week saw 12 people in need of inpatient psychiatric admission and 8 were admitted. Two individuals have not been medically cleared for psychiatric admission. One individual been waiting for less than 24 hours.

One individual, a 17 ½ year old, has been waiting 14 days and has moved back and forth in medical clearance due to their medical condition and non-compliance as a means of self-harm. The individual will likely still require inpatient psychiatric care when medically cleared. UVM-MC remains unwilling to admit the individual to their adult unit and the Brattleboro Retreat continues to decline

admission given the medical management needs when the individual will not allow management of their health condition. Given that the individual is involuntary, a transfer to an out-of-state facility is not available. All other hospitals continue to decline admission. Discussions with the Retreat have outlined their regulatory concerns in providing involuntary treatment for the individual's health care needs. The DMH Commissioner has been working with Commissioner Hutt at DAIL and their Division of Licensing and Protection to offer technical assistance and regulatory guidance to the Retreat. L&P is also consulting with regional CMS for other states' experiences in managing the regulatory hurdles involved in an appropriate clinical response to this complicated medical/psychiatric scenario.

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

#### **Population:**

The Department's incarcerated population averaged 1738 for the previous week. The Department's incarcerated male population averaged 1598 for the previous week. The out of state population is currently at 236. The female population averaged 140 for the previous week.

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

#### **Recent Retiree Honored Nationally**

Jeff Cohen, Director for the Vermont Office of Child Support who recently retired on April 30, 2016 was honored at the Eastern Regional Interstate Child Support Association (ERICSA) conference in Myrtle Beach, South Carolina on May 2, 2016. Jeff received an Award of Professional Excellence.

#### **Front Porch Forum: New Foster Parent Recruitment Tool**

Front Porch Forum (FPF) has generously offered DCF Family Services Division two free three-month custom access subscriptions in order to help recruit foster parents around the state. DCF is piloting two districts through this new tool: St. Albans and Brattleboro. Postings will be vetted through central office and tracked for effectiveness. The advantages of FPF is that it is only open to Vermont residents; people post to their own community sites and are not anonymous; worker safety and community reaction has been assessed; and staff will not need to use their own names to post our recruitment ads. If this proves to be an effective recruitment tool, DCF will develop a best practice guide on its use across the state.

### **Other Agency Report Items for Consideration:**

#### **Agency of Human Services Central Office (AHS CO):**

##### **Global Commitment Waiver Renewal**

Work continues on an assessment of MCO investments at the request of CMS. As part of this assessment, the fiscal team is developing a transition plan related to potentially having to move away from using global commitment to pay for room & board within MCO investments.

##### **Brattleboro district teams continue to focus on integration of services**

The Brattleboro district Children's Integrated Services Systems Team and Integrating Family Services Core Team both explored ways to continue to improve service delivery for children and families in the district in some concrete ways. The CIS team talked about the needs of families and early educators and adjusting Early Childhood Family Mental Health services to do more preventative work. The IFS team explored the Collective Impact model as a way to move that initiative forward in the district. Members of the IFS management team also met with the local designated agency and AHS Field

Services to discuss models for moving forward in their catchment area, which includes the Brattleboro, Springfield, and Hartford districts.

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

#### **Legislative Testimony**

DVHA is responding to various legislative requests as the close of the session nears. Steven Costantino, Commissioner, testified before House Health Care on Monday regarding provider-based billing and on Tuesday regarding AHS emergency rulemaking authority.

#### **Hospital Outpatient Rates**

DVHA continues to meet with the Vermont Association of Hospitals and Health Systems (VAHHS) with the shared goal of developing a plan to eliminate clinic provider-based billing by July 1, 2016. S.245, An Act relating to notice to patients of new health care provider affiliations, now includes language prohibiting provider-based billing.

#### **All Payer Model**

On May 3, DVHA posted responses to questions from potential bidders related to DVHA's Request for Proposals (RFP) seeking Accountable Care Organization (ACO) participants in a Medicaid Next Generation model program. Bids are due June 8; a bid review team composed of DVHA Subject Matter Experts has been identified and is preparing for bid review and scoring in June. DVHA is also continuing its close partnership with HPE to define and build necessary modifications to Medicaid payment systems to support January 2017 implementation of this program.

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

#### **Infectious Diseases**

Infectious disease epidemiology is investigating two separate clusters of Salmonella infections in Vermont residents. Between the two clusters, seven Vermont residents have been sickened – all have since recovered. Investigations are underway to determine the source of the illnesses.

#### **Zika Awareness Promotion**

Zika-Prevention posters were provided to target audiences statewide in April in an effort to promote awareness for individuals who may be traveling to areas where Zika is endemic. The posters promote use of insect repellent and condoms in order to decrease the risk and infection and prevent transmission should infection occur. The posters were distributed to colleges and universities, travel health clinics and District Health Departments.

#### **Maternal and Child Health Update**

Janet Kilburn, Child Development Coordinator for the Division of Maternal and Child Health, was named as an Act Early Ambassador for the 2016-18 CDC “Learn the Signs. Act Early.” ambassador program, and she was invited to be a faculty member to the 2016 Early Childhood Comprehensive Systems Collaborative Improvement and Innovation Network Coordination Center.

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

#### **Vermont Psychiatric Care Hospital**

VPCH clinical staff hosted the community psychiatrist group this week at the hospital to further ongoing communications and collaboration with these partners. There was very positive feedback

from the community on how several recent discharges of high need individuals had transitioned well to the community services system. The group also voiced ongoing frustration with the lack of long term care supports for individuals, with varying levels of mental health needs in both psychiatric and general hospital inpatient units around the state, who required nursing home level of care.

#### Emergency Departments

The adult inpatient system of care this week was averaging 95% occupancy while the child/adolescent inpatient system of care was averaging 97% occupancy.

#### **Department of Aging and Independent Living (DAIL):**

##### South West Vermont Center for Health and Rehab Visit

DAIL and DMH visited the South West Vermont Center for Health and Rehab to meet with the Director Suzanne Anair to discuss creative uses of an empty wing in the facility to address ongoing needs for complex individuals inappropriately placed in hospitals. We continue to actively address this issue and to partner with community providers to build a system that will adequately support the needs of individuals at the appropriate level and at the appropriate cost.

#### Meeting with One Care/Fletcher Allen

The DAIL Commissioner began a quarterly meeting cycle with One Care representative Vicki Loaner this week. The meeting request was initiated by One Care and the intent of the meetings is to continue to discuss the long term care needs of the Vermont population and how to ensure that One Care can meet them appropriately.

#### DAIL and the Administration for Community Living

DAIL is working with ACL to respond to a request from the Area Agencies on Aging (AAA's) to adjust the timing of their complex funding formula from the Older American's Act. The request is unique nationally and could set a precedent for the country. DAIL is proceeding cautiously to ensure that we address any potential audit issues in advance.

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

##### K-9 Search at Northern State Correctional Facility:

Three dogs, their handlers and DOC staff searched Northern State Correctional Facility on 5/4/16. Though the dogs hit on several areas, no contraband was found.

#### High Risk Sex Offender Release:

James Bristol (DOB 11/21/1971) will be maxing out his sentence on 5/11/2016 and will no longer be under the supervision of the Department of Corrections. Bristol was in the community on supervision before picking up numerous violations of probation for drinking/risk related behavior. His probation was revoked on 11/17/2015 and he was given a 209-210 day sentence. Bristol will be residing at 80 Marble Ave, Apartment 8, Burlington. Bristol resided at this residence prior to his incarceration. Bristol will be released compliant with treatment as he was engaged in treatment in the community prior to his incarceration. Bristol will need to continue to engage in treatment in the community to remain compliant with the registry. The facility CSS will ensure that Bristol understands his registry



requirements prior to release. The residence was run through the “Bright Futures” website and there are no registered day cares in the area. CSS Laggis has spoken to Detective Chapman of CUSI and he does not believe they will not be releasing a media notification at this time.

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

#### **Federal Data Breach Contained VT Office of Child Support Information**

The Vermont Office of Child Support sends data files to the federal Office of Child Support Enforcement (OCSE) as part of a data audit annually. This is conducted by auditors located in a federal office in Olympia, Washington. Vermont sends the information via encrypted CD and then OCSE loads it onto their equipment. Several weeks ago, the federal office in Olympia was burglarized. The information submitted by Vermont was apparently on the stolen equipment. The submitted data is FFY 2014 information and does not contain any full Social Security Numbers or personal identifiable information of our clientele. What remains unknown is whether the auditors had access to data submitted in prior years. The auditors may have received Vermont data from the Boston federal regional office that pre-dates the FFY 2014 information. Vermont IT cannot confirm with certainty when Vermont stopped using SSNs as case identifiers. The federal Health and Human Services takes full responsibility for the potential breach and continues to work with law enforcement on the investigation. They will pass on any new information as it becomes available.

#### **Recent Retiree Honored Nationally**


Jeff Cohen, Director for the Vermont Office of Child Support who recently retired on April 30, 2016 was honored at the Eastern Regional Interstate Child Support Association (ERICSA) conference in Myrtle Beach, South Carolina on May 2, 2016. Jeff received an Award of Professional Excellence wherein the nomination stated:

“Jeff has been instrumental in ushering in several advancements during his 26-year tenure as director. Most noteworthy, he was a key player in the creation of Vermont’s Family Court system in 1990. Very early in his career, Jeff had the foresight to recognize that certain practices and technological advances utilized in the business world could be equally useful in the world of child support. Vermont was the first of many states to standardize and automate case management practices which has enabled staff to process more cases more swiftly. In the late 1990’s, Jeff dedicated much of his time studying, and later creating, a data warehouse designed to improve program performance. Data mining is now a routine part of Vermont’s operation. For the last 10 years, Vermont has performed and ranked well above the national average...Another business practice adopted by Jeff that has now been institutionalized at the Vermont Office of Child Support is the implementation of a robust strategic planning process that incorporates a structured format in which to measure business improvement. Under Jeff’s leadership, the Vermont Council for Quality issued several awards for excellence for organizational performance to include the United States Senate Economic Productivity Award. In June 2008, OCSE presented Jeff with the OCSE Commissioner’s Award for “Outstanding Leadership and Sustained Contributions to the Lives and Children and Families in Vermont”. Jeff has shared his knowledge of strategic planning by contributing to the National Child Support Enforcement Strategic Plan.”



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

TO: Governor Peter Shumlin   
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: May 6, 2016

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**Emerging Issues**

***PreK***

As a follow up to a previous SWR submission I made in December 2015, I denied an application for prequalified status by a prekindergarten program in Vergennes ("Ark Preschool"). Separately, I revoked approval status (granted in error) for a prekindergarten program in Rutland ("Good Shepherd Preschool"). These actions became final on February 26, 2016 and were made in consultation with the Office of the Attorney General. Both of these PreK centers are part of a Christian church and offer sectarian-based PreK instruction; Section 4 of Act 166 requires AOE to ensure compliance with the Vermont Constitution (Compelled Support Clause) and related case law in reviewing private PreK program applicants. Subsequent to the program denial (for Ark Preschool) and program approval revocation (for Good Shepherd Preschool -Rutland), both PreK centers filed separate lawsuits challenging my decision.

Assistant Attorney General Mike Duane and Assistant Attorney General Melanie Kehne are representing the State and working closely with Solicitor General Bridget Asay to defend these lawsuits. The complaint filings of both PreK centers are **attached**. The AG is presently working on an answer to each complaint.

***Compass School/Rick Gordon***

The website of this school suggests it is operating in violation of Section 504 of the Rehabilitation Act of 1973, which prohibits recipients of federal funding (like Compass School) from discriminating against an individual because of a disability. A private school that receives federal funding should not be charging any additional costs to a student with a disability. In addition, based on the Director's comments, it is possible the district has billed parents of children with IEPs for services to which they are entitled under IDEA. We have asked for demonstration of compliance. This is a little sensitive, because this individual has been a very public and active source of substantial misinformation about Act 46. He is also a board chair in Westminster, which incidentally is the source of many of the students at the Compass School.

***Independent School Rules – approval to take publicly funded students***

I have been tasked by the State Board with working on new rules for independent school approval.

They have some very specific asks. The rules are weak, and to be honest, have allowed a bit of what I can only call a “subprime” independent school market. If everyone operated like the historical Academies, we would be in great shape. The proposed changes would bring some of the subprime players a little more in line with the Academies. The Board also wants “financial transparency” for any school that depends on public dollars to operate. We (AOE) don’t need to get into the business of reading their financials—we don’t have the capacity, it would only create conflict, and we work with public sector statements not private sector financial statements. We think NEASC approval, if required, would take care of this. I am meeting with a group of school heads and the lobbyists to get preliminary input before drafting rules for the Board. There are some nuances on which we need input before putting pen to paper. For example, the SBE wants a commitment to open enrollment. We have a handful of ski academies and an independent school that serves kids who are struggling with addiction. These are somewhat unique and we need to make sure the rules accommodate some of the diversity in the independent school community, while creating some minimum standards.

### *Thank A Teacher*

The “**Thank A Teacher**” Tweet Campaign has been successful and has made a lot of impressions. Thank you for helping. One tweet (of the Sanders State Director thanking teachers at North Country) got about 300k of retweets.

### Media Contacts:

**Emilie Munson, Addison Independent:** Melissa Riegel-Garrett reached out to Emilie to talk about the roll out of Act 166 and childcare. Melissa answered questions about the success of implementation for early adopters, what she is observing about those preparing for the 16/17 school year, if we anticipate more in the coming months, if there is capacity to meet demand, and what the impact of Act 166 will be, among other questions.

**Alyson Klein, Education Week:** Alyson reached out with questions for a story on state accountability systems and the Every Student Succeeds Act (ESSA). She asked whether Vermont’s system measures English Language Proficiency, if that includes results for accountability, how many academic measures Vermont uses in its accountability system, if our system includes a measurement other than test scores and graduation rates, and if we combine multiple groups of students, like ELL, racial minorities, students with disabilities, for federal accountability purposes. Amy Fowler reached out with answers for what we are doing now and what we will do under ESSA.

**Ryan Jenot, Lyndon State:** Ryan reached out about a story he had contacted the AOE about last month regarding the funding the agency receives from the Vermont Lottery. He wanted an explanation of how the AOE gets the funds, what they are used for, etc. Bill Talbott gave him a call to answer his questions.

**Ken Picard, Seven Days:** Ken called to see if there was someone at the Agency who could talk about the requirements that schools have regarding students with medical conditions. He had received a call from a parent who has a daughter with diabetes, and said she has had some challenges with her daughter being excluded from activities at school and even having to stay at home on days when a nurse isn’t on staff. He was provided with information on 504 Plans. Clare O’Shaughnessy gave him a call to answer any questions he had about state requirements for students with medical conditions.

**Gina Tron, Times Argus:** Gina emailed in response to a media advisory about the Vermont Teacher of the Year being honored at the White House. She asked for contact information for Susan Koch to get a quote about the ceremony. Rebecca Gile provided the contact information and this was passed on to Gina.

**Julia Rose, Lyndon State:** Julia called hoping to talk to someone from the Agency about how technology is changing in schools and where that is headed. Peter Drescher spoke to her.

**Tiffany Pache, VTDigger:** Tiffany saw Robert at the State House and asked who put S.217 into the OPR Bill (H.562). She wanted to know if it was Senator White and Senate Government Operations. Greg Glennon provided Robert with information that Senate Government Operations voted H.562 out of committee on April 26<sup>th</sup>. The version of H.562 that was voted out of the committee included parts of what had been S.217, beginning at p. 55 of 64 of Draft 2.1 dated 4/26/16. Draft 2.1 of H.562 of 4/26/16 was subsequently amended by the Senate Finance Committee on 5/3/16. He also provided a link to the bill.

**Tiffany Pache, VTDigger:** Tiffany asked Robert for a quote from Secretary Holcombe about how the OPR bill came out, if she was happy with the result and her take on the outcome. Secretary Holcombe sent the following quote which I sent to Tiffany: *OPR bill has not "come out" yet, so I am not sure what bill we would be commenting on. Under last year's licensing arrangement, SLPs had a single stop at the AOE and would have paid one fee (\$67 per year including the application fee). However, at OPR's request, the legislature moved clinical licenses to OPR, so this year, SLPs who want to work in schools get an educator license from AOE for \$67 dollars per year, and a clinical license from OPR for \$100 per year. Clinicians who are not educators only need one license from OPR for \$100 per year. The legislators have been pursuing a policy solution for a year and a half. There is no perfect solution. Whatever the legislators decide will likely make someone unhappy. Moving all SLP services to OPR won't solve the problem, as many SLPs are also licensed as other kinds of educators (such as special educators and administrators) and will still need to come to AOE for those licenses. Any change would just make a different group unhappy. The AOE's position is that educators should be licensed by the education entity.*

**Brian Rosenthal, Houston Chronicle:** Brian contacted the AOE with a series of questions that he is asking all state departments of education regarding special education and special education funding. He asked if Vermont's budget for education assumes a certain percentage of students or a certain number of students are in special education, if the state has any goal, standard, requirement, maximum or minimum for the percentage of students statewide that are in special education, if Vermont has any goal for the percentage of students in each school or SD that are in special education, etc. Karin Edwards, Nicole Tousignant, Glen Bailey and Amy Fowler all agreed that the answers to all of the questions were no. He was also provided with links to information about special education costs and the Annual Performance Report.

**Jessica Windt, Education Week Video:** Jessica emailed seeking someone who can provide trends in rural school districts and the impact of consolidation policies on schools and communities for a video report. Secretary Holcombe suggested some names.

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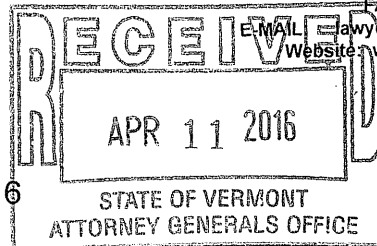
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RUTLAND, VT 05701



April 4, 2016

W. Sam Hill, Sheriff  
County of Washington  
P.O. Box 678  
Montpelier, VT 05602-0678

Re: Good Shepherd Evangelical Lutheran Church d/b/a Good Shepherd's Little  
Lambs v. Vermont Agency of Education and Vermont Agency of Human  
Services, Vermont Superior Court, Civil Division, Rutland Unit,  
Docket No. 160-2-16 Rdcv

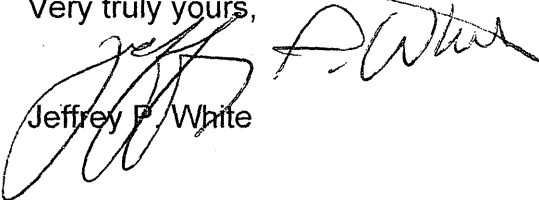
Dear Sheriff Hill:

Please find enclosed herewith for service upon Vermont Agency of Education as defendant in the above matter the original Summons with copy and a copy of the Complaint. I also have enclosed two returns of service respecting the same. Please serve the documents upon the Vermont Attorney General William H. Sorrell at 109 State Street in Montpelier, Vermont. After service kindly return the original completed Summons and a completed return of service to me with a statement of your fees.

In addition, I have enclosed herewith for service upon Vermont Agency of Human Services as defendant in the above matter the original Summons with copy and a copy of the Complaint. I also have enclosed two returns of service respecting the same. Please serve the documents upon the Vermont Attorney General William H. Sorrell at 109 State Street in Montpelier, Vermont. After service kindly return the original completed Summons and a completed return of service to me with a statement of your fees.

Should you have any questions, please contact me. Thank you.

Very truly yours,

  
Jeffrey P. White

Encs.

cc: Good Shepherd Evangelical Lutheran Church d/b/a Good Shepherd's Little Lambs

STATE OF VERMONT

SUPERIOR COURT  
RUTLAND UNIT

CIVIL DIVISION  
DOCKET NO. 160-3-16 Rdcv

GOOD SHEPHERD EVANGELICAL )  
LUTHERAN CHURCH, D/B/A GOOD )  
SHEPHERD'S LITTLE LAMBS, )  
Plaintiff )

v. )

**SUMMONS**

VERMONT AGENCY OF )  
EDUCATION AND VERMONT )  
AGENCY OF HUMAN SERVICES, )  
Defendants )

**THIS SUMMONS IS DIRECTED TO:** VERMONT AGENCY OF HUMAN SERVICES  
ATTN: HAL COHEN, SECRETARY  
208 HURRICANE LANE, SUITE 103  
WILLISTON, VT 05495

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights.

2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail the Plaintiff a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the Plaintiff's attorney located at:

Jeffrey P. White, Esq.  
Pratt Vreeland Kennelly Martin & White, Ltd.  
64 North Main Street  
P.O. Box 280  
Rutland, VT 05702-0280

You must also give or mail your Answer to the Court located at:

Vermont Superior Court  
Civil Division, Rutland Unit  
83 Center Street  
Rutland, VT 05701

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT GIVE YOUR WRITTEN ANSWER TO THE COURT.** If you do not Answer within 20 days and file it with the Court, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint.

5. **YOU MUST MAKE ANY CLAIMS AGAINST THE PLAINTIFF IN YOUR REPLY.** Your Answer must state any related legal claims you have against the Plaintiff. Your claims against the Plaintiff are called Counterclaims. If you do not make your Counterclaims in writing in your Answer, you may not be able to bring them up at all. Even if you have insurance and the insurance company will defend you, you must still file any Counterclaims you may have.

6. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you cannot afford a lawyer, you should ask the Court Clerk for information about places where you can get free legal help. **Even if you cannot get legal help, you must still give the Court a written Answer to protect your rights or you may lose the case.**

7. **NOTICE OF APPEARANCE FORM.** THE COURT NEEDS TO KNOW HOW TO REACH YOU SO THAT YOU WILL BE INFORMED OF ALL MATTERS RELATING TO YOUR CASE. If you have not hired an attorney and are representing yourself, in addition to filing the required answer it is important that you file the Notice of Appearance form attached to this summons, to give the court your name, mailing address and phone number (and email address, if you have one). You must also mail or deliver a copy of the form to the lawyer or party who sent you this paperwork, so that you will receive copies of anything else they file with the court.

  
\_\_\_\_\_  
Plaintiff's Attorney  
Jeffrey P. White, Esq.  
Pratt/Vreeland Kennelly Martin & White, Ltd.  
64 North Main Street  
P.O. Box 280  
Rutland, VT 05702-0280

April 4, 2016  
Dated

Served on April 11, 2016  
Date

  
\_\_\_\_\_  
Deputy Sheriff



STATE OF VERMONT

SUPERIOR COURT  
RUTLAND UNIT

CIVIL DIVISION  
DOCKET NO. 160-3-16 Rdcv

GOOD SHEPHERD EVANGELICAL )  
LUTHERAN CHURCH, D/B/A GOOD )  
SHEPHERD'S LITTLE LAMBS, )  
Plaintiff )

v. )

**COMPLAINT**

VERMONT AGENCY OF )  
EDUCATION AND VERMONT )  
AGENCY OF HUMAN SERVICES, )  
Defendants )

Now comes Plaintiff, Good Shepherd Evangelical Lutheran Church d/b/a Good Shepherd's Little Lambs, by and through its attorneys, Pratt Vreeland Kennelly Martin and White, Ltd., and hereby states its complaint against Defendants, Vermont Agency of Education and Vermont Agency of Human Services, as follows:

1. Plaintiff is a Vermont non-profit corporation which operates a preschool education program known as Good Shepherd's Little Lambs and is located in the City of Rutland, in the County of Rutland and State of Vermont.
2. In 2014, the Vermont Legislature enacted a requirement for universal access to pre-kindergarten education, generally known as Act 166, which law provides public funds for pre-kindergarten education for a minimum of ten hours per week for 35 weeks for all children of ages 3, 4 and 5 who are not enrolled in kindergarten.
3. Under Act 166 Defendant Vermont Agency of Education and Defendant Vermont Agency of Human Services were designated to develop and oversee rules to determine whether a private or public provider of pre-kindergarten education was

qualified to provide publicly funded pre-kindergarten education and was eligible to be included in a publicly accessible database for pre-qualified pre-kindergarten education providers.

4. Under Act 166, the requirements for pre-qualification of a pre-kindergarten education provider to receive public funds for its pre-kindergarten education program include the following:

- a. A program of pre-kindergarten education, whether provided by a school district or a private provider shall have received (i) National Association for the Education of Young Children (NAEYC) accreditation; or (ii) at least 4 stars in the Department for Children and Families STARS system with at least two points in each of the five areas; or (iii) 3 stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve 4 or more stars in no more than 2 years with at least two points in each of the five areas, and the provider has met intermediate milestones.
- b. A licensed provider shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under Chapter 51 of Title 16 Vermont Statutes.

5. Plaintiff sought to obtain pre-qualification under Act 166 as a pre-kindergarten provider through Good Shepherd's Little Lambs and filed a completed Application for Recognition as a Prequalified Prekindergarten Program with Defendants on or about January 29, 2015.

6. Plaintiff's pre-kindergarten education program has received 5 stars in the Department for Children and Families STARS system, and Plaintiff employs in its pre-kindergarten education program at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under Chapter 51 of Title 16 Vermont Statutes.

7. Defendants approved Plaintiff's application on March 12, 2015 as a pre-qualified pre-kindergarten program provider under Act 166 through Good Shepherd's

Little Lambs and for inclusion in the publicly accessible database for pre-qualified pre-kindergarten education providers under Act 166.

8. By letter dated January 20, 2016, Defendant Vermont Agency of Education informed Plaintiff that its approved status as a pre-qualified pre-kindergarten program provider under Act 166 had been revoked by Defendant Vermont Agency of Education effective June 30, 2016.

9. In support of the revocation of Plaintiff's approved status as a pre-qualified pre-kindergarten program provider under Act 166, Defendant Vermont Agency of Education referenced, but did not specify, factors set forth in Section 4 of Act 166.

10. Section 4 of Act 166 requires the Secretary of Education to identify private pre-kindergarten education programs to which school districts are paying tuition on behalf of resident pre-kindergarten children, determine the extent to which any program provides religious pre-kindergarten education and establish the steps Defendant Vermont Agency of Education would take to insure that public funds are not expended in violation of Chapter I, Article 3 of the Vermont Constitution and the Vermont Supreme Court's decision in Chittenden Town School District v. Vermont Department of Education, 169 Vt. 310 (1999) or in violation of the Establishment Clause of the U.S. Constitution.

11. On or about February 18, 2016 Plaintiff filed a complaint with Defendants requesting that Defendants rescind the revocation of Plaintiff's approved status as a pre-qualified pre-kindergarten program provider under Act 166 and provided information to Defendants evidencing that Good Shepherd Little Lambs pre-kindergarten program would not have any religious component.

12. On or about February 26, 2016, Defendants issued denials of Plaintiff's

request to rescind the revocation of Plaintiff's approved status as a pre-qualified pre-kindergarten program provider under Act 166, again referring to factors set forth in Section 4 of Act 166.

13. Plaintiff is and has been fully qualified to be a pre-qualified pre-kindergarten program provider consistent with the requirements of Act 166.

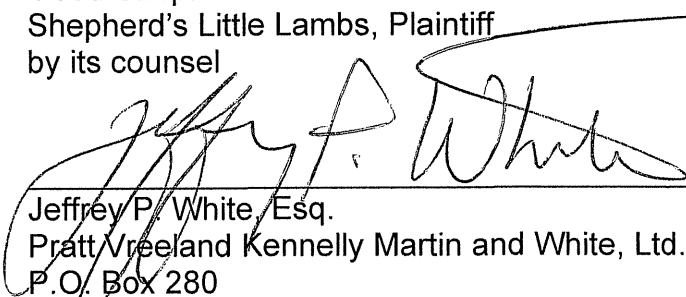
14. Plaintiff has been and will continue to be harmed by the refusal of Defendants to rescind their revocation of approval of Plaintiff as a pre-qualified pre-kindergarten program provider under Act 166 effective June 30, 2016.

15. Defendants' revocation of Plaintiff's approved status as a pre-qualified pre-kindergarten program provider under Act 166 effective June 30, 2016 is in violation of the provisions of Act 166 and other Vermont law.

WHEREFORE, Plaintiff requests that the Court order Defendants to rescind their revocation of Plaintiff's approved status as a pre-qualified pre-kindergarten program provider under Act 166 effective June 30, 2016, and for other or further relief as maybe just and appropriate.

Dated at Rutland, Vermont this 25th day of March, 2016.

Good Shepherd Lutheran Church d/b/a Good  
Shepherd's Little Lambs, Plaintiff  
by its counsel



Jeffrey P. White, Esq.  
Pratt/Vreeland Kennelly Martin and White, Ltd.  
P.O. Box 280  
Rutland, VT 05702-0280  
ERN 2234  
[jpw@vermontcounsel.com](mailto:jpw@vermontcounsel.com)

**NEUSE, DUPREY & PUTNAM, P.C.**

ATTORNEYS AT LAW

ONE CROSS STREET

MIDDLEBURY, VERMONT 05753-1445

KARL W. NEUSE (OF COUNSEL)  
ANTHONY R. DUPREY  
BENJAMIN W. PUTNAM

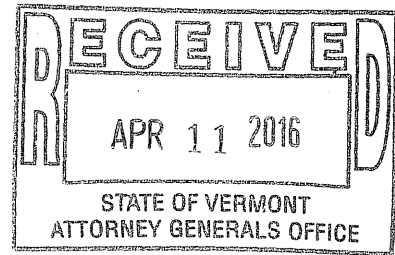
TEL: (802) 388-7966  
FAX: (802) 388-9713

EMAIL: mail@ndp-law.com

AMY R. MENARD\*  
JUDSON E. HESCOCK\*\*

\*ADMITTED IN VERMONT AND ALASKA  
\*\*ADMITTED IN VERMONT AND NEW HAMPSHIRE

April 1, 2016



W. Sam Hill, Sheriff  
P. O. Box 678  
Montpelier, VT 05602-0678

**Re: Victory Baptist Church v. VT Agency of Education and VT Agency of Human Services**

Dear Sheriff Hill:

Please serve the enclosed Summons and Complaints on the VT Agency of Education and VT Agency of Human Services by delivering copies of same to the Vermont Attorney General's office at 109 State Street in Montpelier, and return the original Returns of Service to this office along with your statement for services.

If you have any questions, please do not hesitate to call.

Cordially,

A handwritten signature in cursive script, appearing to read "Anthony R. Duprey".

Anthony R. Duprey, Esq.  
anthony@ndp-law.com

afh

16-04-534  
JIM

# STATE OF VERMONT

**SUPERIOR COURT**

**Civil**

**DIVISION**

Addison

Unit

Docket No.: \_\_\_\_\_

*Plaintiff(s)*

VICTORY BAPTIST CHURCH

VS.

*Defendant(s)*

VT Agency of Education & Vt Agency of

Human Services

## SUMMONS

**THIS SUMMONS IS DIRECTED TO** VT Agency of Human Services

**1. YOU ARE BEING SUED.** The plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights.

**2. YOU MUST REPLY WITHIN 20\* DAYS TO PROTECT YOUR RIGHTS.** You must give or mail the Plaintiff a **written response** called an Answer within 20\* days of the date on which you received this Summons. You must send a copy of your Answer to the [Plaintiff][Plaintiff's attorney] located at: 1 Cross Street, Middlebury, VT 05753,

You must also give or mail your Answer to the Court located at: 7 Mahady Court, Middlebury, VT 05753.

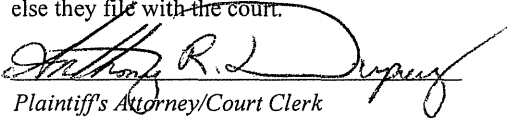
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Plaintiff's Attorney/Court Clerk

4/11/2016  
Dated

Served on

April 11 2016  
Date

  
Sheriff

\* Use 20 days, except that in the exceptional situations where a different time is allowed by the court in which to answer, the different time should be inserted.

STATE OF VERMONT

SUPERIOR COURT  
Addison Unit

CIVIL DIVISION  
Docket No. \_\_\_\_\_

VICTORY BAPTIST CHURCH,  
D/B/A THE ARK PRESCHOOL  
Plaintiff,

v.

VERMONT AGENCY OF EDUCATION  
AND VERMONT AGENCY OF  
HUMAN SERVICES  
Defendants.

COMPLAINT

NOW COMES the Plaintiff, Victory Baptist Church d/b/a The Ark Preschool, by and through its attorneys, Neuse, Duprey & Putnam, P.C., and hereby states its complaint against the Defendants, Vermont Agency of Education and Vermont Agency of Human Services, as follows:

1. The Plaintiff, Victory Baptist Church d/b/a The Ark Preschool, is a Vermont nonprofit corporation located in Waltham, Vermont.
2. As a result of the desperate need in the community for quality early childcare, Victory Baptist Church opened The Ark Preschool in 1996.
3. The Ark Preschool is licensed by the State of Vermont and has long been recognized for its excellence as a "4 Stars" program by the State.



4. The Ark Preschool has built a strong reputation in the community with hundreds of children completing the program; a large number of whom have no connection to Victory Baptist Church other than the preschool program.<sup>1</sup>
5. In 2014, the Vermont legislature enacted Act 166, which requires school districts to provide access to 10 hours of instruction for a period of 35 weeks to children ages 3 and 4.
6. Act 166 expanded the existing law, which under Act 60 provided State funding for an optional 10 or fewer hours of pre-k education per week, and currently mandates school districts to provide 10 hours.
7. In December of 2014, The Ark Preschool received a packet entitled "Implementation Guidance for Act 166" from the Interim Secretary of the Agency of Human Services and the Secretary of the Agency of Education that provided information about the coming changes and announced the delay in implementation of Act 166 to July of 2016.
8. Desiring to continue to be a "4 Star" recognized qualified private prekindergarten, The Director and Administrator at the Ark Preschool became very involved in following and participating in the Act 166 implementation process.
9. The Director of the Ark Preschool attended the Pre-K Leaders and Addison Northwest Supervisory Union Kindergarten Teachers meeting held on February 27, 2015, which focused on Act 166 and the issues surrounding the successful transition of children in preschool or kindergarten.

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<sup>1</sup> There are, in fact, a number of public school teachers and administrators in the community who have enrolled their children in the program because of its reputation for excellence.

10. The Ark Preschool, including past students and parents of current and past students, actively participated in the rule making process in the Agency of Education's amendment to Section 2600 Prekindergarten Education Rules effective July 1, 2016.

11. The initial draft of the proposed Rule 2604 added the following requirement for "Prequalified Prekindergarten Education Programs":

(e) The public or private program provides a secular prekindergarten education program.

12. There were 17 comments submitted during the comment period in relation to this particular section of the proposed Rules, all expressing concerns about the unnecessarily overbroad restriction resulting in religious discrimination and precluding faith based organizations from meeting the qualification.

13. Specifically, the Ark Preschool submitted the following comment:

*The funding concerns raised in Act 166 could be addressed clearly and without the effect of shuttering many religious pre-schools by modifying this language in Section 2604 (1)(e) to make clear that the two hours a day, ten hours a week Universal Pre K program funded by the State of Vermont shall be secular. I believe that such a restriction is indeed mandated by Vermont Constitution et al. However, these authorities do not require that the rest of the half day which is not funded by the State be secular.*

14. In striking this subsection (e), the comment [MRG4] stated:

*Section 4 of Act 166 does not require the State Board to promulgate any administrative rules relative to the enforcement of this section of the law. Accordingly, the State Board, with the advice of the Secretary of Education (AOE) and the Secretary of Human Services (AHS) will not promulgate an administrative rule relative to Section 4. Rather, AOE and AHS will review all applications on a case by case basis. If an applicant's program has a sectarian component, AOE and AHS will apply the factors set forth in Section 4 to assess whether it is appropriate for any such program to be determined eligible for receipt of public funds.*

15. Encouraged by the fact that this problematic language was struck from the proposed rule in August, 2015, the Director contacted Melissa Riegel-Garrett, the Pre-K Coordinator for the Agency of Education about applying since the Application still required the following assurance: "I assure that the prekindergarten education I provide is non-religious."
16. Ms. Reigel-Garrett indicated that in addition to checking this box, the Ark should check the "Other" box and provide additional explanation.
17. The Application for Prequalification to the Agency was submitted on October 9, 2015 with the "nonreligious education" box checked and with the following statement: "We would like to make it clear that this assurance applies only to ten hours a week of publicly funded universal prekindergarten. We have uploaded an attachment that shows the schedule we have planned with a basic curriculum outline for that ten hours a week."
18. The proposed schedule submitted by the Ark Preschool makes very clear that there is no religious instruction for the clearly defined block of time from 9:40 AM to 1 PM.
19. Notwithstanding its compliance with checking the "assurances" box and the appended schedule detailing proposed compliance with the restrictions, the Ark Preschool received a denial letter dated January 20, 2016.
20. The denial letter was conclusory and provided no information about the basis for denial other than summarily referencing "Section 4 of Act 166 of (2014) and attaching a copy of Section 4.

21. On February 8, 2016, The Ark Preschool submitted an Administrative Complaint & Appeal Pursuant to §2614 of the Act 166 Prekindergarten Education Rules requesting that the Agencies reconsider the summarily and erroneously dismissed application of the Ark Preschool.
22. On February 26, 2016, the Agency denied the Appeal by indicating that this “statutory process (in Section 4 of Act 166) falls outside of the administrative complaint procedures set forth at State Board of Education Rules 2614. Therefore Rule 2614 does not apply to application denial based on my obligations in Section 4 of Act 166.”
23. Without citing legal authority, the Secretary of the Agency of Education wrongfully denied the right to an administrative complaint and appeal set forth in Rule 2614. Rule 2614 unequivocally grants such a right to any prekindergarten education program to “challenge an action of a district or the State on the grounds that it is in violation of the State statute or these rules through an administrative complaint process.”
24. The Ark Preschool is and has been fully qualified to be a pre-kindergarten program provider as required under Act 166 and The Section 2600 Prekindergarten Education Rules Effective July 1, 2016.
25. The Ark Preschool has been and will continue to be harmed by the Defendants erroneous denial as a Prequalified Prekindergarten Program under Act 166 and the Rules effective June 30, 2016.

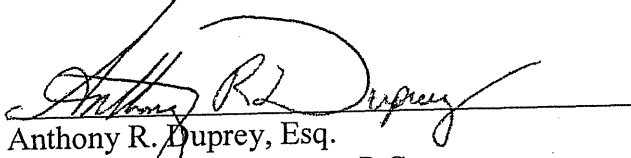
26. Defendant's denial of October 9, 2015 Application for Prequalified Prekindergarten Program Provider pursuant to Act 166 and the Rules effective June 30, 2016 is in violation of said Act and Rules and other Vermont laws.

WHEREFORE, the Plaintiff requests that the Court find that the denial of the Plaintiff's Application for a Prequalified Kindergarten Program was erroneous under Act 166, and for other relief as may be just and appropriate.

Dated at Middlebury, Vermont, this 28<sup>th</sup> day of March, 2016.

VICTORY BAPTIST CHURCH  
D/B/A THE ARK PRESCHOOL, Plaintiff

By:

  
Anthony R. Duprey, Esq.  
Neuse, Duprey & Putnam, P.C.  
One Cross Street  
Middlebury, VT 05753  
(802) 388-7966  
Attorneys for Plaintiff

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Chris Cole**  
**DATE: Friday, May 6, 2016**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

My activity this week has been monitoring the bills as the Legislature advances towards adjournment. We got everything we were looking for so it's been a good session for Transportation. Details below.

**NOTES FOR STAFF**

**Vermont Legislature**

- H.876 T Bill – Conference Committee reached agreement on May 5. They included additional funding for towns, \$400,000 which they took from the funds the Senate set aside for VSP vehicles. There is a reduction in state funds of approximately \$1M in project development but there is contingent appropriation language to fill the hole from FY16 so we anticipate being able to manage the reduction without delaying any projects. We are happy with the bill.
- H.877 VTrans Funding Bill – Conference Committee reached agreement on May 5. The additional registration fees for EVs didn't make the final bill nor did removing the cap for heavy vehicles; both of these ideas were not well thought out and we worked hard to keep them out of the final bill. The conference revenue bill is approximately \$200,000 more than the Gov's recommend but they spent some additional funds on the DLS bill's loss of revenue, so a very good outcome.
- H.571 DLS Bill – Conference Committee reached agreement on May 5, with a reduction to \$30 for all violations entered on or before June 30, 2012; moves all suspensions for underage alcohol and marijuana from 90/180 days to 30/120 days for 1<sup>st</sup>/2<sup>nd</sup> offences; requirement that a person try to notify law enforcement before breaking into a vehicle to rescue an unattended child or animal.

### **Treasurer's Report on WQ Funding Needs**

On April 27<sup>th</sup> the State Treasurer's Office and DEC hosted the second of 4 stakeholder workshops regarding the financial needs associated with nutrient clean up. For example, DEC estimates over \$16 million per year for municipal roads and the funding sources known today cover a fraction of what's needed. There were numerous questions and concerns expressed regarding DEC's estimates. For example, costs do not include O&M for stormwater infrastructure, nor do they include resilience strategies such as culvert replacements regulated under a program that is separate from stormwater. DEC suggested that an additional stakeholder meeting will be added, thus extending the public input process into the summer. The final report is due at the end of the year.

### **State Infrastructure Bank (SIB)**

VTrans staff received a call from VEDA about possible use of State Infrastructure Bank funding of the VRS-Barrett Industries project in Shelburne for rail intermodal and trans-load facility. VTrans staff will review materials the developer is sending to VEDA for components that might be eligible and report back to the SIB administrator.

### **Return of Service to Montreal**

With the passage of FAA authorization without the S.2612 legislation language for preclearance, we have re-upped efforts with Senator Leahy's staff to engage/enlist support of northern border Senators and State DOTs for the bill. We will be reaching out to House staff for various northern border states as well. Also received confirmation from ConnDOT that they are reaching out to their delegation to ask for support.

### **Construction**

We have 19 active work zones: 10 bridge, 4 safety, 2 paving, 1 reclaim, 1 roadway and 1 rail. We anticipate 90 contracts active this year.

We are poised to reject a precast beam from the Carrara facility due to extensive spalling of the bottom flange. The beam was damaged when the contractor was removing the unit from the forms. The unit is a fascia unit and they did not account for the unbalanced load; the bottom flange had extensive spalling, up to 20% of its length. This is not the first time with Carrara and they won't be happy.



1 National Life Drive  
Davis 2  
Montpelier, VT 05620-3901

Tel: (802) 828-1294  
Fax: (802) 828-1250

[www.anr.vermont.gov](http://www.anr.vermont.gov)



Deborah L. Markowitz  
Agency Secretary

Trey Martin  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Trey Martin, Deputy Secretary, Agency of Natural Resources**  
**Date: May 6, 2016**  
**Subject: ANR Weekly Report**

---

**Governor Level Issues:**

**PFOA Update:** Pownal Fire District #2 has PFOA contamination slightly above Vermont's health advisory. The Water Commission recently voted to treat the PFOA with carbon, while they look for a new water source. The district serves approximately 450 people. APU, the potential responsible party, will pay for the treatment and for point of entry treatment systems on the few impacted private wells. APU is moving more slowly than Saint-Gobain. We are keeping the pressure on the company. We expect the carbon treatment to be installed on the municipal system within a month and a half.

Private drinking water well sampling continued south of the Bennington Landfill. Nearly all the wells tested so far have detections of PFOA. Bottled water deliveries and point-of-entry treatments systems have been arranged for these wells.

Middlebury (Town) tested its own municipal water system at two of three supply wells near former location of Specialty Filaments plant and found no PFOA contamination. This is not part of the statewide plan, but adds to list of municipal systems not containing PFOA.

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## **EVERYTHING ELSE:**

### **Legislative Issues/Testimony:**

**S.198 Population-Level Outcomes:** As part of Vermont Legislature's focus on Results Based Accountability, this bill proposes population-outcomes for DEC and other Departments and Agencies. DEC worked closely with the Government Accountability Committee in an effort to ensure that the population based indicators in the bill were tied to standards proposed by DEC in testimony before the House Committee on Fish, Wildlife & Water Resources.

**S.123 DEC Permit Process Improvement:** In addition to consolidating eighty-five permit processes into five, the House added a provision to extend the rulemaking deadline for lightly contaminated soils in Act 52 of 2015 (H.269) from July 1, 2016 to July 1, 2017. The Senate concurred in the House proposals of amendment on Thursday this week.

**H.878 Capital Adjustment Bill:** The Senate passed out the Capital Adjustment Bill. This will probably go to conference committee. At DEC's request, H.878 includes a study of the Environmental Contingency Fund.

**Transportation Fee Bill:** On second reading, the Senate approved an increase in the electric vehicle motor (EV) registration fee, and also discussed the allocation of the motorboat registration fees. Sen. Ayers requested more money for AAFM mosquito control, and Senator Rodgers requested more money for F&W boat access. DEC's motor vehicle emissions fee (from \$1 to \$2) remained untouched. DEC continues to work with the conferees to address the negative policy implications of increased EV registration fees.

**H.518 Clean Water Fund Board Membership:** The Senate proposes to add four new members to the five-member Clean Water Fund Board. To pass, the bill needs to go back to the House. ANR does not support this bill.

**H.595 Potable Water Sources from Surface Waters:** The Senate concurred with House proposals of amendment on this important bill on Thursday this week. The bill:

- **Requires DEC to adopt rules allowing surface water as a source of drinking water** if the structure is owner-occupied, single-family residence; and all other conditions promulgated by ANR are met. (sections 1-3)
- **Requires the Technical Advisory Committee to report on testing for contamination when drilling new groundwater wells;** which must be submitted to the Legislature by January 15, 2017 (section 4).
- **Amends the Environmental Contingency Fund** so that ANR may seek reimbursement from the fund for oversight of voluntary cleanup efforts by a responsible party prior to entering into a written agreement with that responsible party, 10 V.S.A. § 1283(b)(9). (section 5).
- **Authorizes ANR to serve information requests** upon persons whom the agency has reasonable cause to believe are liability for a release of hazardous waste (section 6 & 7).

- **Authorizes ANR to seek natural resource damages** (sections 8-9); ANR must convene a working group by July 1, 2016; submit draft rules to the Legislature by February 1, 2017; commence rulemaking by July 1, 2017; and adopt final rules by March 1, 2018;
- **Establishes a Working Group on Toxic Chemicals** in Vermont, ANR must convene the working group by July 1, 2016; and submit a report to the Legislature by January 15, 2017 (section 10);
- **Extends the date for manufacturers to submit notices under Act 188** (Chemicals of High Concern to Children) from July 1, 2016 to January 1, 2017 (section 11);
- **Requires DEC to consult with the Natural Resources Conservation Council** in the tactical basin planning process; and authorizes DEC to contract with the NRCC for basin planning contingent upon the availability of funds (section 12)
- **Requires recipients of state-funded grants to certify compliance water quality laws and regulations** as part of Bulletin 5, Attachment C (Standard State Provisions for Grants and Contracts). This was formerly H.509. (section 13).

**Appropriations Bill:** This bill continues to move forward with key DEC provisions intact:

- Section E.709.1. Environmental Contingency Fund Cap – Lifts the \$100,000 cap for PFOA Drinking Water Contamination.
- Section E.709.2. Vermont Drinking Water Planning Loan Fund – Removes the cap on population (10,000 pop.) so that Bennington will be eligible for drinking water loans.
- Section E.709. Environmental Contingency Fund Cap – Lifts the \$100,000 cap for Elizabeth Mine Superfund Expenditures.
- Section E.712. Authorizes expenditures up to \$2,500 annually to the Connecticut River Valley Flood Control Authority.

**Fee Bill:** The Senate added, at DEC’s request, a non-sewage indirect discharge permit review application fee, which was inadvertently struck in the 2015 Fee Bill. The purpose of the correction is to restore more appropriate, lower fees for businesses that have non-sewage discharges. These businesses include yogurt, cheese and beer manufacturers. The Senate retains DEC’s request for CAFO fees, to match AAFM’s fees for LFOs and MFOs. Expected revenue is zero dollars.

**H.355:** The forester licensing bill passed out of Senate Finance and this week passed both chambers.

**H.857:** This bill, which was previously related only to timber harvesting, was amended in the Senate and is now a forestry “omnibus” bill. In addition to timber harvesting, H.857 now includes forestry operations, maple sugaring, timber trespass, forest fire wardens, and forest fragmentation. This bill has now passed both chambers with strong bi-partisan and stakeholder support, and the House concurred with Senate proposals of amendment this Thursday.

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

**Universal Recycling & WCAX:** The upcoming leaf, yard, and clean wood debris ban was the subject of five minutes of coverage on WCAX on Earth Day.

**Avoid Tempting Bears Remove Food Sources:** People love to see a black bear in its natural surroundings, but when a bear ventures into human territory, problems can occur. FWD wardens and biologists are receiving reports of hungry bears getting into trash containers as well as raiding bird feeders, bee hives and chicken houses.

**Vermont Walleye Fishing Starts May 7:** FWD is reminding anglers that walleye fishing season started in much of the state on the first Saturday in May and that regulations vary, depending on the water you are fishing. There is no open season on sauger, a close cousin to the walleye. If caught while fishing for other fish, sauger must be immediately released.

**Rebuilding the Stone Hut:** Commissioner Snyder was interviewed for a recent VPR story about plans to reconstruct this iconic state resource.

**Vermont Trail Projects Receive Over \$500,000 in Grants:** A press release was issued this week announcing the award of 14 grants to communities and nonprofit organizations for recreational trail projects totaling over \$586,000. The annual program combines funding from federal and state fuel tax revenue to provide for trail maintenance and construction all across the country. Vermont receives about \$1 million per year, the balance of which goes toward high priority projects on FPR lands.

**WCAX Features Venture Vermont:** Parks Director Craig Whipple appeared on the WCAX morning news program on May 5 to talk about the popular Venture Vermont Outdoor Challenge program that has been launched for the eighth season.

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

**EPA Award Winners:** The Environmental Protection Agency notified DEC that they will be recognizing the following individuals and teams with Environmental Merit Awards:

- Steve Simoes, DEC Waste Management & Prevention Division, Hazardous Waste Management Program, for his exceptional work and commitment to the environment.
- Carey Hengstenberg, DEC Administration & Innovation Division Planning Manager, for her work on the State Performance Improvement Team.
- Cathy Jamieson, DEC Waste Management & Prevention Division, Solid Waste Program Manager, for her renowned materials management work.
- Eric Smeltzer, (retired) DEC Watershed Management Division, Lakes & Ponds Program, for lifetime achievement.
- Lake Champlain TMDL Team, DEC Watershed Management Division for their significant contribution toward preserving and protecting Lake Champlain.

**Governor's Awards for Environmental Excellence:** The awards ceremony showcased innovative projects that exceed regulatory standards. Secretary Markowitz hosted and Governor Shumlin provided introductory remarks for the eleven awards and three youth honorable mentions that were presented. The Environmental Compliance Division, Environmental Assistance Office staff organized and publicized the event.

**Clean Water Financing Stakeholder Meetings:** Two stakeholder meetings on the long-term financing of clean water were hosted by DEC, the Office of the State Treasurer, and the Department of Taxes. Approximately 70 stakeholders attended and discussed clean water infrastructure needs and existing funding sources to determine the magnitude of unmet need for each of the major sectors: developed lands (including roads), agriculture, wastewater and combined sewer overflow systems, and natural resources restoration to support flood resilience and ecosystem services. The next meeting is on May 18, where we will discuss funding options. This stakeholder process will result in a report to the Vermont Legislature from the Treasurer, outlining long-term unmet infrastructure costs and revenue options, due January 2017.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of General Counsel (OGC)**

#### **Hydropower Working Group Update:**

- *ANR Report.* ANR provided a report to the group this week regarding the status of the relicensing process for the 13 dams and potential reductions in revenue that may occur as part of the relicensing process for the three dams on the lower Connecticut River with FERC licenses set to expire in 2019. ANR's report recommends that the working group anticipate that the relicensing process for the three dams on the Lower Connecticut River (Wilder, Vernon, and Bellows Falls) will result in a significant reduction in revenue for these facilities, potentially as much as thirty percent. ANR's ballpark estimate is based on recent relicensing processes undergone by hydroelectric facilities in Vermont (e.g. Waterbury Dam and the Morrisville Water & Light facilities) and the limited information ANR has regarding the three dams at this point in time.
- *Legislative Language.* The Senate Committee on Appropriations currently has jurisdiction over the legislative language that will formally create the Hydropower Working Group and authorize the Secretary of Administration as chair of that group to spend \$75,000-250,000 to hire a consultant to prepare a report with options for acquisition models and financing. The bill also establishes a Vermont Hydroelectric Power Authority that would be formed should Vermont decide to bid on the assets and the seller accept this bid.
- *Next Steps.* An RFP was posted this past Tuesday for the consultant who will work with the Department of Public Service to refine the scope of Vermont's proposal and closes on May 17, 2016 at 4:30 PM. The working group also expects to receive a

prospectus from JP Morgan detailing the assets for sale within the next two weeks. The current working group will convene again next Wednesday, May 11 at 12:45 PM. The next set of questions the working group is likely to pursue relate to potential partnerships. Another issue that the group has expressed interested in learning more about is the conservation land easements held on TransCanada's property. These easements are held by various entities, including the Vermont Land Trust.

**Vermont Railway Project in Shelburne:** FWD staff John Austin, Mark Ferguson, and Eric Sorenson and DEC stormwater manager Padriac Monks testified in federal court this week regarding the Vermont Railway project. The Town of Shelburne and the Railway have initiated court action against one another and these state witnesses were subpoenaed to testify regarding environmental impacts. The Vermont AGO also entered an appearance and testimony was generally limited to facts.

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

**DEC/DCF Met on Business Process Improvement:** The Department of Children and Families is interested in increasing business process improvement and Lean approaches and strategies in the Department. In a recent meeting, DEC provided a summary of our business process improvement work over the last three years and offered training and other support, should DCF decide to move down this path.

**Enterprise Content Management System (ECMS) Passes Independent Review:** Chief Information Officer Richard Boes and Independent Review consultant David Gadway signed off on ANR's ECMS project. The sign off is contingent upon addressing identified risk areas: staffing and resources, a lack of a project governance plan, and clarifying the design approval process. The ECMS project will allow ANR to effectively manage records. Once final sign off is given, six programs will pilot the ECMS in 2016.

**Vermont Clean Diesel Grant Program Replaces Old Construction Vehicles:** DEC has awarded a grant to G.W. Tatro Construction, Inc. to accelerate the replacement of older construction vehicles. Funds available through the Diesel Emissions Reduction Act are making it possible for up to 25% of the costs to be reimbursed. The objective of this grant is to retire more heavily-polluting vehicles and replace them with new vehicles, which have much lower emissions.

**Electric Vehicles Registered in Vermont:** The first quarter analysis of battery electric and plug-in electric Vermont vehicle registration has been completed for 2016. There were eighty-five new plug-in electric vehicle registrations, approximately 1.6% of the quarter's new passenger vehicle registrations (5,289), resulting in a net increase of twenty-one vehicles (sixty-four vehicles exited the fleet for various reasons). Approximately two-thirds of these eighty-five vehicles are leased. Several new vehicle models registered for the first time in Vermont, including the Audi A3 e-tron, BMW XDRIVE40E, Kia Soul EV, and Volvo XC90 T8. As with previous quarters, these results eventually will be posted on the Drive Electric Vermont website.

**Clean Water & Drinking Water State Revolving Fund (SRF) Programs More Accessible:**

On April 28, a joint Clean and Drinking Water SRF public hearing was held on the draft Intended Use Plans and Project Priority Lists. This was the first joint meeting and the first time a SRF meeting was available via Skype. The meeting was well attended by consulting engineering firms, technical service providers, and municipalities. There was good discussion and feedback on subsidies, priority ranking, funding deadlines and the funding cycle. Comments will be accepted through June 15. EPA was in town performing their annual SRF audit and attended the meeting. They were impressed by the number of attendees and discussion.

**DEC Passes Clean Water & Drinking Water State Revolving Fund (SRF) EPA Region 1**

**Audit:** EPA Region I officials conducted their annual on-site review of the two SRF Programs. Overall, EPA seems satisfied with the way DEC runs its SRF Programs. One area that has received considerable attention the past few years is the amount of awarded but unspent federal funds. This has been an area of concern at both the national and state level and in response to this concern, strategies have been developed to more rapidly draw down these unspent federal SRF dollars. Significant progress has been made this past year nationally and in Vermont. Since October 2015, after receiving its most recent federal DWSRF grant, Vermont's unliquidated federal funds have been reduced from 15.2% to 11.6%. In the coming weeks, EPA Region I will follow up with a draft program evaluation report for our review and comment.

**Contamination in Winooski:** The Spills Team responded to a call on April 28 to the Winooski roundabout to assist with the investigation of petroleum contaminated soil. The contamination was discovered during the installation of stormwater features at fairly high levels. Some contaminated soils were excavated. The remaining soils will be isolated.

**Korror Truck Storage Facility Fails to Meet Floodways Standard (Northfield):** Korror truck storage facility, a propane truck storage building and associated fill, was constructed in 2012 without Act 250 approval. A March 2014 application to Act 250 sought an after-the-fact permit. DEC's Rivers Program determined that the existing building and fill are in the floodway of the Dog River in Northfield and do not meet Act 250's Criterion 1D-Floodways, as the project would divert and restrict floodwaters. The new building and fill are in direct conflict with natural river process and are at risk of fluvial erosion damage during a flood. This conflict sets up the need for river channel management, a long-term unstable river configuration, and increased downstream hazards due to increased stream power and flood velocities. On February 12, 2016, Act 250's District 5 Commission required the applicant to remove the building and fill from the floodway. Korror Real Estate LLC has filed an appeal. The appeal is a de novo review.

**Clean Water Fund Update:** Fund monies are coming in below projections. We are reducing allocations and are developing a contingency plan to eliminate any risk of overdrawing on the Fund. That plan may result in withholding a small portion of the fund (20-25%) in any fiscal year to encumber the following fiscal year, giving the Board and Legislature an opportunity to evaluate the financial performance of the Clean Water Fund before approving final allocations as part of the State's budgetary process.

**CSO Notice Bill (H.674) Rollout:** This bill will become effective upon signage. Under this new law, municipalities will have increased responsibility to publicly notice discharges of untreated sewage to Vermont's waters. DEC has created a reporting "public alert" site where operators must post public notice of a sewage release upon discovery within one hour, to be followed up with more in-depth twelve-hour public noticing on DEC's existing wastewater inventory site. We are currently developing a subscription service for the one-hour public alert site so that these notices can be immediately pushed out via email or text to anyone who signs up. In addition, DEC is providing signage to each CSO municipality that must be posted by the municipality at each CSO outfall. All of these efforts will better protect public health for those recreating in or on our surface waters.

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

**State-Threatened American Brook Lamprey:** Staff spoke with VTrans engineer about a FEMA culvert project on Kelly Brook in Highgate, where there is a population of the state-threatened American Brook Lamprey. The engineer is hoping to have the contractor move some debris at the location in May in order to inspect the structure. A site visit may be required to ensure that the activity doesn't impact lamprey spawning.

**Application for Grant:** Staff spent a considerable amount of time gathering information and meeting with TNC and TPL regarding an application for an RCPP grant to support forest easements and management in the Taconics focused around the two main hibernacula for bats. The pre-proposal is due May 10. Staff are planning to ask for 5-10 million dollars so this will be an amazing opportunity for the state if it is realized.

**Shelburne Pond Fish Kill:** Staff responded to a report of a fish kill and visited Shelburne Pond on Friday. Arrival at the pond found a small number of dead bullhead, yellow perch, golden shiner, pumpkinseed, northern pike. Staff observed other fish showing signs of stress and suspected that additional fish would die. Discussions with Department Fish Health biologist suggested this was just a typical spring fish kill and no samples were taken for testing.

**Elm Planting at Willoughby Falls WMA:** Staff assisted with a large-scale tree planting project at Willoughby Falls WMA in Orleans. The Nature Conservancy grew numerous crosses of wild Dutch elm disease tolerant American elm. Those trees will be inoculated with Dutch elm disease in roughly 5 years to determine which crosses are more resistant, and the surviving trees will be propagated for future plantings throughout the Northeast.

**Timber Theft Case:** Warden staff spent the majority of the week working on a timber theft case. Two men were arrested and cited on Thursday for grand larceny, unlawful mischief, trespass on state property, and destruction of state property. There will possibly be additional counts of grand larceny and unlawful mischief due to the fact that one third of the cut trees involved on the case were on a private parcel of land.



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

**Partners Recreation Summit:** Lands Division staff participated in last week's Recreation Summit meeting in Waterbury which was hosted jointly by the Department and the VT Trails and Greenways Council. Meeting participants included representatives from various state and federal agencies including FPR, DFW, Department of Public Safety, USDA Forest Service, and recreation partners including Green Mountain Club, VAST, VT ATV Sportsmen Club, Catamount Trails Association, Vermont Horse Council, Vermont Mountain Bike Association, and others. The meeting provided an opportunity to identify specific actions to improve the delivery of outdoor recreation services in Vermont.

**Cleanup at Willoughby:** FPR staff from the St. Johnsbury district completed a tire clean up at Willoughby State Forest last week. Also participating were F&W Game Warden Mike Scott and sixty kids who showed up to remove tires dumped over the past couple of seasons and to build a 16-foot bridge on a popular hiking trail. Collectively they contributed over 280 hours of volunteer time and were able to complete the bridge and pick up roughly 750 tires from around the forest. The tires were brought to the recycling center for disposal. The NEK solid waste district gave us a huge break on the cost and were very generous on their counting of tires. Even with their generosity, the total fee for disposal was \$1,428. A new camera has been purchased and will be deployed in the hope of catching the person(s) dumping these tires in the area.

**Arbor Day This Friday:** Friday, May 6 is Vermont Arbor Day. Festivities begin at 9:00 a.m. at Vermont College of Fine Art in Montpelier.

**Prescribed Burn, District 2:** On April 21 the Plymbsbury WMA prescribed burn extended over the unit boundaries by about 4 acres. There were staff from FPR and DEC, as well as Green Mountain National Forest fire staff with a Humvee, on scene to contain the escaped fire. The fuel was critically dry, with a calculated fuel moisture of 2-3%. A westerly-to-southwesterly wind pushed the fire outside the unit on the southeastern edge and the northeast corner. While these slopovers were being contained, the backing edge of the fire moved through the burn unit and accomplished the burn's objectives. Many thanks to the GMNF staff, both those on hand initially and the additional fire staff that came to assist with containment and mop-up. The Humvee was essential to replenish water needed for suppression. This incident provided valuable training and fire experience for all those on scene, and reinforced the need for following the burn plan and adherence to safety measures. Ultimately, this was a successful burn, with the additional acreage burned being part of Plymbsbury WMA that was similar to the burn unit itself.



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**To:** The Honorable Peter Shumlin  
**From:** Joe Flynn, Deputy Commissioner of Public Safety  
**Date:** May 6, 2016  
**Subject:** Weekly Report

## Administration

1. Budget update: this must include an analysis of spending to date when compared to total yearly budgeted

**FY16 Budget Status:** Commissioner Pallito has requested our updated projection for Pay Act before the end of this week, so I am working on “scrubbing” those numbers this week with my Financial Office Staff. Our projected need is looking like it will be around the \$800k level, but I’ll have a final number within the next few days. I submitted our Pay Act projection number to David Beatty on 4/26/16. Projection is \$752,707. **I’ve not heard anything on this since I submitted last week. I expect I will once Session ends and the folks in Finance can get back to normal operations.**

VSP Vehicle funding from Transportation Fund: We have two different drafts of language that I will attempt to consolidate for your review per Joe’s request this morning. The latest version of the language reduces the amount to \$2.1M from \$2.5M. I’ve created a draft in “track changes” mode that I emailed to you this morning that attempts to combine the provisions of the two draft versions that have been shared with us...one from the Administration and the other from AOT. The Administration’s version creates a new Special Fund in which the new TF is budgeted and tracked. AOT’s version just adds an additional amount to our regular TF appropriations with some defining language. I believe it would be a big mistake not to create a Special Fund in which to manage this new appropriation because of the issues of tracking proceeds from sales, encumbrances that cross over fiscal years, etc. So, that is my main concern. Per our discussion on 4/18/16, Joe and I will work on developing a draft of our proposed language and begin by sharing the draft with AOT’s CFO, Lenny Leblanc for comment. **I spoke with Lenny Leblanc last Friday about the SAC language regarding the VSP fleet funding. Lenny mentioned that the two versions of the language we’ve seen were both discussed with SAC during AOT’s testimony and Sen. Kitchel preferred to go with the simpler version of the language (which does not create a special fund, but simply adds additional funding to our current TF appropriation with a paragraph designating that \$2.1M of the funding must be used for the fleet). Lenny was sympathetic to my concerns about the need for a Special funds to account for the fleet program (AOT has a special fund for this purpose). After discussions with Joe, we decided that it would probably be best though at this late date, not to rock the boat and let SAC’s current language stand. We can work on the issues over the next fiscal year and if we need any changes, take it on at Budget Adjustment or in the FY18 budget build.**

Legislative and Executive Branch contacts:

Nature of the contact: **Various discussions with David Beatty on routine administrative issues**

2. Summary of week activities: to include information that may supplement information included on the Governor's Dashboard and other data that indicates trend information, resource burdens and most importantly information that demonstrates that a data based approach is being utilized by this Department in deploying resources.
3. Progress of projects currently underway in your Department
  - Annual Internal Control Questionnaire (ICQ): I've scheduled a meeting for 4/27/16 to go over the ICQ with you, which my staff have completed together. There is a section that must be completed at the high level which we can do at our meeting. The Appointing Authority is required to submit this questionnaire via their email account, so we can discuss getting that accomplished as well. **Commissioner submitted our ICQ on 5/3/16. We will work on updating our Corrective Action Plan over the coming months to work toward improvement on areas where we had "No" responses.**
  - Single Audit "Re-audit" charges: We received our invoice from the Auditor's Office as expected for our FY16 charges and found that we have been charged an extra (unbudgeted) re-audit charge for the Homeland Security Grant Program (HSGP) which had "material weakness" findings for FY14 and had to be re-audited in FY15 as a result. We had material findings again in FY15 and will be re-audited as a result for FY16 as well. I will have this on my agenda for discussion at our weekly meeting today as I have concerns about ensuring that issues that are leading to audit findings are corrected and avoided in future audits. **After discussions with Joe Flynn last week concerning the new Uniform Guide (2 CFR 200), Karen Carr scheduled a mandatory meeting for Directors for Monday, May 16th to discuss how to ensure that the Divisions who use federal funds or manage federally funded programs understand the provisions of the new regulations and how they impact the program side of our operations.**
  - Proposing waiver to Federal Draw process: Per our brief discussion in the hallway earlier this week, I have drafted a waiver request letter to Commissioner Pallito requesting that we change our federal draw process from monthly to quarterly. The monthly draw process is extremely time consuming and we are having a great deal of trouble keeping up. The draw process is governed by an annual agreement between the State and the Feds along with a Finance & Management Policy that allows for a waiver by the Commissioner of Finance. I will keep you informed of progress on this. The waiver will allow us to save a great deal of time which is critical at this point with our staffing/workload issues. I have not had time to move forward yet with this request for

waiver from Commissioner Pallito, but hope to next week. After researching further, I have discovered that the Public Assistance program falls into a “major program” category under the federal Cash Management Improvement Act Treasury/State Agreement, so this program must continue to be drawn monthly. I believe though that under the State’s policy, the Commissioner of Finance may waive this requirement for all of our other programs. I have not had a chance to work on this to move it forward this week. Hopefully will find some time next week. **I am putting final tweaks on my waiver request letter and will be sending it on to Commissioner Pallito today.**

## **CJS**

### ***Forensic Lab***

#### Staffing:

All 24 existing lab positions currently filled

1 analyst currently training in Alcohol and another 7 cross-training in Latent Print analysis

1 DNA analyst will be leaving July 20th for Grad School

Plan to have 4 summer interns (unpaid) for several projects

#### Contracts:

Drug/Arson Instrument Service/Maintenance (2-4 year contract) ~\$30K [with Contracting]

Digital Imaging System Service/Maintenance (1 year contract) \$1K [with Contracting]

#### Grants:

Coverdell (funds Evidence Tech): 2014 in progress, 2015 to follow (~\$63K each), 2016 application in progress

DNA Backlog (funds 1 DNA analyst & supplies): 2014 in progress (\$200K), 2015 to follow (\$150K), 2016 application in progress (\$233K)

GHSP/AOT (funds part of breath/blood alcohol program): 2015 MOU in progress (\$265K), 2016 application in progress (~\$700K, blood-drug start up needs included)

#### Backlogs (as of 4/30/2016):

Blood Alcohol (0)

Drug Chemistry (768)

Serology (67)

DNA (casework) (161)

DNA (CODIS) (311)

Firearms (34)

Latent Prints (478)

Arson (0)

#### Lab Budget:

Efforts to reduce backlog of DNA database samples and latent print training expenses have caused issues with FY16 budget

#### Building:

BGS working to remedy air handling issues (need lab-wide evaluation of system) ☐

Snorkels/hoods/biocabinets are inoperable/unsafe to use when air handling is down

☐ BGS/Control Tech/Precision reps evaluated two exam areas on 12/10 and returned on 2/10 – work is continuing and reports should be forthcoming

BGS also working on lighting issues (sensors, switches, bulbs, amounts, etc.)

#### Miscellaneous:

Recent Orleans County Court ruling that granted a defense motion to exclude relation back testimony in 25 consolidated cases – potential implications statewide

Firearms destruction process still undetermined

VOSHA on site 3/23 re: complaint of HR retention of medical records (report pending)

ASCLD/LAB surveillance visit for accreditation to be conducted May 17th

Tentative July training for DNA analysts in kinship analysis (required for paternity cases or unidentified human remains) – currently not within our scope of services

Informational meeting with law enforcement (Sinclair/Merkel) scheduled for May 25th

Training for VSP CSST scheduled for July 12th

## DEMHS

#### Issues/Updates:

As of May 2nd, 48% of towns have submitted an updated LEOP for 2016.

#### General Information/Other

Initial VT Alert presentation provided to LEPC 5 on 2-May-2016. VT Alert notifier training provided to LEPC 4 on 4-May-2016.

Discussions continue with the Vermont Agency of Human Services on integrating VT Alert as the notification system.

VT Alert achieved another milestone this week. Over 15,000 Vermont citizens have registered to utilize VT Alert as their all hazards notification system.

The annual RACES Conference is scheduled for Saturday, 7-May-2016. It is expected to be attended by 50 RACES members.

DEMHS provided two local EMD courses this week. One in the town of Brattleboro and the second in the town of Manchester.

DLAN updates include the continued work on the creation of individual SSF dashboards. Also, the region manager can now be defined by RPC's. This will allow tickets to be searched or filtered by RPC region.

The Enterprise GIS Consortium met on 4-May-2016. Key topics of discussion were the ESRI commissioned study, LIDAR ortho photos and Agency of Administration follow up.

Operations and Logistics Section, Planning Section Chief, and Emergency Management Support Specialist participated in the monthly Region 1 Logistics conference call on 3-May-2016.

Several DEMHS representatives met with FEMA counterparts on 5/5 to discuss the integration of federal resources during a State EOC activation.

Operations and Logistics and Planning Section Chiefs met on 5/4 to work on overall SEOC presentation for SSFs.

SHMO submitted RFI responses to FEMA R1 on 05/02 for pending HMGP elevation applications in Chelsea and Richmond.

SHMO submitted final site reutilization plan to FEMA R1 on 05/03 for a "pocket park" on the site of Hartford's Queechee HMGP acquisition.

Hazard Mitigation Planner II first interviews conducted on 05/02 and 05/04.

PAO provided "PA101" program training for new DPS Finance staff members on 05/02. PAO submitted a one-week time extension to FEMA R1 for DR4163 category management cost submissions (because final draw-down request, covering \$743 of DEMHS staff time incurred prior to 01/24/16, was submitted on 04/25 instead of 04/24).

Debris Monitoring Training classes held on 05/05 at EOC and 05/06 at Mendon.

R+M Chief developed and submitted draft content for NECAPRS presentation in Durham, NH on 05/25.

CI Planner participated in monthly THIRA/ SPR call with FEMA HQ and Region 1 on 5/5.

CI Planner delivered THIRA/ SPR briefing to LEPC 1 on 5/10.

EM Planner participated in National School Safety Center conference call on 5/2.

EM Planner participated in FEMA Region 1 quarterly Youth Preparedness meeting on 5/5.

RERP Staff, Planning Section Chief, and Chief of Staff met on 5/5 to review and revise SEOP Incident Annex 9A (Radiological Fixed Facility) following changes to Vermont Yankee.

HS Exercise Planners and the COS participated in the VG 'In Progress Review' meeting on 5/3.

HS Chief in Burlington on 5/3 and Training Coordinator in Randolph on 5/4 oversaw the delivery of the Peter Langman training on identifying school shooters.

Southern Exercise planner facilitated the Tri-town discussion on 5/4. The Tri-town encompasses Duxbury, Moretown and Waterbury.

Southern Exercise Planner facilitated and HS Chief and Northern Exercise Planner attended the Federal Resource Integration discussion on 5/5.

Northern Exercise Planner facilitated the VG Lead-up Burlington Airport Tabletop Exercise on 5/3.

Northern Exercise Planner facilitated the VG Lead-up AOT Tabletop Exercise on 5/4.

HS Intern continues to work on updating rosters for upcoming courses, creating certificates and printing updated rosters for classes as well as sending email reminders to participants.

HS Intern is working on manually transferring and recording evaluations and saving them in the designated folders in the share drive for courses that have recently been completed.

DEMHS, VSP, and DFS staff attended a briefing from Cornerstone on the new Learning Management System that Vermont State Government is utilizing on 5/6.

HS Chief attended the Public Safety Broadband meeting on 5/4.

HS Chief had a conference call with Kimball to discuss the next steps for trying to license the VCALL 10 frequency on 5/4.

HS Chief facilitated a training discussion with the SEOC Operations and Logistics Sections on 5/6.  
ii. COS held conference calls with panel members in preparation for the Senior Leadership Seminar next week.

PIO scored potential instructors for Advanced Public Information Officers course in Montpelier in June.

PIO Attended website information sharing meeting. New tool will be used to share statistics about federal funding which will be an information resource for the public and press.

PIO is assisting Town of Cambridge in promotion of PrepareAthon events. Town working to sign up residents for VT-Alert

PIO discussed press outreach around Vigilant Guard exercise with the Vermont National Guard. Monthly newsletter has been posted to website.

#### Social Media

Facebook (DEMHS): 11,705

Facebook (VT Alert): 5,790

Twitter (DEMHS): 5,858

#### Legislative Contacts:

Received an inquiry from Senator Leahy staffer regarding status of Richmond's pending first appeal from DR1995. Sent him info from latest FEMA Tracker and referred him to Alec Portalupi at VTrans.

## Fire Safety

#### Issues / Updates:

The Division received \$4.7 Million in new plan review construction valuation collecting \$26,000.00 in fees.

Last weekend there were 2 live fire drills conducted one in Randolph and one in Pittsford.

This weekend there will be a live burn at the Academy in Pittsford and next weekend May 14 there will be a live burn in Randolph.

Week one of the Fire Officer class starts on May 9, 2016 at the Hartford Town Hall. A couple of weeks ago there was an orientation meeting which I attended and I welcomed and thanked the students for participating.

Water testing results from potable water supply and private water wells came back clean however, there will be testing on our recycled water system (including sludge) to take place on May 5, 2016 as a requirement for local zoning.

AFG Grant for burn building: Nothing to report yet, a direct deposit form was processed by DPS Grants personnel on the advice of the FEMA contact, Lance Harbour. This might suggest we are going to receive the grant to replace the burn building.

I mailed Chief Keith Baker, Georgia Fire Department a letter on behalf of Public Safety expressing our sympathy on the recent line of duty fire fighter incident (heart attack) leaving a fire fighter in critical condition. I advised him if he needed anything to let us know.

A lot of positive progress has been made on our rule making and we have actually reduced some of the code requirements in areas which we recognized were burdensome. I have directed the managers to make sure any code changes impacting the businesses must have a documented justification otherwise we are deleting the code change. To date we have found a number of areas that reduce cost without jeopardizing safety. We will keep a list of these items which will be used in our public meeting debates during the summer.

Our two seasonal temps started work today assisting us on the fire safety trailer program. The safety trailers are used to teach critical fire safety skills to our children throughout the State. Interviews have been scheduled in Williston starting tomorrow to fill the vacant fire marshal position.



# Vermont State Police

A Troop

FF

21 Total Arrests, 8 DUI

St. Albans investigated a motorcycle crash in which the operator died several days after the incident.

BCI

Two Det. Tprs at Baltimore Homicide conference.

Reported arson in Wolcott. Male burning brush near his home which caught his residence on fire. Male had recently asked Wolcott Fire Department to burn his house down but that was denied. Male made comments to fire marshal when he received his burn permit that he was going to burn brush near his house. LCSD refused to investigate. Agency of Natural Resources completing investigation.

Arson investigation in Marshfield. Single family home. Undetermined but not suspicious.

Sex Assault investigation of a 40 year old male assaulting a 40 year old female. Victim alleged to have mental illness. Det. Tpr assigned.

Sex Assault investigation of a 57 year old male assaulting a 7 year old female. Det. Tpr assigned. Completed trooper background / Danielson

Death investigation in Cambridge. 68 year old transgendered person. Death ruled natural. D/Sgt assigned

Informational case started. Volunteer firefighter collapsed at a fire scene / brush fire / firefighter listed as critical at UVM. Fire not considered suspicious.

Death investigation of an 83 year old male found deceased. Death ruled natural. D/Sgt assigned.

Report of an alleged sexual assault of a 5 year old female. Report made at school of the female performing oral sex on her father in the shower. Interview of the reporter showed the allegation was fabricated.

Assist to St Albans City PD for an infant death. St Albans keeping the case. Autopsy showed nothing immediately suspicious.

Complaint to NUSI of an 18 year old male inappropriately touching two 16 year old females and then physically assaulting them. Suspect admitted to the allegations. Case sent to SA for review.

Follow up on Sex Assault investigation of two juvenile victims. Searches of victim's computers showed numerous texts sent regarding sexual activity.

Continued follow up on Agg Assault and Reckless Endangerment case in Orange.

B Troop

FF

17 Total Arrests, 4 DUI

Applied for and was granted a search warrant for a residence in St. Johnsbury which was executed on 04-28-2016. The case was initiated when Tpr. was contacted by the Newark School who reported that Patrick Ely, the school's principal, had purchased several items using school charge accounts which they believed was for his personal use. The school conducted an initial audit and provided Tpr. with a list of items that they could not locate at the school. (It should be noted that the Superintendent had met with Ely prior to VSP involvement and Ely returned several items (A TV, loading ramps, and an air conditioner) that had been at his house and purchased using the school's accounts. A majority of the property contained on the Newark School's list was found inside Ely's house. The property was seized, documented and returned to Newark School. Ely was arrested for Embezzlement, processed and released with a citation.

Responded to a burglary complaint in St. Johnsbury where the victim was reporting the theft of 20-30,000/worth of tools plus a motorcycle. Tpr. learned that the motorcycle had been involved in an accident the night prior and Lyndonville PD had investigated the crash. Tpr. tracked down the offender and, as a result, recovered numerous items that had been stolen. Tpr. also located a second motorcycle that the owner did not realize had also been taken.

Troops are also becoming more active with school and this past week performed a K9 demonstration.

Troopers investigated a fraud where a subject opened a "Go Fund Me" account for the family of a victim who died recently from an OD. The subjects took the money from the account and used for themselves and didn't turn the money over to the victim's parents.

Tpr. was off-duty at an auction in Fairlee when he observed an individual who was known to have an outstanding warrant. Tpr. contacted the Bradford office and, with a little coordination, the offender was arrested. During the search upon his arrest, the offender was found to have 2.9 grams of heroin in his possession. The offender was processed for possessing heroin and subsequently lodged on his outstanding warrant.

BCI

Sex Assault Investigation Follow up (Arrest made)

Two Background investigations completed, with two still out close to completion.

Assisted St. J Troops with search warrant of residence (principal of Newark school was using School credit card to buy personal property). Items were located by troops hidden on the property after they were told nothing was there.

Sex Assault investigation-Cabot

Evidence Room in St. J still being worked on ( Bar coding old evidence as inventory takes place)

Follow up on reported Embezzlement from earlier in the year.

Child Luring Case- adult male contacted a CI and requested assistance in "finding him a 15 yr old boy". AGs office contacted and working case.

Follow up on Agg. Sex Assault and Kidnapping case

Follow up on OD death in Coventry from early April

Sex Assault investigation involving a 14 yr old male sexually assaulting a 16 yr old female.

Correctional Center Assault case involving two inmates. One inmate transferred to Fletcher Allen Hospital for surgery.

C Troop

FF

14 Total Arrests, 5 DUI

Continued follow-up on the Tinmouth fatal pedestrian crash to include a search warrant on the violator vehicle. The offender is being charged as a habitual offender, and is being held without bail.

K9 Buck Demo by Tpr. Duca in Rutland City

Full-scale Exercise planning meeting (Rutland Regional Medical Center/ Rutland Airport).

Assisted the Ferrisburgh Elementary School with a school emergency drill.

Tpr. pulled over a vehicle while on cell phone enforcement overtime and processed a driver for DUI drugs, consent search conducted as well.

Tpr. has set up her first car seat installation/check day at the barracks for May 14th, advertised to media and will put on Facebook.

DUI drug arrest (Ronan) stemming from serious injury accident.

Assisted MPD stop locating 20 bags of heroin with his K9 Tarawa.

Public Speaking event conducted at Bennington School by Trooper.

BCI

Continued investigation of Poultney sexual assault/kidnapping to include additional discovery, interview newly disclosed witness, and drafting non-testimonial order for defendant's DNA

Process Volvo from Hart Homicide

Background (Eagan)

Input evidence from Laraway/Stone kidnapping/assault

Reviewed homicide depo - Pelletier

Case follow up –(Sex Offense) – re-interviewed juvenile @ ACUSI who had been around a male subject that has been substantiated by DCF – no disclosure

New Case – (Citizen Assist) – interviewed female regarding incident with landlord in Ferrisburg

SIU Investigator meeting with Deputy SA regarding open/active sex offense cases

Case follow up – (Child Pornography) – made several attempts to connect with POI's parents regarding new information for possible possession of child pornography on cell phone(s)

New Case – (Citizen Assist) – meet with sex offender from New Jersey who was on a travel permit through his parole officer to go to Bridport, VT until 5/2/16.

Case follow up – (Sex Offense) – spoke with witness via phone who now lives in Marlborough, MA  
Continued background (Baker)

Assigned new case Sex offender registry photograph. Verified address

Updated and filed CD/Evidence in the Maranville Cold Case.

Update CAD with file information and filed CD of case scan in Peacock Cold Case.

Follow up continued on Missing person case from 2014.

Meeting with Detective Trooper and Director of Bennington CAC.

Completed affidavit and case for Fatal crash in Pittsford

Dead Body in Arlington, 82 year old male, natural causes.

Background- Witkowski

New Case: Death investigation – Leicester - 53 year-old male with TBI and history of seizures.  
Sent for autopsy.

New Case: Arrested Inmate Jeremy Gates for Disorderly Conduct at MVRCF

Sex Offender Registry checks completed for Rutland Town and Pittsford.

Updated by State's Attorney on sex offense from 2003. Paperwork sent to VCIC for extradition of offender. Deputy Attorney will advise when completed.

Updated by State's Attorney on sex offense from 2012. Offender incarcerated in Virginia. Victim Advocate working with family on deciding if they still want to pursue the charge.

Meeting with Correctional Facility Superintendent and Asst. Superintendent regarding assaults.

Received call from correctional officer regarding a letter he intercepted talking about Hart homicide. Information forwarded.

Case Follow-up: Sex Offense. Town of Poultney. It was reported a 16 year old girl was sexually assaulted by her 18 year old male cousin. Case Completed.

Case Follow-up: Sex Offense. Town of Castleton. It was reported a 17 year old girl was sexually assaulted by her 15 year old friend. Case Completed.

Case Follow-up: Sex Offense. Town of Clarendon. It was reported a 38 year old female was sexually assaulted by her 23 year old male neighbor. Case Completed.

Case Follow-up: Sex Offense. Town of Wallingford. It was reported an 8 year old girl was sexually abused by her 13 year old brother. Case Completed.

Attended Blue Week Event. City of Rutland. A Proclamation in Honor of Blue Week in the City of Rutland. April is National Child Abuse Prevention Month.

New Case: Sex Offense. Town of West Rutland. It was reported a 5 year old girl was sexually abused by a 10 year old boy. Case Completed.

Attended Hearing at Rutland Family Court.

Assigned Fire Investigation in Winooski [Apartment Bldg. Fire]. Fire was ultimately deemed an arson. Winooski P.D. is investigating the criminal side of the case (Less than forthcoming with information).

Assigned Fire Investigation in Weathersfield [Motel Fire]. Fire was caused by an eight year old. Continued to look for legal answers through various law firms regarding my subpoena with civil litigation case.

2 days teaching at VPA for At Scene

Fatal in Dummerston response for CRT. Worked on scene and vehicle airbag downloads.

New Case 13 yr old reported sexual abuse by adult neighbor. Interview conducted in Rutland. Case pending further charging

New Case 13 yr old receiving sexting messages from ex b/f. Nude photos sent to others in Arlington School. Interviews of 3 witnesses conducted along with victim. Cell phone seized and

Facebook pages frozen. Several warrants will be written and juvenile charges filed on offender (13yr old)

New Case new case, 5 yr old reported sex abuse in Hoosick Falls NY while on a sleepover of Dad's sister. Interview conducted for Hoosick Falls with DCF at CAC. Case to be sent to NYSP.

Dead Body, 65 yr old female deceased on hospice car. Non AME case, no need for death investigation.

D Troop

FF

11 Total Arrests, 2 DUI

Tpr. is investigating a fatal crash that occurred on Route 30 in Dummerston; 3 vehicles involved; 88 year old passenger in Vehicle #3 died during transport to the hospital.

Investigating a burglary in Jamaica; home owner had surveillance footage; suspect has been identified.

Made an arrest in this Burglary case

Arrested one for Burglary, Petit Larceny & Unlawful Mischief

Arrest in this burglary to a barn case which occurred in Guilford

BCI

Investigated a suspicious fire Hartland.

Investigated a set fire in Ascutney.

Assisted Springfield FD with suspicious fire.

Assisted Ludlow FD with O/C at fire.

Assist Putney FD with set brush fire.

ICAC case review meeting.

Background- Traveled to Middletown, RI to meet with VSP applicant.

Assisted WCSO with interview at Brattleboro Barracks in reference to Sexual Assault in Putney.

Background- Met with VSP Jacqueline June in Marlboro.

Special Investigation.

Bank Robbery – Ludlow – Review of reports and audio files. Testimony for federal grand jury in Burlington.

Royalton evidence room training.

Assisted Arson Unit with fire at the Yankee Village Motel in Ascutney. Interview of 8 year old juvenile who admitted to starting the fire.

Meeting with Sharon Academy lawyers and States attorney for failure to report case. File on Q power point.

NESPAC meeting in Concord NH.

Preparation for upcoming NESPAC basic tactical school.

Death Investigation – Natural- 57 year old male suspected cardiac event.

Norwich University LE Career Day.

Sex Assault - Adult female reporting sexual assault from 2006, possibly previously investigated by OCSD and Sgt. Hudson in 2010.

Drug facilitated sex assault kit webinar – Vermont can now test victims for drugs 24 to 46 hours after assault.

Investigated 17 year old reported concerning behavior from father – non criminal – possible ATF violation.

Major Crimes Unit:

Follow up on Brownington Homicide: witness interviews, interview and walk through scene with Simard, submitted follow up to Facebook warrant

Follow up with Burlington OIS/Under SA/AG review

Follow up on O'Hagan Homicide: Follow-up with the SA, traveled to another potential dumpsite of O'Hagan (Info recently received from one defendant that plead in the case). Conference call with Victim's son

Evidence moved from Williston to New Haven (Bristol assault investigation).

Hart Homicide (CSST)- Processed Volvo in New Haven, vehicle moved to Royalton long term impound

subpoenas for Schneider Homicide- depositions served

Follow up for Marzilli Homicide (Shrewsbury); jail calls (Def calls from correctional facility), filing extension for ICAC computer processing (need additional time)

Paula Weldon case: Followed up with interview regarding letter found, reviewed the Paula Weldon case file

Follow up on Whitingham shooting (case prior to MCU); as a result of a resent court ruling required to relay gun and evidence to lab for testing





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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Justin Johnson  
**DATE:** May 6, 2016  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Issue Updates:**

Westminster – Public Safety Facility – New Construction: The GC is working to finalize finishes inside and outside of the building. Site paving and line striping is scheduled along with site grading, seeding and mulching. Security systems, interior painting, mechanical insulation, sprinkler system testing and finish cabinetry are all wrapping up. The new PSAP consoles are in place and operational. There is an issue with final construction of the stormwater detection that is being held up in the permit process. Occupancy may be delayed for a month to six weeks.

**Significant Meetings/Events:**

Met with Representative Stuart and Representative O’Sullivan: Discussed Tech Centers and maximizing the number of trained individuals to fill available jobs.

**FINANCE AND MANAGEMENT**

Nothing new to report.

**HEALTH CARE REFORM**

Nothing to report.

## **HUMAN RESOURCES**

### **Legislative/Policy Update:**

Successfully worked with House Appropriations to kill a provision of the Pay Act as passed by House Government Operations which would have required a five percent reduction in the state workforce by 2020. The bill was amended by Appropriations to require the administration to use RBA and LEAN to find government efficiencies. Should cost savings be found, the amendment directs the Administration to report on supervisor and management level positions which could be reduced.

The Pay Act, with a \$200,000 General Fund reduction from the Labor Board's ask, passed House Appropriations 8-1 and passed the House on a voice vote with no amendments. It will likely end up in the budget.

Monitoring several provisions in the FY17 Budget Conference Committee, including the risk management privatization language, the attorney study, the position pilot expansion, and the Senate provision to cut \$500,000 in exempt positions.

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

Met with VTA on contract – have reached tentative agreement

Classification study – Staff spent great deal of their time with the consultants. We were unable to meet with VSEA on this round but did meet with VTA. Reaching out, again, to VSEA to schedule a phone call with the consultants to include VSEA input into the study.

BCBS submitted both their 2015 and first quarter 2016 performance guarantees. They met all targets except performance accuracy in 2016 (target was 99%, they achieved 97.73%). We get a guarantee kickback of \$10k. Asking for more details regarding why they did not reach the target.

Public Service Recognition Week luncheon was a great success. We have received very positive feedback/thanks from employees and leadership.

## **INFORMATION AND INNOVATION**

Nothing to report.

## **LIBRARIES**

Nothing to report.

## **TAXES**

### **Legislative Update:**

Miscellaneous Tax Bill: Did our best to alert the Conferees that the “New Economy” provisions aimed at AirBnB and Amazon like remote vendors were problematic – especially since they are likely to lead to litigation with their 2017 effective dates, although legislators keep professing that is not their intent.

At this moment, the Committee has only met twice, and not clear that they will adopt any of our changes to keep us out of court. Best bet is that they will strip the last minute Senate AirBnB reporting requirement. Otherwise, they seem to have taken the “we can fix it next year” approach. Oh, to be a legislator again...

Estate Tax: Obviously, conference will be over the telecom attachment. Very gratifying to get a unanimous roll call in support of the estate tax provision on the House floor.

2015 Tax Changes, Return Errors: As previously reported, we estimate that 19,000 returns failed to capture the 2015 Personal Income Tax changes (5% of total returns), with a preliminary estimate of exposure at \$1-2M in underpayments. As the situation unfolds, it is becoming apparent that the Department must consider taking some public steps, especially to minimize the impact on our operations. We ended up assigning this as the first task of our new continuous improvement team.

The errors were on both paper filed and emailed returns. We have learned that the software coding errors were included on both individual and professional software packages – and some of the communication that we have reviewed (going from the software vendors to individuals as well as from preparers to their clients) is less than ideal. We haven’t heard too much yet – some affected taxpayers are confused and unhappy (particularly since they now have to send back part of their refunds), and some tax preparers are quite angry, and directing some of that anger to us. The larger community of taxpayers and tax preparers are oblivious however.

Probably the worst immediate issue is that the software vendors have not coded amended returns – so they are instructing their users to file paper amended returns. This is true for Intuit, which alone accounts for 11,000 erroneous returns. This represents an enormous increase in paper processing at the time when our processing temps are gone – and our staff, in addition to its usual spring clean-up, is supposed to be turning its attention to testing VTax for personal income, going live in December.

We have reached out to some leading local preparers (we will loop in our advisory group) and the Federation of Tax Administrators to see if there is any precedent and insight. We had a preliminary conversation with an Intuit rep and have scheduled another call for Tuesday to discuss redress. We will be considering our communication options, with a goal of perhaps releasing something mid to late next week (unless circumstances dictate earlier).

Current Use Lien Subordination: Still have not heard definitively whether our proposed solution on lien subordination language will satisfy all parties so that loans on current use properties continue without hiccup.

### **Operations Update:**

VTax Project: It may be post tax season weariness, but a bit of concern is creeping into the pace of the Phase 3, Personal Income Tax implementation. Our call center was overwhelmed through most of the tax season, meaning that our return worklists are higher than they have ever been, which means that both our Taxpayer Services division and the project team have been distracted by customer service issues rather than the next phase. At this point, the estimate is that the project team is spending only 70% of its time on Phase 3. We are working on strategies to get them back 100% on current phase, and relieve the Taxpayer Services division which is citing burnout.

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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: May 6, 2016

**Secretary's Top Issues**

**Grand Food Mercantile in Chicago**

Senior Market Development Specialist Reg Godin attended the [Good Food Mercantile](#) in Chicago on Sunday May 1. The Mercantile was hosted by the Vermont Cheese Council and featured 75 producers that adhere to the Good Food criteria established by the [Good Food Merchants Guild](#). Attending the mercantile were over 250 guests comprised of retailers, chefs and media influencers who source, sell and promote Good Food. Some of the retailers included Bi-Rite Market of San Francisco, Eataly of NYC/Chicago, Pastoral Artisan Cheese, Bread & Wine Shop, Brooklyn Kitchen of NYC, and more. The Vermont Cheese Council sampled cheese from many of its members, including Twig Farm, Parish Hill Creamery and Consider Bardwell. Other Vermont companies exhibiting at the show include: Big Picture Farm, Woods Vermont Syrup, Shacksbury, Vermont Creamery, Jasper Hill, & Springbrook Farm.

**Cervid inventory and overdue \$9,000 penalty**

Animal Health Section staff met with a non-compliant cervid producer to set up appointment for annual inventory. Producer's premises has been quarantined for over one year due to an incomplete herd inventory. Producer was issued a Notice of Violation for the inspection issues and a Final Order for \$9,000 which has not been paid and has been referred to collection. Producer informed staff that he will contact state veterinarian to discuss status.

**Water quality update**

The RAPSSs will be considered by ICAR next week. The Agency will likely have hired all people for all the currently authorized water quality positions. Staff is continuing to work in the field and coordinate efforts with ANR. VAAFM personnel are being recognized by a Region 1 EPA award along with colleagues in DEC for their collective work on Lake Champlain.

**Food Safety Modernization Act (aka FSMA)**

VAAFM staff continue to work to apply for FSMA (food safety modernization act) for resources from the FDA to support the Agency's food safety work under the FSMA. Vermont's leadership and work role in developing the framework for and input into the implementation of FSMA ought to serve Vermont well in this competitive process but since the FDA has fewer resources than necessary to fully fund all states it remains to be seen how Vermont will fair.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
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**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: May 6, 2016

**Status of Governor's Priorities:**

**Legislative Activities and Issues:**

- Bills of interest in Conference Committees
- H. 512 Adequate Shelter for Cats and Dogs
- H. 875 Budget bill- new inclusion of language addressing VAAFM's farmland conservation executory interest
- S. 230 An act relating to improving the siting of energy projects

**Press, Marketing and Communications:**

Henry Marckres, Chief, Consumer Protection, will be on You Can Quote Me on WCAX on Sunday. The topic is maple in Vermont.

**Significant Events/Meetings:**

- Assistant State Veterinarian attended an FDA technical call on the cooperative agreement application for the Produce Safety Rule implementation. The Produce Team plans to present the 5-year plan and budget for the program at the internal meeting on Friday. The cooperative agreement is for \$3.6 million over 5 years.
- Animal Health Section is working with IT staff regarding enhancements and upgrades to the USAHerds database. The Section records the import/export data for livestock and poultry in the database. On an annual basis over 44,000 livestock are exported from VT and over 140,000 are imported. The Section receives this data from many different sources in many different forms. IT is helping to streamline these processes and make the data entry more efficient.
- Animal Health Section staff completed the first round of feedback letters for producers that met with staff to complete the Highly Pathogenic Avian Influenza Site Assessment. VAAFM is proactively communicating with Vermont poultry owners who have the greatest potential for their commercial businesses to be impacted by Highly Pathogenic Avian Influenza (HPAI), should Vermont have a positive case of this disease. The primary purpose of this outreach is to meet with producers face to face and complete the biosecurity audit paperwork that would ultimately be required if their farm(s) are impacted in order to engage in permitted movement of all farm conveyances and products. The letters provide feedback on each farm's biosecurity practices and make recommendations for improvement where appropriate and will be both mailed and emailed. Participants are also being provided with free biosecurity signs for their farms, along with mortality composting resources.

**Evolving Issues:**

- Animal Health Section staff met with a non-compliant cervid producer to set up appointment for annual inventory. Producer's premises has been quarantined for over one year due to an incomplete herd inventory. Producer was issued a Notice of Violation for the inspection issues and a Final Order for \$9,000 which has not been paid and has been referred to collection. Producer informed staff that he will contact state veterinarian to discuss status.
- Animal Health Section staff completed the annual physical herd inventory reconciliation for a deer producer in the Holland area. Inspector will make another visit at a later date to
- Animal Health staff assisted a new poultry producer in becoming a participant in the National Poultry Improvement Plan (NPIP). Participation in NPIP with helps producers with market access and interstate movement of poultry

products. Additionally, the tests that are required for NPIP participation, which are completed by Animal Health Specialist, provide disease-free surveillance that Vermont needs to prove in order for farmers to import and export poultry and poultry products and support Vermont's growing poultry industry valued at over \$12 million dollars, more than a doubling of increased value in less than 10 years.

### **Summary of Key Agency Department Activity**

#### **Administration:**

Stephanie Smith and Lauren Masseria attended the May 5, 2016 of the Vermont Association of Planning and Development Agencies meeting. Lauren Masseria, presented a summary of the [Onsite Mitigation Report](#), a pilot project completed in Environmental District 4. This research was a first look at the ways in which onsite mitigation, set aside via an Act 250 permit condition, is being used. This summer the Agency will hire an intern to do the follow up work for the rest of the state with the goal of producing a GIS shapefile and draft report on findings.

Other state agencies reported on their activities.

- The Agency of Natural Resources Municipal Day will be held September 9. This is an opportunity for multi-agency/department presentations on topics of interest to municipalities. The Agency participated in this event for the past three years and looks forward in doing so again in the fall.
- Agency of Natural Resources is in the process of developing riparian buffers guidance for projects in Act 250 and Section 248.
- The Health Department shared some initiatives including the Health in all Policies; 3>4>50 a statewide data brief on behaviors/chronic diseases and their link to common causes of deaths in Vermont; and another project to highlight case studies in Vermont and nationwide to help communities plan for better health outcomes. This may be an opportunity for the VAAFM to contribute its ideas to help tackle some of the issues identified including access to nutritious foods including fruits and vegetables.
- The Agency of Commerce and Community Development will host an "unmanned aircraft systems" or drone demonstration on May 11, beginning at 9:30 am in the basement of the Davis Building.

#### **Agricultural Development:**

Senior Market Development Specialist Reg Godin attended the [Good Food Mercantile](#) in Chicago on Sunday May 1. The Mercantile was hosted by the Vermont Cheese Council and featured 75 producers that adhere to the Good Food criteria established by the [Good Food Merchants Guild](#). Attending the mercantile were over 250 guests comprised of retailers, chefs and media influencers who source, sell and promote Good Food. Some of the retailers included Bi-Rite Market of San Francisco, Eataly of NYC/Chicago, Pastoral Artisan Cheese, Bread & Wine Shop, Brooklyn Kitchen of NYC, and more. The Vermont Cheese Council sampled cheese from many of its members, including Twig Farm, Parish Hill Creamery and Consider Bardwell. Other Vermont companies exhibiting at the show include: Big Picture Farm, Woods Vermont Syrup, Shacksbury, Vermont Creamery, Jasper Hill, & Springbrook Farm.

On Friday April 29<sup>th</sup>, the Vermont Agency of Agriculture, Food & Markets continued its important effort of connecting Vermont producers with buyers across the northeast corridor. Hosted in Burlington, the Vermont Food Matchmaker featured 54 Vermont producers and 40 buyers from 30 retail establishments in search of new and exciting products from Vermont.

The sold out event included Vermont producers from the dairy, maple, fruit and vegetable, meat and specialty food sectors and featured an exclusive 2-hour trade show, open only to buyers and media influencers. A pre-arranged speed meeting session followed the trade show event. This hour and a half featured over 180 pre-arranged, one-on-one meetings between buyers and sellers, an efficient time for buyers to offer insights and sellers to make sales pitches and close deals. Buyers looking for quality Vermont products traveled as far as Virginia to meet with new and emerging Vermont businesses such as Black River Meats and Joe's Kitchen at Screaming Ridge Farm as well as more established businesses such as Lake Champlain Chocolates and Butternut Mountain Farm. Experienced buyers were impressed by Vermont's quality producers and advanced capabilities. Buyers left with connections and ambition to introduce Vermont products to more out-of-state consumers.

In addition to the matchmaker event, VAAFM offered a free seminar, *How to Have the Most Successful Trade Show*, instructed by Specialty Food Coach Deb Mazzaferro. The seminar was attended by over 30 Vermont businesses that attend out-of-state trade shows. Attendees learned skills to create an elevator pitch, learn qualifying questions, craft a show special and understand how to evaluate a return on investment for exhibiting at specific shows.

The event and seminar are part of VAAFM's Domestic Export program, and was made possible by a multi-organization partnership of VAAFM, Vermont Specialty Food Association, Vermont Retail & Grocers Association and Vermont Fresh Network.

This week, Lauren Masseria, attended the Vermont Association of Planning and Development Agencies meeting for directors and associates to present a summary of the [Onsite Mitigation Report](#), a pilot project completed in Environmental District 4. This research was a first look at the ways in which onsite mitigation, set aside via an Act 250 permit condition, is being used. This summer the Agency will hire an intern to do the follow up work for the rest of the state with the goal of producing a GIS shapefile and draft report on findings.

### **Land Use:**

The Vermont Agency of Agriculture, Food & Markets, the Vermont Natural Resources Council, Shelburne Farms, and the Farm-Based Education Network, NOFA-VT created resources to help farm operators navigate the local permitting process and municipalities plan for and support diverse on-farm enterprises. They also include two case studies illustrating the challenges and opportunities met by two different operations that went through local permitting processes in their respective communities to grow and change their businesses. A link to these resources can be found on the VAAFM Agricultural Enterprise landing page, under the Land Use tab - Check it out! <http://nofavt.org/resources/rural-enterprises-information>.

The Natural Resource Conservation Services (NRCS) in Vermont recently changed its interpretation of foot notes referenced in "important farmland ratings" found in National Cooperative Soil Survey data. The NRCS's soil survey is the basis of eligibility in the NRCS Agricultural Conservation Easement Program and has effects on farmland conservation projects in the state. In addition, this change in interpretation will guide the VAAFM's analysis of what meets the definition of "primary agricultural soils" and what land is suitable for onsite mitigation in the Act 250 review process, and may have implications for farmers who may want to install conservation practices. The VAAFM is still trying to understand this change in interpretation by the NRCS of important farmland ratings and its effect on the industry and permitting requirements.

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

#### **Meat Inspection:**

- Vermont meat inspection has helped another processing establishment transition to Federal inspection thereby expanding the market opportunities for another small VT business
- VT is providing increased amounts of relief inspection for the federal inspection system under the cross-utilization program
- Working with individual to start a beef jerky operation in Jericho, will be retail to start then will move to state inspection and then probably federal after the business grows
- VT is working with the Attorney General's office to withdraw a conditional license based on the inability of the establishment to adhere to a previous Assurance of Discontinuance
- Working with Ag communications office to develop education and outreach materials for individuals interested in on-farm slaughter activities
- A federally inspected meat plant in Grand Isle followed required notification procedures to inform VT Meat Inspection that they had slaughter operations suspended due to an egregious humane handling incident
- VT is completing clarification questionnaire for FSIS concerning the 2015 self-assessment document required to maintain "At Least Equal to" status

#### **Animal Health:**

- Animal Health Field Staff
  - Attended the Addison County Commission Sales to monitor the auction market for compliance with federal and state animal movement and identification requirements and to complete the market report, published on the AMS market report website and other publications. The ACCS is the only livestock auction market in the state and moves over 2,300 cows and calves and generating on average over \$800,00 in sales per month. Without this oversight to ensure adherence to animal movement regulations, Vermont producers would have difficulty conducting needed sales of livestock for their business survival. At the market, field staff provide technical assistance to farmers and livestock dealers to help them understand state and federal regulations so they can sell and purchase livestock at affordable prices. Animal Health personnel also provide technical



assistance to sale barn personnel in regards to humane animal handling, animal identification, import/export compliance and freemartin testing. Calf prices were down this week.

- Completed tested of poultry in Richford for Pullorum and collected surveillance samples for avian influenza testing.
- Provided animal identification supplies to livestock dealers and completed an annual inspection, checked records, and viewed facility and transport trailers. .
- Compiled list summer and fall livestock and equine events not associate with fairs to monitor for import requirements and animal identification compliance.
- Responded to a sick bird call and collected surveillance samples for avian influenza

### **Dairy:**

- Two Dairy Farm Specialists have started more training to become USPH Farm Rating Officers. They worked with the 2 current Rating Officers all day 5/4 on learning the required paperwork.
- A small plant in Milton has stopped production. This will also mean one less dairy farm.
- USA Food Safety is still being modified to meet our needs. The farm and plant inspection parts are functioning. Now working on the auto generated licensing and lab sections.

### **Agricultural Resource Management:**

#### **North Lake Farm Survey Initiative:**

- Staff are conducting water quality surveys of farms in Franklin and Orleans Counties as part of the North Lake Farm Survey Initiative. Approximately 360 farms have been identified in the survey area and surveys are being conducted by several ARM Division staff members. To date, over 305 farms have been fully surveyed and approximately 53 farms are left to survey as part of this effort. The following number of farms were surveyed within the last week as part of the survey initiative:
  - 7 SFOs
  - 1 LFO
  - 1 MFO
  - 5 evaluations of sites were conducted to see if livestock were present to determine if surveys were needed.

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

- Staff conducted a compliance check from a complaint on a MFO in Lamoille County to evaluate compliance with vegetated buffer requirements. MFOs and LFOs are required to have a 25' vegetated buffer between surface waters and annual crop land.
- Staff conducted a visit to a MFO in Caledonia County to discuss the MFO General Permit and the MFO program. The farm recently submitted a NOIC (notice of intent to comply) for coverage under the MFO general permit.
- Staff conducted a manure stacking investigation on a SFO in Franklin County. Staff noticed a water quality concern and visited with the farm owner to discuss improvement in management.
- Staff conducted a complaint investigation on a SFO in Caledonia County to evaluate milk house waste management. There was no discharge noted, however staff recommended to the farm that a permanent BMP be installed.
- Visits to farms were conducted as part of the North Lake Contractors initiative where contractors will provide case management services to farms that need assistance to improve water quality as a result of North Lake Farm Surveys. The following visits occurred:
  - Staff conducted four (4) visits on SFOs in Orleans County with the Orleans County Natural Resources Conservation District (OCNRCD).
  - Staff conducted one (1) visit on a MFO in Franklin County with Friends of Northern Lake Champlain (FNLC).
- Staff attended a cover cropping workshop in Addison County held by UVM Extension. The event was held specifically to educate service provides on how to provide resources and assistance to farms in implementing cover cropping on annual crop land.
- Staff met with partners to discuss RCPP and Clean Water Fund Initiatives.
- Staff attended a meeting with NRCS, ANR DEC and the VT Association of Conservation Districts to discuss nutrient management planning efforts and to develop a prioritization strategy on how to get farms NRCS contracts for water quality improvements.



- Staff are process annual report submissions from MFOs which are due to the Agency by April 30.
- Staff are preparing documentation for the ARM Division Enforcement Section as a result of review of LFO annual reports. The review included nutrient management plans (NMPs) submitted by LFOs as part of their annual reporting as well as other permit compliance concerns.
- Staff are working with the ARM Division financial management team to review Farm Agronomic Practices (FAP) Program applications for education/outreach grants and develop grants agreements with the applicants.
- Staff are continuing to work on and test the FoodSafety Water Quality database. We are currently working on enforcement actions, permit fees and payments, data tracking and data migration. Releases to the staging environment have allowed for continued testing.

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

- Staff visited a SFO in Orange County to meet with a contractor for BMP improvements and to check on a tree planting as part of a CREP project.
- Staff visited a SFO in Orleans County to meet with a planting contractor to discuss plantings related to a CREP project.
- Staff are preparing CREP projects and processing paper work related to CREP contracts.

**Secretary's Comments:**

**Water Quality** – The RAPSs will be considered by ICAR next week. The Agency will likely have hired all people for all the currently authorized water quality positions. Staff is continuing to work in the field and coordinate efforts with ANR. VAAFM personnel are being recognized by a Region 1 EPA award along with colleagues in DEC for their collective work on Lake Champlain.

**Food Safety Modernization Act (aka FSMA)** – VAAFM staff continue to work to apply for FSMA (food safety modernization act) for resources from the FDA to support the Agency's food safety work under the FSMA. Vermont's leadership and work role in developing the framework for and input into the implementation of FSMA ought to serve Vermont well in this competitive process but since the FDA has fewer resources than necessary to fully fund all states it remains to be seen how Vermont will fair.

**Legislature** – During the last Secretary and appropriate VAAFM staff worked with the Governor's office, in the legislature and the legislative process to assist in the advancement of a number of pieces of legislation affecting agriculture and the Agency.

- S230 worked to establish bill back, right to participate in 248 and consider ag soils
- Budget: Working Lands, provided legislators and conference committee members info needed to understand why the 20% cap was problematic and what else in addition to administering grants the WLEB staff does
- Conservation Easement language: worked with Senator Starr to assist his understanding of the need for the Agency to assume Executory Interests in all prospective conservation practices and help Senator to get language correct on an amendment Senator Starr included in the Budget Bill.
- Marijuana – worked with Governor's office to help legislators consider worthy proposals for legalizing marijuana and the important ancillary policy needed to do it well

Efforts in support of this work included preparing reports for legislators and testifying before the House Agriculture Committee and the Senate Finance Committee.

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**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: May 6, 2016**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

none

**Legislative Issues/Contacts:**

Various conversations regarding lottery language in budget bill.

**Press Issues/Releases/Contacts:**

none

**Significant Events/Meetings:**

none

**Evolving Issues:**

none

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**Summary of Key Agency Department Activity:**

We lost effort to repeal lottery restriction. This will require various changes to cancel licenses for 25 agents, remove products and equipment, and try to place them in other locations.

Here are our actual financial statement results through April:

	Actual	Budget	Last Year	Diff to Bud	Diff to LY
Sales	\$104.3M	\$99.0M	\$92.0M	\$5.3M	\$12.3M
Profit	\$21.3M	\$19.2M	\$17.8M	\$2.1M	\$3.5M

The record Powerball sales in Jan provided an extra \$4M in sales and \$1.4M in profit over Budget and LY.

**Executive Director's Commentary:**

The Legislature did not want a lottery back in 1977 and still does not like having one today. I understand what is described as policy but am disappointed when it ignores the realities of what citizens are doing of their own free will. It is ironic to me that the last change to the state constitution was to add the lottery because the citizens of Vermont wanted one. I will get over this loss but not what caused it.