

# WEEKLY REPORTS

Checklist  
2/20/15

Elizabeth Miller/Alyson Richards

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

TBD

- ☒ Agency of Transportation – Sue Minter
- ☒ Agency of Human Services – Hal Cohen

Sue Allen

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

Sarah London

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

Susan Spaulding

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

**To:** Governor Peter Shumlin  
**From:** Patricia Moulton, Secretary - Agency of Commerce and Community Development  
**Date:** February 20, 2015  
**Re:** Weekly Report

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## LEGISLATIVE ACTIVITY

- **Budget:** The whole ACCD senior leadership team presented our proposed budget to the House Appropriations Committee. The presentations all went very well, and little follow up was requested, though they did ask for Vermont Life profit and loss statements. They were also very interested in VEGI and how the funding flows. Fred Kenney and Mary Peterson will likely get called in on that.
- **BTU Act:** Lucy joined Senator Welch at a press conference at National Life to announce his introduction of legislation that would provide the same kinds of tax credits for biomass heating as currently exist for solar and other types of renewable energy. While there is good support, it will probably not be enough to pass this year.
- **House Commerce:** Lisa Gosselin presented CEDS to House Commerce on 2/13, identifying measureable goals and the projects that are currently underway to meet them. Noted significant steps toward achieving goals in four buckets: Financing (new EB-5 projects are slated to bring in \$100M), Workforce Development (Vermont Strong Scholars, VTech programs, workforce needs assessment survey, Career Pathways), Business Environment (lowering of energy costs via GMP, VSBOE implemented, One Stop Shop portal underway, health care) and Infrastructure (airport and rail expansion). Also discussed how ACCD was prioritizing projects based on how likely they will have an impact and what resources they will require and emphasized that with limited resources, ownership of projects must be allocated to those who can best undertake them. Noted that CEDS is a strategic plan, not a workplan, and that each initiative on its own might have a separate workplan. Was asked about the role of marketing the state and stated that with limited resources we should have a very clear idea of what we are marketing, who the target audience is and what the measureable goals and desired outcomes are before determining what the message should be.
- **H.123 Mobile Home Park Bill:** Jen and Arthur testified on H.123 before the House General, Housing and Military Affairs Committee this week. The bill would expand the Department's enforcement authority to include habitability and lease terms, make the failure to meet habitability standards a violation of the state's consumer protection laws and clarify that owners must reasonably ensure emergency vehicles can access the park as part of making them safe and habitable. Park owners testified in opposition. Coordinating with Wendy Morgan of the Attorney General's office in support of the bill.
- **H.256 Tenant Property and Fair Housing Technical Bill:** House General unanimously approved a committee bill comprising two fixes it considers technical. Section 1 eliminates a potential gap in the law governing evictions, a problem identified as a side issue (footnote) in the Vermont Supreme Court Case - *JW LLC v. Ayer*. Section 2 reinstates important protections that were inadvertently eliminated by previous amendments to the fair housing enforcement statute. The Department supports the bill. With help from Dale Azaria, monitored committee action and provided the Governor's office with a bill review.

## PATRICIA MOULTON, SECRETARY:

- **GW Plastics tour by House Commerce:** I attended the GW portion of the tour on Tuesday by House Commerce. The Committee was genuinely impressed with the work GW is doing. It helped me realize how little they know about businesses throughout Vermont and what they produce. Ben Reihl did a great presentation on their markets, pressures they feel and their next expansion and whether or not that will be in Vermont. Ben's three top issues are: power costs, labor availability and taxes. We are working on a proposal for Ben. Other than the Economic Development Incentive Program (EDIP) from GMP, not a lot we can do on the electric costs. I did not accompany the Committee on the balance of their tour in White River and Springfield. I will be talking to Chris Recchia to see if we could enable more companies to do the IBM alternative to the Efficiency Vermont charge. This is where they would not pay if they had their own efficiency plan and invested in it. Likely a proposal for next session but the only thing I can think of to help on electric costs other than EDIP.
- **Chris Brooks, Vt. Wood Pellet:** I/we continue to have periodic check in's with Chris. He indicates he is considering a location with Wheelabrator in Claremont, NH. They have excess process heat Chris can use to dry his wood pellets, they produce electricity on site and they have an existing building with limited permit process.

He indicates his third plant would be in Vermont or "where ever I can get permitted the fastest." He got turned off of Brattleboro due to his perception of Act 250 (which he is getting from Jim Barnes at Haystack) and a conversation he had with the Selectboard Chair in Brattleboro. I am working on him to consider sites in Windham County as we have the greatest flexibility of funding there. We are also talking to him about land along the rail where Vtrans can offer free leased land. This will be an uphill climb as Chris indicates he will not provide a personal guarantee of any financing (a standard requirement). He knows he may need to raise capital to grow the business. He should be able to do it with the demand he has for product.

- **Revision Military:** Greg Maguire tells me they will be having a temporary lay off at their Newport plant due to a delay in a military contract. I am unsure at this hour how many will be affected. We are hopeful they could work with VDOL on a short term compensation proposal to minimize the number laid off or put folks on a shortened work week.
- **Plasan North America:** Very bad news about the second plant closure in Bennington. We will be meeting with the Bennington economic development folks to discuss opportunities to fill up the empty buildings as a result of this closure. The good news appears to be there are other employers looking to hire. Hopefully folks will be unemployed for a short period if at all.
- **Act 250 and Criterion 9L:** Noelle and I met with Kevin Mullin who is hearing a lot of concern about 9L. He wants us to look at tweaks. We agreed we would look at a couple of possible clarifying changes but that we really want more time to do education and outreach. He is likely to put in language in the Econ. Dev. bill directing us to do that outreach which is fine.
- **Governor note:** Kevin was also angry we did not let him know about Plasan until today. He said the Governor heard "two days ago and I am hearing it now." I shared with him the news about Lisa Gosselin leaving and Joan Goldstein coming in. I also shared the DFR news with him. All prior to the press releases which was fortuitous!

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

- **VCRD Climate Economy Summit: (with additions from Pat Moulton)** Lucy attended this day-long VCRD summit focused on finding economic opportunity through climate change. The Governor's remarks were entertaining and well received by the 400+ person audience. The administration was well represented at the event with appointees and staff from throughout state government serving on panels and facilitating discussions. Almost every break out group reporting out was in favor of a carbon tax as a means of "taxing what we don't want and spending on what we do want." The break out groups had varying ideas about how to proceed to implement steps to build an economy around climate change. Moving forward, a Climate Council will conduct a deeper investigation of the issue and work to further refine the Summit recommendations. Lucy will serve on the Council, as will Transportation Secretary Minter. At the end of the day, several individuals from the city of St. Albans received the VCRD 2015 Community Leadership Award. Mayor Gamache, City manager Dominic Cloud, Emerson and Suzanne Lynn from the St. Albans Messenger and Warren Hamm of the St. Albans Historical Society were on hand to receive the award. John Ewing received the first VCRD Lifetime Achievement Award.

#### **DEPARTMENT OF ECONOMIC DEVELOPMENT: Lisa Gosselin, Commissioner**

- **New Business Recruiting:** Spoke with Neil Sikder, the principal in Maia Strategy, a marketing firm that works with Fortune 500 clients. Neil has been operating this small firm out of New York City and is keen to grow it. He is looking at cities around New England and has narrowed the list to Portland, Manchester and Burlington. The firm plans to have 10-15 employees and would like to bring on recent grads (hence the attractiveness of a college town) and train them as it grows. Kiersten Bourgeois has also been working with them and we are arranging a meeting next week with Maia and GBIC to discuss options for space. Also connected Nathan Irons with builders and RDCs in Lamoille, Chittenden and Washington counties.
- **Look for Vermont in next winter's Pottery Barn catalog:** Pottery Barn is shooting its next children and early teens catalog in... drumroll... Vermont. Location scout James Velastro helped the California-based company identify locations in Southern Vermont and in Stowe. The shoot will bring 25 people to the area for a minimum of two weeks.

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

- **Liz Lovely – Waitsfield:** The company signed a loan with the Flex Fund this week for working capital and full time employment is at 18. They are seeking two new bakers and their space needs are adequate at this time. They are struggling to find contacts for major supermarket distributors in the northeast. We will research ways to

address this issue as several other specialty food companies have the same need. When asked about government contracting they expressed interest in PTAC's services.

- **Northern Reliability – Waitsfield:** The company reports that the business pipeline is as strong as it has ever been and they struggle to keep pace with the changing technology. They requested specific assistance in helping to finance a leaseback model for storage batteries allowing them to provide their customers with an alternative option that is less expensive than purchase. A project was successfully completed with Renewable NRG Systems in Hinesburg and they hope for future business. They are seeking new space that accommodates both offices and manufacturing. They received investment funds from VCET in 2013 which have helped cash flow. On the legislative agenda they are strongly opposed to the payroll tax, the carbon tax and have concerns about H. 41 on renewable energy portfolio standards. Appropriate referrals will be made.
- **Superthin Saws – Waterbury:** The company reports that business is strong with full time employment at 24. They are considering purchase of a new piece of equipment and are looking for new space as they have outgrown their present facilities. They were very concerned about the governor's payroll tax proposal and reported that as a result of a tax audit they were levied a \$14,000 use tax on machinery. We will make referrals as appropriate.

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

- Represented ACCD at the Advisory Board meeting of the **Farm and Forest Viability Program** of the Vermont Housing and Conservation Board. Reviewed grant applications and helped select **ten farm businesses to receive Dairy Improvement grants**. Total Dairy Improvement grant funds awarded: approximately **\$320,000**. Also reviewed and helped select **Business Plan Implementation grantees** (eligibility limited to farms who have graduated from the Viability program). **Ten farms were awarded an implementation grant**. Total Implementation grant funds awarded: **\$53,650**.

#### **VERMONT ECONOMIC PROGRESS COUNCIL ♦ Fred Kenney, Director**

##### **VEGI**

- Testified in Senate Economic Development and House Commerce on VEGI changes.
- Worked with Triad Design on VEGI application. Filed Initial Application for February 26 meeting.
- Met with Nathan Irons regarding potential of establishing new life insurance company in Vermont. Ran VEGI preliminary estimate.
- **VERY CONFIDENTIAL:** Spoke with accountant for Husky regarding VEGI. Potential for expansion in Milton, but not clear expansion will be large enough to overcome background growth.

##### **Recruitment**

- Spoke with Mike Palmer, Wateroter, a Ottawa-based company regarding potential to establish presence in Vermont.

#### **Procurement Technical Assistance Center: Robin Miller, Director:**

- **Other PTAC News:** Registration is now open for the 2015 Training and Matchmaker Event. The Matchmaker Event is scheduled for Wednesday May 6th through Friday, May 8th, 2015, at The Equinox Resort in Manchester, Vermont. This event is being co-hosted with the Vermont Procurement Technical Assistance Center (VT PTAC) and the Department of Defense Northeast Regional Council (DoD NERC). This not to be missed event fosters business partnerships between the government, its prime contractors, and businesses. The Matchmaker will give businesses specific tips on how to improve their company's chances of winning government contracts. To learn more about this event or to register go to <http://www.us-ipe.org/>

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

- **CPS Group:** Beth Demers received a final application from Critical Process Systems (CPS) Group. The Colchester based parent company holds both Fab-Tech and NEHP. The company has recently won some new contracts and is looking for assistance with Lean, leadership, and welding training. The application will be put up for the VTP Review Team this week.
- **Dynapower:** Beth Demers received a final application from the South Burlington based Dynapower. The company is hoping to undertake a companywide (all 190 employees) communication and problem solving training. The application will be put up for the VTP Review Team this week.

- **Vermont Sustainable Jobs Fund (VSJF):** The VSJF has put in a final application for its Vermont Agriculture Development Program (VDAP). Multiple small food and agriculture companies have written letters of support for the program. The application will be put up for the VTP Review Team this week.
- **SSW Erectors:** The Morrisville based SSW Erectors has put in a final application for VTP Funding. The company is in a growth phase and is looking to achieve a new industry certification. This would allow them a greater competitive advantage. The company is also putting some training in place in anticipation of a physical expansion in 2017.
- **Vermont HITEC:** The Vermont Training Program issued a training provider grant to Vermont HITEC for its Advanced CNC Concepts Apprenticeship for Husky injection molding. The maximum payable for the grant is \$16,000.00.
- **Associated General Contractors (AGC):** Beth Demers participated in a conference call with Commissioner Noonan to discuss new Safety Supervisor requirements being implemented by the Agency of Transportation and a training the AGC has developed. AGC is working on a final budget for the training and Commissioner Noonan is exploring federal funding options. The Vermont Training Program may be an option.

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

### **Commissioner MacKay and Deputy Commissioner Hollar**

#### **Commissioner MacKay**

- **State Emergency Support Functions:** The Department of Emergency Management and Homeland Security has hired a consultant to interview those involved with response, recovery, and mitigation at a local, regional and state level. Joined Secretary Moulton in participating in the discussion of training needs for those areas of response and mitigation that DHCD plays a role – economic recovery, community recovery, housing and cultural and historic resources.

#### **Deputy Commissioner Hollar**

- **Vermont Council on Homelessness:** Participated in the bi-monthly meeting of the council which featured a presentation by UVM Medical Center on their collaboration with Champlain Housing Trust on medical respite beds at Harbor Place which provide a stable place for patients with no home to recover once discharged from the hospital. A lengthy discussion was held on the proposed initiative to end Family Homelessness by 2020. Homeless advocates urged caution about prioritizing one type of homelessness above another and putting people in permanent housing without support services to ensure they are successful. Shared language developed in coordination with the other housing development funders (VHFA, VHCB and VSHA) for AHS' proposed statement of purpose.
- **Vermont Housing Finance Agency:** This month's meeting was more than ably managed by new Board Chair Randy Amis. The board approved loans to developer Brad Dousevicz for use as equity and predevelopment expenses for projects he is developing in Essex, South Burlington and St. Albans. It also approved loans and 4% tax credits for the Darling Inn in Lyndonville and Evergreen Heights. Evergreen Heights is a privately-owned Section 8 family housing project in Springfield. Housing Vermont and W&WHT are assembling resources to purchase and rehab and will be coming in for VCDP funds as well.

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

### **Partner Report**

- **Division of Fire Safety:** As part of our continuing efforts to engage our partners and promote the Downtown and Village Center tax credit program, Caitlin provided tax credit training to over 35 Vermont Division of Fire Safety local and regional building inspectors. The state tax credits can reduce the cost of building and code improvements by as much as 50% and having the facts helps front line code officials promote the installation of elevators and sprinklers that make underutilized upper floors accessible and reduce the risk of devastating downtown fires.

## **GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director**

### **Environmental Reviews (ERs)**

- **Green Street. LLC Housing Project:** Due to the comments received from Beth Held, HUD Field Environmental Officer on the environmental review documentation, where she raised questions and concerns about the disparity between the Wetlands Permit and the Draft Act 250 Amendment Permit, Ann and Kate met with Laura LaPierre who issued the Wetlands Permit. From the discussion with Laura there does not appear to be coordination with the Act 250 Permit. Ann had a conference call with the Act 250 District Coordinator, Peter Keibel to better

understand the connection of the Wetlands and other permits to the Act 250 Permit. Peter stated the *Town of Hinesburg is currently under a Moratorium on new development by ANR, Drinking Water and Groundwater Protection Division* until the Town has demonstrated that they have permitted source capacity adequate to meet current and expected future engineering design water demand needs of the system. To Peter's knowledge the Town has identified new source locations for wells that will have to be drilled and then connected to the municipal water system before ANR will lift the Moratorium. Until the Water Supply issue is resolved, the Act 250 Permit will not be issued. We also need to explore alternative de-icing materials for the parking area that will not cause harm to the Wetland through run-off. In addition, there will be a condition that the Developer, CHT is responsible for the maintenance of the erosion control retaining wall between the project and the wetland habitat. We will confer with the Town as to the timeline for completing the new water supply wells and hook-up.

#### **HUD CDBG Monitoring Response**

- Ann has been working with Lois Gaetz, HUD CPD Rep. of the Boston Office to develop a plan for capturing the beneficiaries to meet the National Objective for the Finding on the Brooks House project. Lois has been most helpful in providing a solution of meeting the "Presumed" low and moderate income based on the Census Tract and the Poverty rate of the Tract in which the Brooks House is located. Ann provided evidence of the necessary  $\geq$  20% poverty rate with New Market Tax Credits of \$11.7M that have been used in the rehabilitation of the Brooks House. Ann will be working with the Property Manager, Jayne Wood to secure evidence of the 5 one-bedroom apartments that are rent restricted to 80% median income, and securing the payroll rosters of the businesses to gather the number of FTE jobs. With the apartments contributing towards the National Objective, we only need 18 FTE's from the existing businesses.

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

##### **Environmental Review**

- **Dorset:** Scott, Yvonne, Jess and Jamie met with Kate Willard from the Department of Forests, Parks and Recreation to discuss an important property acquisition in Dorset. The first marble quarries in the United States were opened in Dorset in 1785 and marble from these quarries was used for a number of important structures including the New York City Public Library. A distinctive gravity railroad was constructed down the side of Mt Aeolus to deliver the marble to finishing sheds next to the existing railroad line. This property contains the remains of the railroad as well as the marble ruins of the finishing sheds. The team discussed the Interim Stewardship Plan that had already been created and ideas for a Long Range Management Plan.
- **NECPL:** Scott, Dale and Jamie met with Josh Bagnato from TDI-NE and the consultants working for his team to discuss the New England Clean Power Link Project. This ambitious project seeks to deliver power from Canada to a converter station in Ludlow through a 6" cable structure that will be drilled and buried under Lake Champlain from Alburgh to Benson. The overland section from Benson to Ludlow will be located primarily within town and State road right-of-ways. As part of the PSB/CPG approval process, the ER team has been reviewing technical reports regarding effects of the project on terrestrial and underwater archaeological resources, as well as architectural resources. Department staff will continue to participate in the permitting and approval process over the course of the coming year.
- **VCFA:** Laura, Dale and Jamie conducted a teleconference with USDA regarding the section 106 review related to their potential loan guarantees for the VCFA projects at Alumni and Schulmaier Halls. In order to address the adverse effects of components of the project, the USDA is crafting a letter inviting the Federal Advisory Council to participate in the review process, as well as developing an MOA to capture an agreement on resolution.

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

- **Chimney Point Atlatl Press:** The Manchester, NH, *Union Leader* had a terrific Sunday feature article last month on the women's champion in the 2014 (19th annual) Chimney Point Northeast Open Atlatl Championship. Kelsey Devlin is now a senior at Franklin Pierce University, which annually sends their atlatl team to compete. <http://www.unionleader.com/article/20150111/NEWS04/150119884/0/SEARCH>
- The White House Historical Association's 2015 ornament, featuring President Coolidge, was unveiled this week and will be a nice addition to our museum stores. Bill spotted several errors in the ornament's on-line description and spoke to the White House's Chief Historian and WHHA's V.P. of Marketing on the 18<sup>th</sup> and provided them with the correct info and appropriate images.

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

- As anticipated, we received a Notice of Intent to Sell for the Windy Hollow MHP in Castleton from owner Joe Howard. Arthur contacted the Housing Trust of Rutland County and CVOEO Mobile Home Program about

scheduling a residents' informational meeting. The notice indicates the sale is "due to potential closure" which prompted a call from one concerned resident. This is the first time the 45-lot mobile home park has been noticed for sale.

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

### **Regular CDBG**

#### **Applications**

- The VCDP team presented ten regular and disaster recovery projects to the Community Development Board on February 12, 2015. The board's recommendations will be presented to Secretary Moulton, who will make the final funding decisions this week.

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

- **Visit USA Sales Mission:** Megan is participating in the VisitUSA Australia sales mission in partnership with Discover New England. This show is for travel agents and tour operators and is taking place in Brisbane, Melbourne, and Sidney. The format for the first two stops is an expo with 3 minute presentations to a crowd of approximately 500, then an open exhibit hall set up for several hours for one-on-one visits. There are 35 different parts of the US represented with a strong showing from California, Alaska, and, as they are calling themselves, "The Real America". This group is comprised of North and South Dakota, Wyoming and Montana. A rather surprising and somewhat disappointing last minute addition to the show were our neighbors to the west, upstate New York. Originally, it was just NYC who we had asked to be next to as they are our current gateway for the Australian market. When they arrived, the \$50 million dollar machine was in tow with new printed materials. We are actually having some good conversations about potential collaboration, but it feels a bit like home with their never-ending TV commercials. A note of interest from the first show was that several of the agents had sent skiers to Whistler, CO, and UT for the holidays and were very disappointed about the lack of snow. They all went home with a SkiVermont magazine and stats about our snowfall in recent years. Full report next week.

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

- **Summer Marketing Partnership Stowe Mountain Lodge:** Cook met with Director of Sales Michael Broderick to finalize a budget and plan for a summer marketing collaborative. Cook and Broderick are focused on reaching new fly markets to include airline travel and lodging. Promotions will reach outside of state and focus on affluent urban consumers. This campaign will begin in late May and run through late July.
- **Vermont 2013 Benchmark Report:** Cook interviewed with the Rutland Herald and WCAX to discuss results of the 2013 Benchmark Report. It has become clear that we need to explain the differences between the 2011 and 2013 reporting strategy which does use a different reporting strategy for some of the criteria.
- **Spring Maple Campaign:** VDTM will launch the spring maple advertising campaign on Friday the 20<sup>th</sup>. This campaign is completely developed in house including the media buy, ad creative and website development. This campaign will launch in partnership with DigInVT.com with 50% of media running to their site and 50% to VermontVacation.com. The campaign was developed in partnership with the Vermont Maple Sugarmakers Association.

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

- **Media Support:** Laura aided outlets on a variety of stories this week, including Cadillac Magazine (the beautiful drive of Route 100), NECN (effect of weak Canadian dollar on Canadian tourism to Vermont), WCAX and Rutland Herald (2013 Benchmark Study on Tourism), New York by Rail magazine (upcoming events), and Everyday with Rachael Ray (iconic mail order items from every state).
- **Social Media:** We have 18,000 followers on Twitter and 30231 likes on our consumer Facebook page. For the week of Feb. 2-9, our weekly reach was 31,630 people and 2886 people were "engaged."

## **CULTURAL HERITAGE TOURISM ♦ Catherine Brooks, Cultural Heritage Tourism Coordinator**

### **Support for Businesses and Organizations**

- **KnowledgeVision:** provided training for agritourism partners from UVM and Vermont Agency of Agriculture, Food and Markets. UVM, with the help of 3 interns, is currently working on developing and posting training sessions focusing on farm safety and zoning. Reg Godin (AAFM) was very impressed with KnowledgeVision and is diving right in with a webinar about tradeshow.
- **Ambassador Program:** new registrations come from Theatre Mosaic Mond, Neshobe River Winery, Quality Inn Colchester/Burlington, Ben & Jerry's, Sheraton Burlington, Ski Vermont, and The Islander.

### **Cultural Heritage Projects**



- **Palate to Palette:** a final selection of 100 arts, farm and culinary experiences have been selected. Work continues in preparation for advertisement, print guide and digital version.

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

### **Research**

- **Preliminary MRA for November Positive:** Taxable receipts for commercial room rentals statewide were up 4.0 percent for the final month of the fall season, though there were some exceptions to the generally positive trend. Rutland City (+45.7 percent), Killington (+37.89 percent), Ludlow (+30 percent) and Waitsfield +23.7 percent led a strong showing among resort-related communities, reflecting the benefit of a second year in a row with skiing for the Thanksgiving Holiday. In contrast, Dover's room sales were down (-44.0 percent).

### **Operations**

- **Vacation Packet Backlog:** After reviewing the costs and logistics of having the BGS Mailing Center provide the pick, pack and ship for the Vacation Planning Packets, we decided to use staff for an occasional stuffing blitz of the standard packets, one for generic requests and a second for the smaller quantity of Camping requests. We are working with BGS about having them make the deliveries of the labeled and sorted packets to the Montpelier Post Office. If they can make the deliveries at little or no cost, it will allow Joe Rossi to focus his time on setting up the mailings.
- **February's High Volume of 511 Calls Slackens:** The RDI Call Center in Newport handled 1,517 calls through the first ten days of February, but the next eight days have seen just 501 calls, primarily for road and weather conditions. By contrast, visitor information and packet request calls to 800-Vermont (800-837-6668) continue at an all-time low for February; only 79 calls through February 17. At the same time Vacation Packet requests online have maintained fairly consistent numbers with those a year ago.

## **SALES ♦ Christiane Skinner, Sales Manager, International and North American Markets**

- **New Vermont itinerary on TourOperator.com:** Christiane Skinner finalized a new itinerary to appear on TourOperator.com where tour companies, travel agencies and group tour leaders search for travel suggestions. This year's theme is Vermont Journeys: from Cultural to Culinary which includes culinary stops along with museum and art galleries.

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

### **ITS/ConnectVermont**

- Attended Contract Administration Core Curriculum training.
- Continued working with Vaisala to resolve mobile RWIS issues and continue working on RWIS data and camera images transfer.
- Attended Tri-State meeting and provide update on the new MATS web version (formerly MATS Lite) and ATMS-511 project.

### **MATS**

- Received approval from Tri-State to leave the name MATS as is for the new web version.

### **Future Goals**

- Attend Connected Vehicle Pilot Project discussion with Tri-State and NH CREL.
- Attend House Commerce and Economic Development with Dep. Secretary Cole on H.117 testimony in regards to VTrans fiber.
- Attend meeting with AAG Toni Cithero to provide background on VTrans fiber in respect to TDI gas line and fiber project.
- Attend Tri-State ATMS-511 Project Change Control Board quarterly meeting.
- Attend AASHTO Webinar on Connected Vehicle Update from States.



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**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Susan L. Donegan, Commissioner, Department of Financial Regulation**  
**Date: February 20, 2015**  
**Re: Weekly Report**

This is an update by Commissioner Susan Donegan on several specific matters.

**Banking Division:**

In our January 16 report to your office, I indicated that the Banking Division had filed administrative charges on January 12 against two companies (PYC and Blu-Bin) involved in a digital currency kiosk operating in Burlington without a money transmitter license required under statute. The Banking Division had made several attempts, without success, to contact and meet with the principals of the companies hoping to bring them into compliance. The charges prompted the principal of PYC (the owner of the digital currency ATM) to contact DFR and participate in a conference call on February 6. DFR put the charges "on hold" as we thought the matter was on its way to being resolved. On February 17, we were surprised to receive a call from VPR reporter, Taylor Dobbs asking for comment on why it had shut down the state's only bitcoin ATM. Dobbs said he had copies of letters sent by DFR to PYC and Blu-Bin. DFR does not comment on pending matters and my information management officer explained that to the reporter. While this matter is nothing more than a usual non-license action for DFR, the fact that VPR made it a news item is the reason why I am providing a fuller explanation. Additionally, two other media outlets (Coindesk on February 18 and WPTZ on February 20) requested interviews with me about digital currency and I answered general questions relating to Vermont's money transmitter law. Again, I did not comment on the pending matter. The next step is for DFR's Legal Division to follow through with the administrative charges. I know that another letter suggesting a settlement (suggesting he get a license and pay a nominal fine) was sent to the principal today. We have extended the time for him to respond and hope that he considers our proposed resolution. It is a significant consumer protection to license digital currency companies. These are some of the most speculative and volatile financial enterprises. They are prone to money laundering, security breaches and out-right fraud. Vermont was smart when it adopted a broad and forward-thinking money transmitter law in 2001 that contemplated these types of transactions. Innovation is able to thrive under our licensing system. But, the ticket to tapping the market is a license. There may be more noise surrounding the Burlington matter but my senior leadership and I are closely monitoring the situation. FYI, the Banking Division



currently has an application from a reputable digital currency company pending. If DFR grants that license, we will make an announcement.

### **Securities Division:**

The press release announcing the collaboration of DFR and ACCD on EB-5 projects was sent Thursday afternoon, which generated a call from the Boston Globe. The nature of the reporter's questions was quite general and she was especially interested in the fact that the state of Vermont is the EB-5 Regional Center as opposed to the for-profit Regional Centers in Massachusetts. I met with Bill Stenger on Wednesday regarding the AnC Bio EB-5 application and we discussed his concerns about the application process and the impact of delays on the project. I explained that it was not DFR's intention to add more hurdles to the process but that we were in need of certain information to finish the Private Placement Memorandum (PPM) approval (from Primmer). I indicated that DFR will need to conduct a financial audit of AnC Bio and hoped that we could have his financial people work quickly with DFR to complete that task. I also indicated that DFR is willing to work out a pathway that will allow the project to break ground and conduct some limited marketing while we finish the audit. This would involve lifting the bans on construction and marketing that were imposed by ACCD but requiring the completion of the PPM and escrow of any new monies raised during the pendency of the audit. I understand that Primmer and the Securities Division will be trying to finish an MOU as soon as possible so we can start the audit immediately. I hope Mr. Stenger left our meeting with the sense that DFR's expertise will be a good addition to the EB-5 process and that we are not just another agency "nickel and diming" him. I assured Mr. Stenger that as soon as DFR approves the project after the audit, I would personally call him to let him know. I also said that if the audit turned up any complications, I would call him directly. I will keep you informed of our progress. **[I understands that ACCD has received a public records request from VtDigger and the Securities Division will be mindful of the timing necessary to conclude a "going-forward letter" with Primmer.]**

### **Insurance Division:**

As I reported last week, a massive nationwide data breach occurred at Anthem and Anthem Blue Cross Blue Shield affiliates. I met with Don George and his BCBSVT team on Tuesday to discuss the impact on Vermont Blues subscribers. Preliminary numbers indicate that as many as 25,000 Vermont subscribers (as far back as 2004) may have had their personal data compromised by the breach. Next week, BCBSVT will release that information and help direct subscribers to learn more about how they might be impacted and what services will be available through Anthem to restore credit and personal information. There is an NAIC all-commissioner/regulator conference call each Tuesday with the Anthem CEO and leaders to provide updates on the breach. I asked Anthem to identify all Vermont residents who have Anthem or Anthem-affiliated products – not just subscribers with our BCBSVT affiliate. I want a complete picture of the impact to Vermonters. They were not able to answer my question so I asked them to add my query to their list of deliverables to the states.



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**CONFIDENTIAL AND PRIVILEGED  
MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: February 20, 2015

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**Media Contacts:**

Amy Nixon, VT Digger, spoke with Jill Remick about SBAC testing. See article today.  
Leslie Engle, Local 22 and 44, asked for a master list that projects property tax increases if a respective town/city passes its school budget.  
Charlotte Albright, VPR, asked if we track snow days by school.  
Charlotte Albright, VPR, contacted Rebecca about ESEA reauthorization and testing.

Slow week. Either we have worn them out or they are so bogged down covering the legislature that they have no time for us!

**Public Presentations/Speeches/Meetings:**

**VSBA and VSA:** Met with them about their proposal for governance.

Gave them the heads up that we may be suggesting House Ed back off the Integrated Education System (IES) idea and move back to an earlier version of the bill that transitions SUs to SDs. Dale's big objection is that he thinks choice is a show stopper in SUs that have both choice and operating districts. I think we can work around that by having the smaller districts merge into two entities: one district that accommodates all operating grades/units within the SU, and one district that accommodates all grades from all towns that are tuitioned within the SU. The tuition district can then contract with the operating district for services. If consolidation is dependent on ending choice, it won't happen. Previous debates on this all assumed consolidation into 1 district. Allowing for consolidation into two entities - one that operates and one that does not—is not clean, but does allow efficiencies to be achieved. We will also need to at least point house ed towards some site based management approach that would give a local community some sense of ownership about how they operate their school. MA might be a model.

**State Board Meeting:**

Aly was there so can bring you the nuanced context.

This group is maturing.

The legislative breakfast was an opportunity to make a plea for consideration of the challenges of implementation as they draft legislation.

### **Emerging issues**

We have two paths forward right now:

- 1) the Gov's approach, which focuses on providing local leaders with good information and consistent incentives, so they can make informed, fiscally responsible decisions, and providing for intervention and oversight when they fail to do so (in Gov's case, by the SBE) The risks are that local leaders will think myopically, not regionally, and that we may see greater inequity as people tend to not want to partner with less wealthy communities. Also, this is not going to yield comparable units for the purpose of data/fiscal analysis. We will still be a mess from an analytical perspective.
- 2) a more top down approach, which assumes local leaders can't make the right choices, for reasons of myopia or narrow self interest. This would be the House Ed option of a previous bill, which called for transformation of SUs into SDs. This could, structured appropriately, render our system into comparable units and finally give Manwaring some of the comparable data she asks for repeatedly. Risks: this requires a stiff spine and a tolerance for some serious pushback from the field. I don't see evidence of that anywhere in the General Assembly as of yet.

### **Property tax cap:**

Not going to belabor this now, since I discussed the details already with Aly. This is a really bad idea. The only reason I can think of for not coming our hard against it is to let legislators bring something stupid to town meeting, on the assumption they will get their teeth kicked out and come back ready to play ball on the substantive issues. However, it is dangerous politics, because it is so complicated that voters may not actually understand the real effects, and may just get excited about a cap. On Monday, I will be prepared to identify questions/concerns related to this which house ed might want to address before putting this proposal into law.

### **Symbolic sabre-rattling on our use of the \$3.5 million for data analysis.**

Legislators have been beating us up a bit on the data front this week, about not using that \$3.5 million to solve all their data questions by yesterday. My guess is they feel the need to do this symbolically-- a little banging of swords on shields to show they are doing their job, especially since they are half way through the session and have nothing to show for it yet. They may also be symbolically marking the fact that the data initiative is their territory—not the Govs. I am fine with that—I have my umbrella. Here are our points in response:

- They can order us to create a system that will give us meaningful district-to-district comparisons until they are blue in the face, but given our mish mash governance

system, this is not possible. For example, legislators continue to obsess over our lack of consistent reporting (chart of accounts) as the basis for our very limited ability to compare. But its effect is modest compared with the systemic differences created by the huge number of governance models. A better chart of accounts has to be based on a more consistent governmental structure. We don't have even a ballpark method of estimated the total amount spent on students by district. This fact would not change with a perfect chart of accounts.

The central problem is not poorly reported data. It's data being reported accurately by districts in SUs where SUs provide different services, students in elementary school disperse into numerous high schools and so forth. *If legislators really want this data, they will have to do governance reform to get it.*

- They can tell us to hurry, but the faster we work, the lower the quality of the final product. Think VT Vision.
- They can be mad we have not yet filled the position, but we did a full search and the only good candidate ended up declining, so we have to start over. The reality is we need a skilled person for this kind of work, and it is virtually impossible to find a skilled person who will take a limited service position at the wage we are allowed to pay. Again, we are buying a Lada, not a Porsche. I may come to you to ask if we can treat this as an exempt position, so we can offer a little more prestige and higher wage.

I will address this in House Ed on Monday. This is a good opportunity to remind them that good work takes time. It is not about passing laws, it is about thoughtful and sustained implementation.

### **Senate is MIA on governance issues at this point.**

#### **Target ratios**

We can start to massage some target ratios that could inform next year's budgeting process (e.g. target ratio of 5.2-1 staff to student ratio; target of 1000 to 1 student to district ratio, target ratio of 12 to 1 teachers to students). These would be indicators towards which we are telling districts we want them to move. If they are moving in the wrong direction, they could be subject to SBE review.

#### **Key points in our AOE response to the current house ed version on governance:**

1 - The major change from the earlier draft is in Sec. 17 where they now create Integrated Education Systems (IES) rather than convert SUs to SDs. The distinction is that districts can attempt to partner with other districts not necessarily from the original SU. The language is very soft in that districts are "encouraged" to engage in a self-evaluation process. We understand this change came about at the request of the VSBA. It creates more confusion and is a more complicated process, and reduces the likelihood of better outcomes. My guess is that if we surveyed current SU boards, they would all say they currently provide an integrated K-12 program. In fact, the likely result of this legislation would be that SUs and

districts put a lot of time and resources into elaborate plans that leave them exactly as they are currently. If any changes happen, they would likely include:

- changes in how Title I and IDEA funds are distributed within systems
- more, smaller PK-12 districts where 1000 ADM is the new minimum.

We also think the timeline needs to be looked at more carefully. If the state will "provide" education through these IESs starting on or before July 1, 2019 than they need to be created a year earlier in order to provide adequate transition time. This is just not possible.

We don't know how an integrated system will accommodate both choice and operation. I don't see the point in trying to pretend otherwise.

2 - Sec. 21 requires the data systems to be completed by July 1, 2017. This is before the new IES structure would be completed. We can create a mish mash system but it can't provide "district-to-district" comparisons as required in the section.

3 - Sec. 4 requires the non-residential tax rate to bear the same proportional relationship to the homestead base rate each year. Trouble is the bill moves to a yield system and the homestead rate is now a dollar equivalent and never changes. It's challenging to get this concept across. This may be too complicated for the run of the mill committee member.

4 - Sec. 5 retains a provision that was added to the law for one district and that district never used it. We recommend that sentence be struck.

5 - Sec. 7 provides new ballot language for budget votes requiring information on per pupil spending. This is a good idea but would not apply to some districts with charter provisions to the contrary. We think the law should include a provision that this new language supersede those charter provisions.

Beyond that, we will steer them gently back towards a prior version of the bill that focus on the SU to SD conversion, and suggest how they might provide for choice in that context.

Note: There is a move towards pitching responsibility for redistricting and consolidation to the Agency. I think this is a terrible idea. In a democracy, and one with strong local control, I do not think it appropriate to consolidate this much responsibility in the role of Secretary and in an essentially invisible process. Having this be a SBE role ensures a public and transparent process, with a public hearing.

**Possible op ed on governance for Governor to put out—**

### We Must Act, Together

Declining enrollments, increasing poverty and school choice are reshaping our schools. As a state, are we comfortable waiting to see where these trends take us? Or, given our professed

commitment to democratic equity and quality, do we want to work together to address those goals in a cost-effective way?

Regardless of what the Legislature does or does not do this session, the depopulation of our rural areas and school choice are reshaping the landscape of Vermont education. In some of our rural schools, we have half the students we did 20 years ago, and despite support from the Education Fund, they struggle to maintain the same infrastructure and overhead they supported years ago.

For example, on average, our rural schools spend about \$657 per pupil per year on their principals, compared to \$269 in our cities and \$253 in our towns. Our education funding formula provides many of these towns support far beyond what they could raise locally, but it is a per-pupil tax formula that sends resources to where students are. As systems lose students, they have to either cut programs and overall spending, or see a steep increase in their local tax rate. Thus, the work of many of these boards is now to decide what programs to cut, even as their tax rates rise.

At the same time, choice is reshaping the landscape of secondary education in every region of the state. Market models tend to reward scale and strength, and as we would expect, our secondary school market is increasingly characterized by larger, stronger high schools that pull from larger and larger geographic areas, and smaller high schools that increasingly struggle to retain breadth and depth of programs.

Additionally, we need to be aware of the special nature of a market when parents and students choose the school and a district pays the bill. Districts may become marginally less concerned with providing the best education at the lowest cost and more concerned with providing an environment, both educational and cosmetic, that attracts tuitioned students with less attention to cost. Tuitioning districts are obligated to pay the full tuition charged by public schools and three of the four historical academies.

Despite the rhetoric about not wanting to bus students long distances, when given choice, many students choose to bypass smaller, closer high schools to attend larger systems that offer greater breadth and depth of options. For example, students from Dover now travel an hour each way to attend Burr and Burton, St. Johnsbury Academy serves a huge catchment area in the Northeast Kingdom, South Burlington High School draws students from the Islands, and Thetford Academy and Hanover High School now send busses past other high schools to pull tuition students into their programs.

On the one hand this regionalization provides many students with access to strong, high-quality schools. No one would dispute that our students get an excellent education at any of these schools, and we are fortunate in that our historical academies have long embraced a commitment to equity—serving both students with disabilities and students in poverty well.



However, there are other effects of regionalization that we would do well to ponder. As our school market is dominated by a handful of large, strong and better-funded high schools, some regions of the state may be isolated and underserved—with schools too small to be high-quality and affordable. This will also drive up the costs of operations in those small schools that do survive, which in turn drives up tuition rates across the state.

And, when schools close and students tuition, communities lose voice in the education of their children. This matters less when parents have plenty of good options for their children, but in truth, regionalization is leaving many districts in the state with fewer viable options.

The question for Vermonters is: do we do nothing, and let market forces drive regionalization? Or, do we want to act and work together to develop regional strategies that ensure equity and quality for all our children, in a way that ensures a local voice in the future of our children's education?

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Feb 20, 2015**  
**Re: Weekly Report**

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

none

**Legislative Issues/Contacts:**

In Ways & Means last Tuesday to learn they are adding restrictive language to Misc Tax bill prohibiting lottery agents from holding 1<sup>st</sup> & 3<sup>rd</sup> class liquor licenses. While not touching the reallocation of profits to VT Vet Home, the result would require us to attempt to relocate the current 25 consoles (not likely) and not proceed with increasing quantity of consoles to achieve profit goal for Vet Home. This same language languished in Sen Econ & Gen lacking support. Now it will go to Sen Finance where the chair is not a fan of lottery.

Also saw the introduction of a bill to repeal the lottery. Likely a distraction so by not supporting this, members might feel like they are supporting lottery but not growth. If we don't maintain our profits it results in a prop tax increase.

**Press Issues/Releases/Contacts:**

Seven Days article released this week. No contacts otherwise.

**Significant Events/Meetings:**

none

**Evolving Issues:**

New Lottery Commissioner has some ideas on getting supporting info about consoles, sales growth and competing products to certain legislators to help address the business impact and public support of lottery.

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**Summary of Key Agency Department Activity:**

Normal weekly business. Good surge in PB sales in the last few weeks will help with profits.

**Executive Director's Commentary:**

We are working on content for a dept mtg to address our low employee survey results. HR has assisted. I am out of town on business the first half of next week.

OFFICE OF THE SECRETARY

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**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Sue Minter  
**DATE:** Friday, February 20, 2015  
**SUBJECT:** VTrans - Confidential Report to the Governor

**NOTES FOR GOVERNOR**

**Legislature:** Our T-Bill is moving forward in the House. Today we are presenting our potential cut list, per our discussion with you, which focuses on 3 strategies to address our \$6.4M hole resulting from TIB decline from Jan. forecast: 1) savings in Maintenance budget from fuel price declines (\$700K); 2) Cuts to leveling/spring paving (\$2.5M - ouch!); 3) Project reductions (\$3.2M in state funds, which require \$13.5M in federal funds). We will not be identifying specific projects to cut, but rather a list of possible projects that we have prioritized for leveling and those road and bridge projects that will be on our bid advertising list in summer months. Be aware that as of this morning the House (Chair and Speaker) seem more interested in actually moving to establish a TIB floor than to pursue the concept as an end-game strategy. We will keep you posted as this action may occur next week. To date we have expressed your support for the TIB floor.

**Driver License Suspensions (DLS)/ reducing DLS as a barrier work access & poverty**

**relief:** A group of us (Sarah London, Leg. Council, Advocates, and I) met with Sen. Sears last week to discuss a legislative strategy (Rep. Grad was unavailable). At the end of the meeting, Sears essentially punted this to be an Executive Branch issue to pursue rather than a Legislative Study group, and assigned me to lead it. Sarah is considering an Executive Order. We will likely announce this at your Press Conference with TJ Donovan next week. Unfortunately, the timing of the presser may conflict with our meeting with the I-91 bridge contractors which I cannot miss.

**Federal Funding:** Chris and I will be in DC next week (Wed – Fri) at the AASHTO “Winter Legislative Briefing”. We will be meeting with Congressional Staff (and Leahy himself, I believe), and I will be chairing my first NASTO meeting and elected as the incoming President (since the current President left for a new job in Colorado). We will be pressing our case with colleagues and with Congress to both fill the Highway Trust Fund hole to current funding levels, and to redistribute per current patterns. As you know, this will be a very hard sell, and we are at serious risk as a small state that has been

generously rewarded with federal funds over the past 6 years. That is why we are prioritizing our participation at this meeting.

#### **NOTES FOR STAFF**

**Brattleboro I-91 West River Bridge Replacement Project:** There were no significant traffic management issues over the President's Day Weekend. Temporary night closures were implemented this week for the installation of glare barriers along the center median barrier. This is to address concerns expressed by motorists of headlight glare from opposing traffic during nighttime travel. The Resident Engineer reports: "No traffic issues with the closure to report on. I checked with VSP, contractor and project staff. No calls or emails about it. The Glare Screens are complete and will work well to address the problem." A meeting with the Contractors (PCL Constructors Inc.) is scheduled for February 24, 2015 to present the Design Builder's plan to progress the construction of Bridge 9N and 9S on I-91. The project remains significantly behind schedule and at my request they are coming to Vermont to present a revised schedule that they are fully prepared to execute. There is a project level meeting on February 20, 2015 to discuss the issues of traffic management, bridge inspections, public outreach efforts, communication and reporting tools to keep all stakeholders informed. Summary reports from these meetings will be made available.

**TDI Negotiations:** (From Chris Cole) VTrans AG Toni Clithero and I met with TDI, (Mssr's Jessome, Bagnato and Raubvogel) to discuss the fiber issues related to their project and the lease payment for VTrans ROW. We reached agreement that TDI would provide VTrans, Green Mountain Railroad and VELCO with fiber and the remaining dark fiber would be made available to the State of Vermont at no charge. VTrans plans on entering into a MOU with the Public Service Department to market that fiber and stay within the requirements of federal regulations governing the use of state highways for non-transportation purposes.

TDI preformed a rudimentary analysis of the value of the state ROW that they would be using which they estimated a purchase price of approximately \$6M. They offered \$2M a year for 40 years for a total of \$80M. We indicated that our valuation expert had indicated a back of the envelope estimate of anywhere from \$5M to \$10M. Mr. Jessome indicated that if it were really \$10M we were looking for, we weren't going to get a deal and he would take his billion and a half public benefit and go build it elsewhere. He further indicated that if we didn't accept his offer of \$2M a year, we should do our own valuation and counter their offer. His last comment was that he was working with a balloon: whatever we pushed on our side was going to affect someone else's payment within their total benefit package. We think we could probably get \$3M without doing the additional valuation but we are going to sit down with the ROW Chief next week and see what he thinks about their offer and how long it would take to do an alternative valuation. It was a good meeting, very direct but light conversation. Guidance from the Gov's office on whether we stop at \$3M or go for more would be welcome.

**Winter Roads:** There has been a lot of press and discussion about winter road conditions this week including some misperceptions that we're not using sand or salt anymore, in addition to the usual insults and claims that we're not doing as much for winter maintenance as we did last year. I am plotting to get some media interest (radio and perhaps "The 30") with a trooper and a VTrans plow driver to have a conversation with "the boots on the ground" to advance the public conversation away from finger pointing.

At this point we have spent \$22M on winter maintenance – \$2M more than we had spent last year at this point in the winter and are on track to eclipse last year's winter spending – which was the most expensive winter we've ever had. While it's true that we don't use as much sand as we used to, that is not new this winter. Our reduction of winter sand started more than 5 years ago, due to the environmental impacts of sand and the fact that it's not as effective (or cost effective) a treatment as salt or salt brine. That said we still use sand when the temperatures are very cold and in the right location (hills and intersections). As for salt, no reduction there -- we've used over 100,000 tons this year so far, significantly more than we'd used last year at this point in the winter.

A key fact this year is the abnormally cold temps and blowing snow. WCAX reported that this is one of the coldest February's in history. Cold and wind are two of the biggest problems to our winter maintenance. Wind with light snow becomes a visibility challenge (especially squalls) that we cannot prevent. Salt is ineffective at subzero temperatures, and when we have successive low-temp days, getting the roads bare after a storm is an almost impossible task. Our crews have been scraping as best they can and hoping for the sun to come out to warm up the pavement surface to an above zero temperature where our salt will work and we can get things cleaned up. Unfortunately, there is no magic bullet when it comes to subzero temperatures.

The overriding issue is that it is winter in Vermont. People's expectations for perfect pavement have grown, and many people are driving too fast for conditions. It is helpful to see that for every complaint we receive on our Facebook page there are 2 or 3 people who jump to our defense and remind others that by driving safely they will get where they are going every time they leave the house.

**Climate Change Mitigation & Resilience:** I was very pleased to represent the Administration at the VCRD Climate Change and Economic Development conference at VTC. The Gov. did a fabulous introduction, and the break out group on "Transportation Transformation" was a dynamic gathering with innovative ideas. While so many of these seem impossible to implement, we will take incremental steps to move the needle and continue to reduce SOV travel and greenhouse gas emissions. In addition to changing the conversation on how we fund transportation (the gas tax is just NOT the answer for so many reasons), an idea I am particularly interested in is to establish a rural model for Uber-type transportation options. This would help address access issues for

those who cannot afford cars, as well as for millennials who do not want to have to own a car.

Resilience: VTrans staff is leading an effort with DOTs from neighboring states and academic/engineering leaders to host a New England DOT Climate Change Resilience Workshop that will take place on April 30th at UNH. VTrans senior managers will be invited to participate along with other NE DOT reps, AASHTO, and FHWA.

**House Transportation and Commerce & Economic Development Committees Tour:**

VTrans staff, in conjunction with staff from ACCD and the local RDCs and Regional Planning Commissions, assisted in planning and leading a joint field trip by the House Transportation and Commerce & Economic Development Committees to Bethel, White River Junction, Windsor and Springfield. The full group toured [GW Plastics](#) and the House Transportation Committee toured transportation projects along VT 14 and VT 66 while the House Commerce Committee met with GW Plastics officials. The group met with officials from Hartford to learn about the transformation of Downtown White River Junction and received a briefing on the [Rail Station](#) which is now a state-owned facility and property. They proceeded to Windsor to visit [Artisan's Park](#) home to Harpoon Brewery, Silo Distillery, and Vermont Artisan Cheese – with Simon Pierce right next door. Then the group moved onto Springfield for a public meeting at the [Great Hall in Springfield](#) – an amazing brownfields redevelopment project – where a public meeting was held. The group concluded their tour at the Hartness Airport where Vermont Aviation Director, Guy Rouelle, gave the group a tour of the airfield and discussed economic development opportunities which are advancing at Hartness which has the state's longest runway outside of Burlington.

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** February 20, 2015

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**Highlights:**

**AHSCO:**

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New Community Development and Disaster Recovery Projects	pg. 3

**VDH:**

Screening, Brief Intervention & Referral to Treatment (SBIRT) Grant, Year One	
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**DMH**

Vermont Psychiatric Care Hospital (VPCH) at Full Occupancy	pg. 4
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**DAIL**

SASH and Blueprint result in better care, better health and lower cost	pg. 4
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**DOC:**

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**DCF:**

Cold Weather Exception and Shelter Space Last Weekend	pg. 6
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**DVHA:**

Multi-Payer Advanced Primary Care Practice Demonstration (MAPCP)	pg. 6
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**Secretary's Message**

This week, the Agency welcomed the new DVHA Commissioner, Steven Costantino. We're looking forward to Steven coming up to speed on the many issues facing DVHA as well as learning the ins and outs of the Human Services Enterprise - IE, MMIS and VHC. No small task!

I continued to collaborate and connect with a number of community partners this week. I attended the Advocacy Breakfast, hosted by the VT Public Health Association, to discuss the 2015 Public health policy priorities and other important issues regarding health in all policies. I also attended the Vermont Council on Rural Development's Summit on Creating Prosperity and Opportunity Confronting Climate Change at Vermont Technical College. The summit had over 500 participants. Your speech was great



and I enjoyed your emphasis on our superb Vermont beers! I also had a chance to spend a little time with the members of the Poverty Council. They are particularly concerned that the additional \$18M+ budget hole will mean additional cuts to low-income programs. I let them know that at this point, there wasn't anything on the table and that you looked forward to collaborating with the legislature to find a solution to this additional budget deficit.

I'm working with the VDH to find a way to fund a recovery center in the NEK. There are currently 11 centers. Newport started their process late but they are almost ready to open up. When they open, this will mean that all 12 districts will have a recovery center. After consulting with Liz, Justin and Jim, the only way to fund this center is to shave a little off the other centers. I'll keep everyone posted.

I continue to ask Commissioners and key AHS leadership to become proactive about communicating information about the Agency, especially in regards to media alerts, and concerns. The message I am conveying to my staff is for timely response to media coverage, aggressive and appropriate communication to manage negative events and more proactive, positive informational stories celebrating the work we do. This has already resulted in a few media corrections and even a few positive stories.

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

#### Harvard SIB Lab Interview Scheduled

AHS has been invited to an interview with the Harvard SIB Lab based on our application for technical assistance to explore the potential application of Social Impact Bonds in Vermont.

#### Early Childhood Research Consortium Discussion

AHS participated in a discussion hosted by the Permanent Fund to discuss possible support for the development of an Early Childhood Research Consortium to measure the effectiveness of various interventions and statewide outcomes. A large group of stakeholders attended the meeting and conversations will continue to ensure a coordinated and collaborative approach.

#### DCF Scorecard Work

AHS presented to DCF Management Team about Results Based Accountability (RBA) and the Results Scorecard in the context of the AHS Performance Framework for continuous improvement. DCF Leadership discussed the need to move forward in integrating performance accountability into their operations so that they can measure, monitor, and demonstrate improvement in critical areas of work.

#### Planning for a Rutland Warming Shelter

In Rutland, BROOC, Community Action in Southwest VT, the Homeless Prevention Center, Economic Services and AHS are discussing to move forward plans for a local low-barrier warming shelter. The discussions are working to develop a budget, do outreach with faith communities and utilize information from both Addison and Chittenden counties as a template for the work.

#### Homelessness Awareness Campaign in Lyndonville

Planning is being finalized for the second annual Rural Reality campaign on homelessness awareness. Partners include RuralEdge, Lyndon State College, Q Burke Mountain, NEKCA and AHS. The events will take place in Lyndonville from Thursday, March 5<sup>th</sup> through Saturday, March 6<sup>th</sup>. The

campaign kicks off with a fundraising dinner hosted by Q Burke Mountain with speakers representing AHS, NEKCA and Senator Leahy's office. There will be informational materials available, speakers and entertainment. Events will include a march through town, an overnight camp out to raise awareness of homelessness in cold weather, and a pancake breakfast on Saturday morning.

#### Work on a Sober House in St. Johnsbury

The St. Johnsbury DART 2.0 (Drug & Alcohol Resistance Team) is working on a "sober house" project in partnership with RuralEdge Vermont. The initial plan involves repurposing the former Youth Shelter at 87 Elm Street into a Boarding house/Single Room Occupancy (SRO) model for individuals who are committed to living alcohol and/or drug free. Members of the DART 2.0 group are reaching out to other organizations that support similar residences for more information and support.

#### New Community Development and Disaster Recovery Projects

The AHS Housing Director serves on the board of the Vermont Community Development Program which reviews applications for federal Community Development Block Grant (CDBG) and CDBG Disaster Recovery funding. The board met Thursday to review a number of projects that serve or will serve vulnerable clients of the AHS. Among these: new permanent housing with onsite services for the homeless in Burlington; preservation of deeply-affordable senior housing in Lyndonville; flood-proofing of affordable family housing in Brattleboro impacted by TS Irene; renovation of a child care center in Waterbury; and rehabilitation of five affordable housing properties in Windham County.

#### Review of 2014 Employee Engagement Survey Results for AHS Central and AHS

Comparing the 2013 and 2014 Employee Engagement Survey results, AHS Central Office scores all improved, with the exception of one question – Q42: I understand my benefit plans.

#### Vermont Department of Health (VDH)

##### OnCall Campaign for Medical Reserve Corps (MRC) and Emergency Medical Services (EMS)

OnCall for Vermont is VDH's new volunteer recruitment and retention campaign for the MRC and EMS. The MRC enables medically-trained community members to prepare for and respond to public health emergencies. MRC units also welcome members to support and work alongside healthcare responders. Of Vermont's 177 EMS organizations, 80% have reported that they predominantly rely on volunteers to keep their agencies in service. Visit [www.oncallforvt.org](http://www.oncallforvt.org) to get involved.

##### Screening, Brief Intervention & Referral to Treatment (SBIRT) Grant, Year One Accomplishments

In the first year of VDH's SBIRT grant there have been significant accomplishments in behavioral health integration. Routine alcohol, drug, mental health and tobacco screening for all patients in a practice has occurred across seven different medical settings with another four coming online this year. Over 15,000 Vermonters have been screened and over 1000 motivational interventions conducted in hospital emergency departments, FQHCs and free clinics. All programs utilizing electronic health records have integrated SBIRT into the patient encounter so that care coordination can be facilitated. Sustainability and increasing access to SBIRT is a main priority, occurring through many different processes including:

- Collaboration with DVHA Blueprint CHT Facilitators to disseminate into Primary Care Practices across Vermont;

- Coordination with Chronic Disease, Tobacco Use Prevention, and Maternal/Child Health "0 for 9" (pregnant women) initiative;
- Focus on healthcare disparity and increased access for SBIRT to refugees, and minorities;
- Provider training to date has reached over 250 Vermont medical and behavioral health clinicians.

Training and TA is available for any Vermont medical or behavioral health provider/staff on-line.

#### **Quadrupling of Quitline Activity Following Tobacco Cessation Mailing**

A recent statewide mailing for 802Quits, designed to reach all Vermont Medicaid beneficiaries with important information about quitting tobacco, succeeded in quadrupling the number of completed contacts to the Quitline – from 27 calls prior to the mailing, to 106 calls as a result of the outreach.

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

##### **Vermont Psychiatric Care Hospital (VPCH) at Full Occupancy**

Last Friday, February 13th, the hospital achieved full occupancy resulting in a census of 25. This has been the case since that date. The hospital's staffing continues to improve and will get stronger over the next two weeks as eight (8) direct care staff finish their on unit training / shadowing of other staff. Progress also continues to be made in all areas of hospital operations, with particular focus on The Six Core Strategies in reducing Restraint and Seclusion and in making discharge planning more effective. The hospital also continues their focus on being an acute care hospital as opposed to a longer term state run institution as was often the case across the country in the past. Within the last month, Licensing and Protection did an unannounced visit in response to self-reports to Adult Protective Services. While they did find some violations which will need corrective action plans, none rose to the level of a Conditional Violation which would make the hospital ineligible for global Medicaid or Medicare fees.

##### **Six Core Strategies for Prevention of Conflict, Violence and Use of Seclusion and Restraint:**

The Emergency Involuntary Procedure's Committee met for their 4<sup>th</sup> quarterly meeting. The meeting focused on the progress that VPCH, RRMC and Brattleboro Retreat are making on their quality improvement best practice strategy. UVMHC, CVMC and Windham Center are also participating in this process. The practice improvement endeavor is being led by the Vermont Cooperative for Practice Improvement and Innovation. It is both DMH and the hospitals goal to reduce, and if possible, eliminate the need for EIPs.

##### **Vermont Digger on the Architecture of the new Vermont Psychiatric Care Hospital**

*Don Kreis with the Vermont Digger wrote a positive article on the architecture of the new Vermont Psychiatric Care Hospital on February 16th. His article states that "VPCH embodies something architecture can do, but is so seldom allowed to do everywhere: solve real problems by combining beauty and ingenuity."* A copy of the article can be found at:

<http://vtdigger.org/2015/02/16/architecture-review-two-excellent-answers-irene/>

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

##### **SASH and Blueprint result in better care, better health and lower cost**

A press conference on February 18<sup>th</sup> recognized the important work of SASH and Blueprint and was well received. This is a great opportunity to remind the public of the importance of the Governor's proposed budget to increase Medicaid rates.

CMS revising Nursing Home Compare – some Vermont Nursing Homes may see downgrade in ratings  
The Burlington Free press is running a story on how the federal government has revised how it will evaluate nursing homes in a way that makes it harder for facilities to receive top scores. A primary issue of concern is the overuse of antipsychotics which Vermont Nursing homes are actively addressing.

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

### **Work Camp Populations Declining**

Over the past several years, the DOC's population has been both changing and declining and, as a result, has effected the numbers of inmates that DOC houses in facilities who can complete work camp projects. DOC has had two statutory modifications over the past five years to address this decline. It is, however, leading to an unintended consequence in that DOC is getting more requests for work projects than we can complete. As time goes on, the DOC anticipates that this may accelerate and further reduce the ability to have work crews from facilities to complete the work requests.

### **USMS Meeting for Population Management**

The USMS is meeting this week with the DOC to discuss next steps in its population management. The DOC has let the USMS know that they can increase their lodgings to 40 and effective July 1 (assuming the budget passes), to 60. The USMS is working on a formal agreement which we will execute when the budget passes. The USMS also asked the DOC to consider doing transports for them, Monday through Fridays, between St Albans and Burlington. There would be a fee for this service. The DOC has asked for the details on these fees and will send up a discussion paper for consideration, once the fees have been received. Last, the USMS would like to partner on building more beds in Vermont. DOC will look to consider this issue via a study group, later this summer.

### **Pretrial Services Update 2.20.15**

The contract to provide pretrial services with Lamoille Restorative Center on behalf of the Community Justice Network of Vermont and the Vermont Association of Court Diversion Programs has been executed and filed with the DOC business office. Pretrial Monitor hiring across the state, in collaboration with States Attorneys and the Pretrial Director, is in process.

### **Population**

The department's incarcerated population averaged 1,956 for the previous week. The male population averaged 1,799 with 323 being presentenced. The female population averaged 157 with 38 being presentenced.

As of this point, it is the DOC's plan to bring back another 30 inmates from out of state within the next two weeks. This would drop our population to 341, well below our 2015 and 2016 target. The DOC hopes to have a recommendation within two weeks to forward regarding our out of state provider, effective July 1, 2015.

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

### **Cold Weather Exception and Shelter Space Last Weekend**

This past long holiday weekend had extremely cold and dangerous weather conditions. On Friday afternoon, 2/13/15, the ESD Burlington District Office had approximately 60 individuals come in after

2:30 p.m. seeking emergency housing under the cold weather exception. At that point the COTS and CVOEO shelters were both full and there were no motel rooms available due to the holiday weekend. With its waiting room overflowing, ESD staff quickly reached out to COTS, CVOEO and the Red Cross about opening an emergency shelter due to the demand. The Red Cross was not in a position to open a shelter on such short notice, however, would have been hesitant to regardless of the time frame. Two years ago, they opened a shelter under similar circumstances and no one showed. COTS and CVOEO quickly responded that they could create overflow capacity for an additional 13 individuals, 7 at the CVOEO shelter and 6 at the COTS shelter. Once it was announced that more shelter beds were available, approximately 45 of the 60 individuals quickly left the ESD office. The remaining 15 individuals were processed for intake to stay at the shelters. Two individuals outright refused the shelter beds. The remaining 13 individuals were referred to the shelters but never showed up to them over the long weekend.

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

#### **Multi-Payer Advanced Primary Care Practice Demonstration (MAPCP)**

The Vermont's Blueprint for Health leads the national primary care reform efforts in slowing the growth of healthcare spending. CMS has just published its first annual report on the MAPCP Demonstration, showing progress towards goals in the demonstration's first year. Details of the report can be found here: <http://innovation.cms.gov/Files/reports/MAPCP-EvalRpt1.pdf>

In the first year of the demonstration, Vermont's Blueprint for Health was shown to have slowed the rate of growth in total Medicare spending. Vermont's results were the most dramatic of the eight participating states. Reduced growth in acute care spending drove the overall reduction in spending.

In addition to measuring progress in utilization and spending, CMS' qualitative interviewers spoke with practices, payers and other Blueprint participants. Key qualitative findings included the value of the Blueprint's Community Health Teams (CHTs). CMS says "Providers agreed that CHTs allow their practices to offer access to better care to patients." One provider spoke of the CHT as a resource that helps implement the prevention and health maintenance plans made by patients with their providers, thereby helping prevent 'crisis-oriented' care.

#### **Sovaldi Inquiry from Senate Finance**

Senators Grassley and Wyden launched an investigation in July seeking information about how Gilead Sciences priced its Hepatitis C drug Sovaldi and Havoni. They are gathering information that would allow the Committee to better understand the financial impact that Sovaldi and other new Hepatitis C Virus drugs have had on state Medicaid programs.

They recently asked DVHA to provide a list of the top 25 drugs ranked by total amount paid for calendar year 2014 that includes:

- claim count
- wholesale acquisition price (WAC)
- drug quantity
- days of supply
- the number of unique recipients

DVHA's pharmacy unit provided the Committee Vermont's Top 25 drugs for Calendar Year 2014 as well as Harvoni utilization on Monday.

Through its Global Commitment Waiver, Vermont operates under a managed care model. However we do not contract with any external managed care organizations and therefore, for purposes of this discussion, 100% of Medicaid recipients in Vermont are "fee for service" all of whom are represented in the analysis.

The State has a supplemental rebate for calendar year 2014 on Sovaldi and is in the process of finalizing a supplemental rebate contract with Gilead for Harvoni and Sovaldi for calendar year 2015. In addition, a contract for VieKira with AbbVie is currently under consideration.

Vermont has not made any special funding provision for the new Hepatitis C drugs. Estimating the number of Chronic Hepatitis C (CHC) patients is difficult but one model, based on a 1.6% prevalence among the adult Medicaid population, estimates that Vermont has approximately 1280 treatable patients.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: February 20, 2015

**Secretary's Top Issues**

**Illegal importation of swine and sheep**

The VAAFM Animal Health and Meat Inspection sections continue to work collaboratively with USDA-APHIS and FSIS to investigate allegations that a prominent VT pork producer has engaged in the illegal importation of swine and sheep and has been involved with promoting false label claims on food products distributed by two prominent VT companies. Specifically, the producer may have illegally imported as many as 57 swine in the last 2 months without the required Certificates of Veterinary Inspection and import permits and may have illegally diverted some of those slaughter-only animals back onto feed. He also produces pork products under a label that certifies that the source animals are of Vermont origin, which is a potential violation of the Attorney General's Vermont origin rule and is misleading to the consuming public if it is confirmed that the source animals have in fact originated from out of state (Pennsylvania). The investigation is ongoing, and VAAFM is awaiting the collection of transaction records from a PA sale barn by the Pennsylvania Department of Agriculture, which is assisting VAAFM in the investigation. VAAFM has already collected records from the VT slaughter facility that is utilized by this producer, and further interviews with the distributors will be conducted. The producer's farm remains under quarantine at this time. If the investigation results in confirmation of multiple violations, it has the potential to negatively impact the Vermont Brand. One of the VT distributors has already voluntarily recalled pork product sourced from this producer and potentially marketed under false claims. If further information is needed, please contact Kristin Haas by phone at 828-2426.

**Agricultural plastics**

Vermont's Agrichemical Toxicologist visited two facilities in the Northeast interested in recycling/using post-consumer agricultural plastics in their processes. Vermont Agricultural producers generate thousands of tons of agricultural plastics annually, including bunker covers, bale wraps, agricultural bags, maple tubing, mulch film, nursery pots, trays, dairy sanitizer/teat dip containers and 55 gallon drums. These materials are either sent to the landfill at significant expense to the producer, or illegally burned or buried on the farm. Farmers are anxious for a sustainable option to this farm waste. Very few companies recycle these wastes, and there are none in the northeast. The two facilities of promise are located in the northeast.

**NOFA winter conference presentation on producer institutional survey results**

- Staff shared preliminary results from our institutional and wholesale market supply survey. Noteworthy results:
  - Vermont producers have been successful in entering wholesale and institutional markets and interest continues to exist (57% of respondents already sell to institutions)
  - And additional 34% of respondents were interested in selling to these markets over the next two years
  - Many producers expressed interest in expanding production and processing of every product type to serve institutional markets
  - Additional relationships between producers and processors is needed to determine best suited roles for selling to institutional/wholesale markets



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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: February 20, 2015

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

February 17, 2015

***House Ways and Means***

***Miscellaneous Tax Proposals-Nonrevenue including Current Use***

The committee reviewed draft language and fiscal implications of a change in the current use statute. The elements of the proposal include

- Modify the land use change tax (LUCT) to 10 percent of the full fair market value of the changed land.
- Removing a portion of a parcel, that portion will be treated as stand-alone parcel and appraised at fair market value.
- Local assessing officials will determine fair market value in order for the LUCT assessment.
- The LUCT is proposed to be divided equally between the State and the municipality. The committee will entertain a cap on portion of the LUCT to be given to the municipality.
- There is an easy out including a re-enrollment limitation.
- A new notification process to the AAFM Sec, and FPR Commissioner when land is removed from the program (development or withdrawn) and notification when development occurs or change or discontinuance of use so that it is no longer eligible for use value appraisal or a different use value appraisal.
- Creation of a study committee addressing Municipal reimbursement, which the Secretary of Ag is a member.
- Guidance to be drafted by tax department on how to assess properties in the program.

“Within the proposed bill, in the easy out - anyone who elects to discontinue enrollment of the entire parcel may be relieved of the first \$100,000.00 (change to \$50,000) of land use change tax imposed pursuant to 32 V.S.A. 12 § 3757.” There was also discussion of assessing a farmer approximately 10% of the value of property or raising the per acre value paid by the farmer.

***House Agriculture and Forestry Products***

Stephanie Smith Chief Policy Enforcement Officer, AAFM, presented the results of the AAFM's work on [\*Agricultural Economic Development: Local Land Use Planning and its Effect on Diversified On-Farm Enterprises\*](#). The report outlines the local land use challenges for entrepreneurial farmers, as well as farmers in general, concerning local planning for agricultural economic development in rural areas. Frequently, farming the land is interpreted as relief from permitting. This perception, by both farmers and municipal officials, creates regulatory uncertainty for the farmer who might want to expand their operation to include agritourism businesses and value added agricultural product processing. Municipalities may also be unaware of what changes to its land use regulations it could consider to establish a clear permitting path for the growth of on farm businesses. The report looks at this challenge and others, and outlines next steps for the Agency.

February 18, 2015

***House Fish and Wildlife***

*Diane Bothfeld, AAFM testimony*

Rep. Deen introduced concept of parameters for small farm definition and potential of a fee structure for agriculture.

Parameters for small farm included \$10,000 or greater in income/year; 10 or more tillable acres; 4 or more cows or horses. Proposed fees to raise needed funds for agriculture included: \$15 more on Feed registration, \$10 per ton on fertilizer; permit fees for LFO, MFO and SFO. Potential to raise \$900,000 of needed \$1.2 million.

Committee supportive - want more types of livestock included, timeline for rulemaking and implementation of fee for small farm certification and fee. Implement other fees for permits right away.

### ***House Agriculture and Forestry Products***

#### ***H. 35 An act relating to Improving the Quality of State Waters***

The Committee heard from the Champlain Valley Farmer Coalition from its President Brian Kemp. The Coalition supports:

1. revisions to Accepted Agricultural Practices and bringing small farms into the fold with a certification program. What constitutes a “small farm” still needs to be resolved. There are examples in PA and ME that both use animal #'s.
2. Water quality training for all farmers that spread manure/compost/fertilizer, cultivate land for annual crop production, or raise livestock should be the same.
3. Certification for custom applicators- similar to pesticide applicator license
4. Increased education and training to farmers through the AAFM. A appropriately scaled portion of funding should come from the Agriculture community. The Coalition suggests a bag and bulk feed for all domestic livestock. The committee discussed the 1% rooms and meals tax. They want to take responsibility and the feed tax is a way of showing the public farmers are taking responsibility. They do not like the fertilizer tax, because the Coalition does not believe it is equitable.
5. They also support the current use penalty, and understand that not all farmers enroll their land in current use.

The coalition suggests that the violation penalties generally should be tiered. A small farm might not be able to afford large penalties where as a large farm might easily be able to write a check. The goal however being that the Agency be able to act quickly to resolve violations.

**February 19, 2013**

### ***House Ways and Means***

#### ***Miscellaneous Tax Proposals-Nonrevenue Bill***

Voted out (with strong support) a [Miscellaneous Tax Proposals-Nonrevenue bill](#) that includes changes to current use. This includes a cap of \$2,000 on the share of the LUCT a municipality receives, and starting in fiscal year 2017, three-quarters of the land use change tax collected by the State shall go to the Education Fund and one-quarter shall go to the General Fund.

” [Sec. 6a of the bill.] The easy out is referenced in Section 10. Leg Council produced a [section by section summary](#).

### **Press**

The Agency of Agriculture Meat Inspection division received inquiries from editor of Vermont’s Local Banquet Magazine concerning the development of the slaughter industry in VT.

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

State Veterinarian, Kristin Haas, participated in DisasterLan training held in Winooski. This training will prepare SSF11 co-leads to work efficiently in the new version of DisasterLan when in the SEOC during emergency events and is also valuable for those with roles in the VAAFM Ag Operations Center.

A meeting of the Vermont Veterinary Medical Association large animal loan repayment task force was held this week to finalize program documents in preparation for the 2015 call for applications from qualified food animal veterinarians. Information about this opportunity will be disseminated by the end of February, and the application deadline will be April 30<sup>th</sup>. There is approximately \$60,000 able to be granted out before July 1 to qualified applicants willing to provide veterinary services in Vermont’s underserved areas.

State Veterinarian, Kristin Haas, participated in a USDA Veterinary Services (VS) Training and Exercise workgroup meeting this week to finalize a survey that will be sent to state and federal emergency preparedness and response partners this spring. Results of the survey will help inform the VS Training and Exercise Strategic Plan development. Haas participates in the workgroup as a representative of the New England states.

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

### **Administration:**

#### **Land Use**

Stephanie Smith, Chief Policy Enforcement Officer, AAFM, presented to farmers interested in opening up their farms to the public at the Northeast Organic Farmers Association conference in Burlington on February 14. The presentation highlighted the Agency's regulatory jurisdiction over direct sales (CSA, U-pick, and farm stands) of agricultural products and other activities typically associated with farming, and when a municipality might have regulatory jurisdiction for a land use not regulated by the Agency. These types of land uses, for example on-farm restaurants, farm-stays/B & B, events held on farm property for commercial purposes, and sale of agricultural products not "principally produced" on the farm. The innovation of farmers branching out into these types of enterprises are welcome. They provide many benefits such as agricultural literacy and are an example of rural economic development that allows land to stay in production. Stephanie will be at an agritourism conference on April 8 in Rutland, Vermont sharing similar information.

### **Agricultural Development:**

#### **Energy**

Senior Agricultural Development Coordinator Alex DePillis continues participation in the non-contested standard offer proceeding before the Public Service Board (dockets 7873 & 7874). He has encouraged the hearing officer to issue a timely determination of the price cap on avoided cost (i.e. the tariff), for the purposes of being able to apply for USDA REAP farm bill funding.

Senior Agricultural Development Coordinator Alex DePillis continues to monitor the energy bill (H.40); passed out of House NR&E 10-1 (Van Wyck was "no"), to House Ways and Means, where it will be reviewed with PSD and legislative counsel on Friday 2/20. The Agency of Agriculture and the ANR have concerns about the language concerning food waste that was added to the bill, and will be meeting on Monday.

#### **Local Foods Team**

#### **VAAFM Farm to School Coordinator Testified at Joint Agriculture Committee Hearing, Discussing the Details and Outcomes of the VAAFM Farm to School Grant Program**

- A description of the grant program was given, which has awarded 39 planning and 49 implementation grants to 96 schools since 2007. The program's two grant types are designed to address the very early stage needs of a school that is planning a farm to school program, through a planning grant, and formalize a full farm to school program with a longer-term goal program sustainability, through the implementation grant.
- A snapshot of 2013 grantees was shared. In that year, new farm partnerships were built between schools and farms, and students were exposed to new experiences like trying new foods and visiting farms. Students had better access to fresh, local food- of which 51%, on average that year, qualified for free and reduced lunch. 56 community partners were involved in the grants, demonstrating the school community's commitment to culture change. 17 schools, in total, were beneficiaries of grants, with 16 of them having school gardens. The grants directly impacted over 6,200 students in 2013.
- VAAFM's Farm to School grant program has proven to contribute to long-term sustainability of farm to school programs. In 2014, UVM Center for Rural Studies found that VAAFM Farm to School grantees are 50% more likely to have a sustained farm to school program, and 100% more likely to have paid staff and teachers trained in farm to school (when looking at schools that have received grants 5 or more years ago).
- VAAFM believes in using farm to school to create positive culture change in schools. The agency would like to see increased local food procurement and access to fresh food for Vermont schools, which will lead to that culture change. The agency has a goal of capturing better data on the educational and health impacts of farm to school- this goal is echoed by the Vermont Farm to School Strategic Plan, which was developed over the last year.
- VAAFM was joined by Vermont FEED (Food Education Every Day, a partnership between NOFA-VT and Shelburne Farms), Hunger Free Vermont, Green Mountain Farm to School, students and a teacher from Lowell Elementary School, and farmer Bill Half.

VAAFM Senior Agriculture Development Coordinator, Ali Zipparo, Meets with Partners throughout the State, to discuss strategies of building further success in farm to school and farm to institution

- VAAFM and FEED hosted 40 farm to school stakeholders in a farm to school strategic plan working session on February 6 at Capital Plaza, kicking off 90-day projects
  - Five working teams were formed, addressing several key leverage points identified through a systems mapping process. The working teams will commence 90-day projects, aligned with the leverage points they are associated with, creating short-term/high impact results.
- VAAFM Farm to School Coordinator meets Congressman Welch agriculture outreach liaison, Coleman Gay, to discuss the state's farm to school grant program
- VAAFM Farm to School Coordinator meets with farm to school evaluation team in White River Junction, to hear about the findings from analysis done by Dr. Linda Berlin of UVM Center for Sustainable Agriculture. More work needs to be done to design better research questions in the future, in order to capture more valuable data
- Agency of Education Child Nutrition Program hosted a webinar on grant writing for school food service directors in 13 locations throughout the state. VAAFM Farm to School Coordinator presented on the farm to school grant program.
- VAAFM and FEED hosted a workshop at VTC in Randolph for new Farm to School Planning grantees. Peacham Elementary, Bennington School, Derby Elementary and Newport Elementary sent representatives to learn about the technical assistance they will get from FEED, Green Mountain Farm to School and Food Connects.
- A survey of SOV Workplace CSA members was distributed, collected and analyzed by VAAFM Local Foods Team, finding that, while members are very happy with their CSAs, participation is very low. In conversation with other groups that do similar work, overall workplace CSA membership is on the decline. A discussion on how to continue the program or create a new model is forthcoming.

NOFA winter conference presentation on producer institutional survey results

- VAAFM staff presented on 2/15, during the NOFA winter conference, as part of the workshop "Growing for Wholesale: The Options, Opportunities, and Conditions"
- Staff shared preliminary results from our institutional and wholesale market supply survey, where we received 126 producer responses
- Highlights analysis from survey results:
  - Vermont producers have been successful in entering wholesale and institutional markets and interest continues to exist (57% of respondents already sell to institutions)
  - And additional 34% of respondents were interested in selling to these markets over the next two years
  - Many producers expressed interest in expanding production and processing of every product type to serve institutional markets
  - Additional relationships between producers and processors is needed to determine best suited roles for selling to institutional/wholesale markets

Healthier Food Selections in State Cafeterias

- BGS hosted a meeting on February 9 with VAAFM and Abbey Group leadership to discuss incorporating Healthy Food Standards into Capital Food Court and 133 State Street cafeterias
- Abbey Group has up to 90 days to make changes to their breakfast, lunch, snacks, and beverage selections to meet the Healthy Food Standards provided by the Vermont Health Department
- This stipulation is a change order to their existing food service contract and does include "whenever possible, using locally grown and/or produced foods"
- Expectation of Abbey Group is to track % local food purchases in BGS contracts as well as other kitchens (in total) across Vermont and \$\$ of local Vermont business investments that influences/supports our communities

Participation in Vermont First Pledge: Localvore Challenge at Johnson State College on February 18

- VAAFM was a contributing judge during this Vermont Colleges Localvore Challenge, joined by Tricia Coates from Vermont State Colleges and Lindsey Ryan from Black River Produce

- Sodexo chefs from five Vermont colleges prepared a localvore lunch for students and the judges to try and evaluate for taste, use of local ingredients, appearance, and creativity
- Champlain College was the victorious school with a winter apple crepe recipe

Produce Safety Coordinator met with Vermont fruit producers at the Vermont Tree Fruit Growers Association meeting in Burlington. Introduced over 50 producers to produce safety position at VAAFM and pending Food Safety Modernization Act rules of key importance to apple growers (Produce & Preventative Controls Rules)

- Major discussion topics included
  - Labor issues in Vermont orchards
  - Thinning and plant growth regulator use in orchards
  - Managing fire blight and apple scab in orchards

Attended NOFA Winter Conference “Intensive” on the Vermont Vegetable and Berry Growers Association’s Produce Safety Accreditation program and met produce farmers at a Practical Produce Safety workshop offered by UVM Extension in White River Junction.

- Participated in discussions on
  - Sources of contamination on produce farms
  - Challenges to implementing produce safety on farms
  - Labor and infrastructure improvements needed to improve produce safety

Further narrowed estimates on the number of produce farms in Vermont using U.S. Census of Agriculture statistics and clarified sales thresholds in proposed rules for the Food Safety Modernization Act.

- Vermont likely has between 1000 and 1200 produce farms, an increase from the industry estimate of c. 800.
- Farms with greater than \$25,000 in annual produce sales will be affected by FSMA, although farms with less than \$500,000 in annual food sales may be subject to modified requirements if the majority of their food is sold to consumers within a 275 mile radius of their farm.

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

### **Meat Inspection:**

- Information packages sent to state inspected poultry operations concerning the USDA FSIS Poultry Modernization Act detailing required plant actions for addressing Food Safety Hazards and Pathogen Reduction procedures along with Hazard Analysis Critical Control Point (HACCP) plan updates
- Program is continuing to provide extra coverage for the federal plants under the 100% federally funded cross-utilization program as USDA continues to struggle to fill open federal inspector positions within Vermont.

## **Agricultural Resource Management:**

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

- Staff are drafting reports and memos related to inspections and enforcement cases.
- Staff are coordinating enforcement efforts, both in house and with the Attorney General’s Office for several ongoing and future enforcement actions on MFOs and LFOs for water quality compliance concerns.
- Staff are working on a “homesteader” AAP brochure that will be an educational pamphlet for backyard livestock owners. The goal is to develop educational materials so that people with only a few animals understand the rules and importance of proper management to reduce water quality impacts.
- Staff received requests for three Farm Agronomic Practices (FAP) Program Education and Outreach Grants to support efforts to educate farms and the public about management options on farms that can improve water quality.
- Staff received LFO annual reports and are processing and reviewing them for compliance and are also responding to submission extension requests from several farms. There are currently 27 LFOs statewide.
- Staff are continuing to process LFO permit applications and permit amendments. There are several farms that have submitted permit applications for building, expansion and general operation.
- Staff are continuing to work on the water quality section of the new water quality database. We have been testing inspections in the staging environment and sending comments back to the database developer.

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

- Staff prepared for upcoming field visits to farms with potential CREP projects.
- Staff processed field data gathered for planning CREP projects in ArcMap.
- Staff is continuously working on project develop, processing paperwork and management of CREP projects.

### **Water Quality Program:**

The ARM has received requests for hearings from five farms that have received Notices of Violations:

LFO – Richford  
MFO – Ryegate  
SFO – Bakersfield  
SFO – Lunenburg  
SFO – Waterbury

### **2014 End of Year Water Quality Enforcement Report**

Every year the Agency prepares a Water Quality Enforcement Annual Report as required by the Nonpoint Source Pollution Reduction Program Memorandum of Understanding that we have with the Agency of Natural Resources.

Synopsis of this year's report:

- A total of 934 visits were made to farms. This number includes compliance checks, inspections in response to complaints received and technical and engineering assistance visits. The report summarizes the efforts of five Field Agents that respond to small farm compliance issues, four Medium and Large Farm Operations Coordinators, a Small Farm Water Quality Inspector (a new position created in 2014), a state-wide CREP Coordinator (Conservation Reserve Enhancement Program), and the Agency's three full-time equivalent (FTE) Agricultural Engineers.
  - **500** visits to small farms [**160** inspections; **340** technical assistance/engineering visits]
  - **302** visits to medium farms [**120** inspections; **182** technical assistance/engineering visits]
  - **132** visits to large farms [**63** inspections; **69** technical assistance/engineering visits]
  -
- A total of 33 farms received enforcement actions, and an additional 6 actions are pending:
  - 21 small farms plus 4 actions pending
  - 10 medium farms plus 2 actions pending
  - 2 large farms
- Six (6) cases were referred to the Agency of Natural Resources for investigation.
- As in past years, most complaints received were in regards to manure management.

### **Pesticides and Fertilizers:**

The Agrichemical Toxicologist visited two facilities in the Northeast interested in recycling/using post-consumer agricultural plastics in their processes. Vermont Agricultural producers generate thousands of tons of agricultural plastics annually, including bunker covers, bale wraps, agricultural bags, maple tubing, mulch film, nursery pots, trays, dairy sanitizer/teat dip containers and 55 gallon drums. These materials are either sent to the landfill at significant expense to the producer, or illegally burned or buried on the farm. Farmers are anxious for a sustainable option to this farm waste. Very few companies recycle these wastes, and there are none in the northeast. The two facilities of promise are located in the northeast.

One facility, Ultra Poly Corporation, of Berwick, PA has been successfully recycling geo-membranes used in the oil industry for the past ten years. They are interested in expanding their material collection and are conducting test runs of these materials (nursery film, bunker covers, ag bales and bale wrap) within the month. Ultra Poly creates a recycled pellet which they sell, as well as produce several other construction grade products via injection molding, such as berms, rail road ties, etc. They are very interested in working with the agricultural community to manufacture a product they can use on their farm.

The other company, Prima America, located in Groveton, NH, uses plastic films as feedstock for thermos-catalytic process, which will produces off road diesel suitable for the agricultural, logging and marine industries. They are looking for 2-3,000 tons of ag films for a summer test of their process.

The Agrichemical Toxicologist attended a 2 day State-wide Training Needs Assessment put on by a consultant by the Vermont Division of Emergency Management and Homeland Security for all phases of response during an emergency. A few Agency Commissioners and Secretaries, as well as SSF leads were asked to consider Target Audiences for training with in our Agency and amongst our support Agencies, as well as farmers. The consultant will be preparing a report which we will have access to once completed.

**Secretary's Comments:**

- Hosted a gathering of many Vermont agricultural organizations including numerous dairy cooperatives, Rural Vermont, the organic community, beef grazers, the equine community, fruit, vegetable and berry growers, the academic community and extension services and others. This meeting was an opportunity for the Agency of Agriculture to explain its legislative priorities, and educate these organizations on what's happening across the street.
- Secretary Ross facilitated a day-long conference hosted by the VT Council on Rural Development about confronting climate change.
- Secretary Ross, Deputy Secretaries Bothfeld and LaClair and Financial Director Hodgdon presented the budget for FY '16 to the House Appropriations Committee.



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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Deborah Markowitz, Secretary, Agency of Natural Resources**  
**Date: February 20, 2015**  
**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**St Albans Town Wetlands Issue:** In response to the article and editorial in the St Albans Messenger about the wetlands issue related to road that St Albans Town wishes to build near the interstate exchange, I reached out to Emerson and we reached out to the town manager and planner. We are coordinating with ACCD, AOT and NRB on this as this is a great opportunity to show how the new 9L rule can work well for a community. Alyssa also met with Phil Scott to brief him on the issue and he is helping to de-escalate the issue as well. He understands the legal constraints we face when issuing permits to build to serve hypothetical development – rather than an actual, proposed project. I am keeping Liz in the loop but would be happy to brief you as well.

**IBM (Essex):** We are on track to issue the draft air operating permit renewal for IBM on Feb 20. This will be available for public comment until March 2. This permit will be finalized by April 1, so that it can seamlessly transfer to Global Foundries.

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**EVERYTHING ELSE:**

**Legislative Issues/Testimony:**

**DEC General Operating Fees:** DEC's general operating fee bill passed out of House Ways and Means and passed 3<sup>rd</sup> reading on the floor (88-57). No votes included Krebs, Greshin and Maureen Dakin. Non-Dems voting in favor included Branagan, Olsen, and Sibilia. The bill

included a friendly amendment by Rep. Olsen to exempt property caretakers from paying solid waste hauler fees.

**FY16/FY17 Dam Safety Capital Budget Testimony:** Dam Safety Program staff testified before House Corrections and Institutions on the capital budget proposal for FY16 & FY17 of \$1,288,580. The Committee focused primarily on the future repairs and major maintenance needed at Waterbury Dam. The Dam's Tainter gates and spillway must be replaced within 3-5 years, costing an estimated \$40M, \$14M paid by the State of Vermont. The most immediate expense is the Dam Safety Performance Assessment, which will help the program identify if additional improvements are necessary to accommodate the year round reservoir level as required by the recently issued 401 certification to GMP. For years, DEC has worked to transfer Waterbury Dam to the U.S. Army Corps of Engineers (US ACOE). The US ACOE owns other flood control dams in Vermont and has a much more significant budget for repairs. The Town of Waterbury, Friends of Waterbury Reservoir and GMP support the transfer. The other two flood control dams not owned by the US ACOE, the Wrightsville and East Barre dams, would likely also be transferred if Waterbury Dam was acquired. The Committee expressed support for the transfers.

**H. 25 Cemeteries and Natural Burial Grounds:** Staff testified on H. 25 in an effort to get isolation distances between new/expanded cemeteries/natural burial grounds and drinking water wells included in the bill. A requirement to keep new/expanded cemeteries/natural burial grounds out of river corridors was added to prevent the recurrence of the washing away of human remains that occurred during Tropical Storm Irene. The Vermont League of Cities and Towns, Vermont Bankers Association, and Department of Health Commissioner Harry Chen expressed support for the proposed isolation distances.

**Universal Recycling & NEK:** Deputy Commissioner Schuren and Solid Waste Program staff met with Senator Rodgers, Northeast Kingdom Solid Waste Management District board members and staff, and a local hauler to hear concerns about the implementation of the Universal Recycling law and to develop solutions. On July 1, the law mandates that all haulers and drop off centers offering trash service, must also offer recycling (i.e. "parallel collection"). NEK does not have a single stream recycling transfer station, creating an issue for the hauling community. An exemption to the parallel collection requirement became law in 2014. NEK will apply for that exemption. Sec Markowitz will be testifying on solid waste implementation issues today (Friday) in House Natural Resources along with Deputy Commissioner Schuren.

**Senator Bray Inquiry:** Senator Bray is interested in a constituent's ability to advertise for sale an outdoor wood boiler utilizing corn as a fuel. The boiler manufacturer has not provided test data to our Air Quality and Climate Division to certify that the boiler can meet emissions limits under the Air Pollution Control Regulations, therefore making it illegal to advertise for sale in Vermont. We provided an overview of the situation to Senator Bray.

**Fracking Report:** In 2012 the Vermont Legislature passed H.464, which requires the Agency to make recommendations on the regulation (January 2015) and environmental impacts of hydraulic fracturing (January 2016). Staff combined the two reports into one and submitted it

this week. Staff found that the State has in place the necessary structure to effectively regulate fracking, that shales are limited to the Lake Champlain Basin, insignificant and uneconomical. If shales became economical, staff would not recommend fracking as Lake Champlain serves as drinking water for numerous communities. A ban on fracking is currently in place statewide. Due to the threat fracking poses to groundwater and air quality, staff recommend maintaining the ban. If overturned, and fracking were to take place in Vermont, the Natural Gas and Oil Resources Board would need to be reactivated to issue permits in conjunction with the Natural Resources Board, ANR and local municipalities.

**H.35:** Commissioner Snyder testified before the House Committee on Agriculture and Forest Products on the AMP-related aspects of this House water quality bill.

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

**Biomass Monitor Inquiry:** Josh Schlossberg, editor of [The Biomass Monitor](#), called with questions about emissions from the McNeil Generating Facility in Burlington. He was interested in the plant's allowable nitrogen oxide emissions, and the differences between how EPA and the State report annual emissions. We provided the information and no further inquiries have been made.

**Fish Culture in the News:** On Feb 13 staff were interviewed by Channel 7 News Lyndon State College to provide information in regard to winter fish culture operations at VT's fish culture stations. Additionally, on Feb 17, staff at the Ed Weed Fish Culture Station were interviewed in a live morning television broadcast on this same topic. This topic was initiated by a press release issued last week in regard to fish culture operations and the impacts of fish culture in VT.

**F&W Releases: Special Snow Goose Harvest Opportunity:** VT's spring snow goose hunt will be held March 11 - April 24. Since 2009, the USFWS has annually issued a "Conservation Order" to allow the reduction of the population of migrating greater and lesser snow geese as well as Ross' geese. The numbers of these geese have grown so high that they are destroying habitat for themselves and other species. **Stuart Kinney Recognized by VTFWD:** Stuart Kinney of Braintree was honored with a Certificate of Appreciation by FWD Commissioner Louis Porter and State Bear Biologist Forrest Hammond at the Feb 7 Vermont Bear Hound Association annual banquet in Barre. **VT Fish Hatcheries in High Gear During Winter Months:** While the bitter cold of winter grips VT and ice covers many of its world-class fisheries, work at the state's fish hatcheries is heating up to produce the next batch of fish for spring stocking efforts - an annual initiative that has a major impact on both area angling opportunities and VT's economy.

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

**ANR Land Records Scanning Project:** The State Lands Administration Division is pleased to announce that it has completed scanning and archiving of all ANR land records. We started this project after Irene when it came to my attention that the state land records were kept in file cabinets in the state office – with no back ups! This landmark accomplishment involved the

digitization of ANR property records including deeds, easements, survey maps, and related documents to readily accessible and durable electronic format.

**Particulate Matter Health Standard Exceedance in Rutland:** On Feb 10, daily fine particle (PM<sub>2.5</sub>) concentrations in Rutland exceeded the level of the daily national ambient air quality standard. Based on preliminary data, this was the second PM<sub>2.5</sub> exceedance day in Rutland this winter. Elevated winter PM<sub>2.5</sub> concentrations in Rutland and other Vermont mountain valley areas result when calm winds and temperature inversions limit dispersion of wood smoke, motor vehicle exhaust and other local pollutant emissions. While it is not expected that Rutland will fall into “non-attainment” status, these occasional VT exceedances of the level of the standard are considered “unhealthy for sensitive individuals.” We continue to work to identify strategies for reducing winter PM<sub>2.5</sub> emissions, concentrations and public exposures.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of Planning and Legal Affairs (OPLA)**

**GMP Bio Digester Project:** On Friday, OPLA will facilitate a meeting amongst GMP, VAAFM and staff from DEC solid waste and water quality programs to discuss GMP’s plan to build a series of methane digesters in the Champlain Valley. The meeting will focus on the availability of food waste as a potential fuel source for the digesters (in addition to manure), the regulatory aspects of transporting, storing and digesting these wastes, as well as the section 248 process and GMP’s plans to extract phosphorous from manure as part of their overall process.

**GMP Conservation Opportunities:** GMP has approached ANR requesting suggestions for high priority conservation opportunities in the southwest region. GMP is exploring the potential to purchase power from the Deerfield Wind facility once it comes online and as part of their potential involvement, GMP would like to contribute towards the conservation of land or other efforts to give back to the region and offset the impacts associated with the wind facility. OPLA worked in consultation with DFW staff and leadership to identify a short list of conservation priorities as well as the opportunity for GMP to contribute to an ongoing study of impacts to black bear habitat associated with the Deerfield project.

**Solar and Wetlands:** OPLA continues to receive Certificate of Public Good petitions for group net metered solar facilities that appear to raise substantive issues related to class II wetland impacts. In the past week DEC wetlands program staff have identified two projects that will likely not qualify for a wetlands permit. In both cases wetland program staff had raised this issue with the applicant through pre-file outreach, but the petitions were filed with the PSB never the less. The wetlands program has asked OPLA to intervene and contact the developer and to address the wetlands issue as part of the Agency comments to the PSB.

**New Applications for the Week of Feb 16:** OPLA received 3 new Act 250 application and 3 new Section 248 applications.

## **Environmental Conservation**

**Proposed Daycare in Highgate at the Franklin County State Airport:** We continue to work with the Department of Children and Family Services as we become aware of new/proposed/existing daycares that require drinking water permits. DCF recently alerted us to a daycare proposed for a privately owned building at the Franklin County State Airport, which would serve 58 children and employees. Upon learning this, we notified the owner of the building/water system that they will be required to obtain source, construction, and operating permits in order to operate as a non-transient non-community water system for the daycare. The building owner (Richmond Group) and daycare are in discussion as to whether or not the permits will be pursued (without the permits, the daycare cannot open at this location).

**453 Pine Street (Burlington):** A subset of the Brownfields Economic Revitalization Alliance (BERA) met with the Performing Defendants for the 453 Pine Street project to discuss the project and next steps. The Performing Defendants expressed a desire to support the project. The environmental and technical review of the site is complete. The Performing Defendants will work with the BERA team collaboratively from this point forward with the goal of seeing the site developed.

## **Fish & Wildlife**

**American Reedgrass:** FWD staff & staff from the Missisquoi Wildlife Refuge, escorted reporters from WCAX and Burlington Free Press to see a population of American Reedgrass (*Phragmites australis ssp. americana*) at Missisquoi Wildlife Refuge. This is about the 6<sup>th</sup> or 7<sup>th</sup> known population of this native subspecies of the invasive European Phragmites. Neither story has run yet.

**Possible Solar at Prison:** Staff met in Montpelier with representatives of BGS, Green Mountain Power and GroSolar about plans to co-locate a 500 KW solar farm on the “Windsor Prison Farm” property. Plans are in the works to transfer most of the property to the Fish & Wildlife Department to be managed as a wildlife management area. Also, staff were given opportunity to see four additional solar projects (all adjacent to Deer Wintering Areas) for which GroSolar would like pre-application comments. The Habitat Team will meet to discuss whether or not there would be indirect impacts from the projects that call for buffers or not.

**Fishing:** Catches of the usual species are being reported throughout the state with fishing pressure high. Numbers of trout are increasing as well as white perch. Violations still being detected due to persistent checks, including license, baitfish, fish length issues and fishing while under revocation. The annual Wright’s fishing derby was held over the past weekend in the NEK. High numbers of fishermen and women were reported even with the cold weather. We received a report of a truck going through the ice on Lake Willoughby.

**Not bad for a Tuesday at 10 degrees:** Warden Barrett and Warden Currier were on patrol on sleds in Mallett's Bay when they began watching two men fish near a vehicle. Once they were satisfied the two men needed fishing licenses to do what they were doing, the wardens approached to check compliance. One male was properly licensed and the other claimed to have left his at home. The fisherman gave a false name to the wardens when he was asked, which eventually lead to the discovery that the male was under revocation and on supervised/conditional release due to prior offenses. The wardens arrested the male for fishing under revocation and violation of his court-imposed conditions of release. The male was transported to Colchester Police Dept for processing. The following day, SW Barrett discovered that the male had used two false names to create licenses in the Point-of-Sale system so he could get away with license purchases. This was discovered to have gone on since 2011. Not bad for a Tuesday at 10 degrees...

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

**Vermont Future Landscapes Workshop at UVM:** The workshop focused on envisioning a set of scenarios describing what Vermont's landscape might look like in the future, and developing a set of rules or descriptions on the role of conservation in shaping those landscapes.

**Dern Parcel – Addition to Emerald Lake State Park:** The Department is scheduled to close on the Dern parcel on Fri, Feb 20. This is an important addition to Emerald Lake State Park and includes a right-of-way for access to the parcel and other less accessible areas of the Park. Funding for this acquisition is from an LWCF Grant and a VHCB Grant. There will be an Easement conveyed to VHCB as a grant requirement.

**Estate of Daniel Forsey v. State of Vermont:** This suit involved a wrongful death claim filed against the State of Vermont for the drowning death of Daniel Forsey in the Little River in August 2011. The State filed a cross-claim against Green Mountain Power, operator of the Waterbury Hydroelectric facility, as the complaint alleged negligence due to failure to warn of release of water into the Little River. The Forsey Estate tendered a settlement offer which the State accepted. Final settlement documents have been prepared and filed with the Court.

**Maidstone State Park:** The conceptual design for “re-visioning” Maidstone State Park has been made available for public review and comment until Feb 22. The plan calls for upgrading many of the existing features but in ways that support contemporary park visitors’ interests. There has been significant generally positive response toward the project. Actual renovation work will be guided by the concept plan but take place over a number of years.

**Fat Bikes:** Discussions continue over the appropriate way to accommodate fat biking on FPR lands. Demand is increasing while FPR staff work to fit the activity within existing policy and/or consider how to change policies. Fat bikes, all terrain, wide, soft-tired bicycles are capable of travel over moderately packed snow surfaces.

**LWCF Grants:** Applications have been received this week from 19 municipalities to compete for \$700,000 in federal Land and Water Conservation Fund grants. This is the first grant cycle in several years for local outdoor recreation development and acquisition projects.

**RTP Grants:** There were 24 applications, totaling \$3.5 million, received this week from municipalities and nonprofit groups for this year's cycle of Recreation Trails Program grants.

### **Natural Resources Board**

**NRB Rules:** The NRB will hold the first of several hearings on proposed amendments to the Act 250 rules. The hearing will be held by Vermont Interactive Television. The issues the NRB anticipates comment on proposed changes to the Master Plan Rules, and a definition related to implementing the 2014 legislative change to Act 250 criterion 9L.

**Halifax Hearing:** There was controversy over the scheduling of an Act 250 hearing on a quarry in Halifax because an expert for opponents of the quarry had a death in the family and could not attend the hearing. There was significant misinformation about the District 2 Commission's decision not to postpone the hearing. After looking into it, the NRB Chair determined there was a rationale for holding the hearing. Nevertheless, after consulting with the NRB Chair, the District Commission decided to postpone the hearing. Concerns have been raised in this case about the Chair of the District 2 Commission's ability to conduct a fair proceeding. These concerns have been communicated to the Chair.

**Alchemist Violation:** An investigation has been on-going since 2012 looking into violations of Act 250 at the site of the Alchemist in Waterbury. The violations are for building several structures on the property without a permit, and operating a retail facility without a permit. The retail sales ceased in 2014. There is no question these violations occurred. Accordingly, the issue is what should the penalty be, and whether the violation should be issued to the landowner, who the Act 250 permit was issued to, the operator (the Alchemist brewery) or both. The expectation is that these issues will be resolved in 2-3 weeks and at that time, the permittee(s) will be contacted about the violation.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: February 20, 2015

Subject: Weekly Report

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**Governor Level Issues:**

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

**EIP:** House Natural Resources voted the bill out 10-1, and it is now in Ways and Means. Darren and Asa testified there on Friday 2/20, after Rep. Ellis introduced the bill there on 2/18. Committee questions were largely addressed, Asa and Tom Kavet now scheduled to testify on forthcoming fiscal note Tuesday 2/24 at 3pm. Our hope, and we are coordinating with Rep. Klein on this, is that Ways and Means will vote the bill out following that testimony so the full House can consider it on the floor prior to Town Meeting week.

**Meetings this Week:**

Feb 16 – 17 – Darren/Porter at NARUC winter meeting in D.C.

Feb 17 –Chris/Steve Wislowski/Pat Moulton/Jo Bradley meeting to discuss Clean Energy Finance

Feb 18 – Chris attends VCRD climate change summit

Feb 19 – Chris/Tony Leshinskie lunch meeting with Nancy McNamara/NRC; Chris/Tony Leshinskie attend NRC public meeting on VY PSDAR in Brattleboro; Darren at statehouse



Feb 20 – Chris meets with Kathy Keenan re PSD FY16 budget; PSD/TDI meeting; Chris/PSB meet with ISO commissioners; Chris testifies on PSD FY16 Budget/VTA in House Approps; Darren and Asa testify on H.40 in House Ways and Means

### **Meetings next Week:**

Feb 23 – PSD/PSB meeting on VUSF; Darren speaker at UVM Charlie Ross Practicum class

Feb 24 – PSD/VTrans meeting on TDI; Chris at VY monthly meeting at SEOC;

Feb 25 – Darren speaker on H.40 at DRM attorney and clients event

Feb 26 – Chris at NDCAP meeting

Feb 27 – Chris at VEDA board meeting

**Media:** Darren in VTDigger article on EIP

### **Everything Else:**

#### ***PERD***

#### **Legislative Update**

- Staff responded to information requests/inquiries on the energy codes from Rep. Scheuermann, specifically regarding the availability of the final version of CBES and whether someone that has already submitted an Act 250 application would need to meet the new version of the codes.
- Staff spoke with a staff attorney at the Natural Resources Board about whether they were going forward with 9F statute language changes they had notified us previously that were planning to propose this session. These changes would be to fix the problem of requiring “evidence” that applicants will comply with the energy codes prior to them having their designs fully completed. They have determined that a statute change isn’t necessary and that they can instead make procedural changes to address the issues. Staff has offered to distribute their proposed changes to the energy code stakeholder list to get the word out regarding.
- Staff attended House General, Housing, and Military Affairs Committee hearings on H. 119 and H. 136.

#### **Net Metering**

- Met internally and with the PSB with regard to the upcoming working group process as part of the PSB’s net metering re-design proceeding. The 2/27 workshop will frame the scope of the working groups in terms of what stakeholders want to get out of it (within parameters of Act 99). The Department may offer summaries of different rate design options and implementation (if any) in other states.
- Discussed NM process with GMP, including staff that might be assigned to working groups and provided early thoughts on the process. Staff plans to regularly work with GMP and other stakeholders to facilitate the re-design process going forward.

### Net Metering Activity 2/7/15 – 2/13/15

	Registrations	Applications	45 Day Notice	CPGs Granted
<b>Count</b>	3	4	0	24
<b>kWAC</b>	11.000	808	0	1269.97
<b>Ave Size kW</b>	3.667	203	0	52.915

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

<b>Year Total to Date</b>		<b>Total Since 1999</b>	
<b>2014 kW</b>	<b>2015 kW</b>	<b>1999 – 2015 kW</b>	<b>% of 15% Cap</b>
1092.94	4546.57	79962.58	~ 53.3%

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

#### ISO-NE

- Attended Load Forecast Committee presentation of the preliminary energy and seasonal peak ISO-NE forecast (that doesn't include impacts from updated EE forecast or DG Forecast. The annual energy and 50/50 peak regional forecasts were both slightly lower than previously predicted. Also notable is that we haven't had a peak load that matched the 90/10 forecast since 2006, and haven't had peak load that exceeded the 90/10 forecast since 2002 (despite some 90/10 weather events).

#### Heating Fuel

- Since last reporting Crude Oil prices continue to rise now at \$53.46 v. \$52.04. The natural gas market continues rose to \$2.798 v. \$2.580 a week ago.

#### Vermont Gas Systems

- Continued development of analysis to re-assess economics of Phase 1 project given significant cost increases and significant alternative fuel price decreases.

#### Other

- Assisted engineering in application of PURPA avoided costs, EEU line losses and T&D factors for use in transformer efficiency worksheet updated by PSD and used by utilities when evaluating transformer investments.
- We received 7 responses to our simple RFP for a web-based generator tracking database system, which would replace and expand upon the net metering spreadsheet. Several of the responses appear to be worth considering.

- Clean Power Link 248 - Reviewed Economic Impact Analysis testimony, written for TDI by Mr. Kavet. Much of the claimed benefit depends on downward price pressures assumed in Mr Parker's analysis of wholesale electricity energy markets. Discovery questions are being compiled for both.
- Results from FACETS modeling for the TES can now be found online in an interactive web graphic. Some final kinks yet to be worked out (efficiency to be counted toward % renewable goals).
  - [https://public.tableausoftware.com/views/TotalEnergyStudy\\_0/PrimaryConsumption?:embed=y&:showTabs=y&:display\\_count=no](https://public.tableausoftware.com/views/TotalEnergyStudy_0/PrimaryConsumption?:embed=y&:showTabs=y&:display_count=no)

## ***Engineering***

### Vermont Yankee Spent Fuel Management & Decommissioning

Systems maintenance and testing to support Spent Fuel Pool integrity continued during the reporting period. No notifications were received during the reporting period regarding any issue that would adversely impact Spent Fuel Pool integrity. Additional maintenance was required to address several, most likely weather-related, faulty temperature readings at the cooling vents for two of the spent fuel dry casks. (Redundant temperature sensors assured that accurate vent temperatures were known for all dry casks throughout the reporting period.) Snow and ice are manually removed from the dry cask cooling vents as needed to ensure cooling is not compromised.

The planned demolition of several non-essential, non-radiological structures at the VY site continues. In particular, the Grounds Maintenance building (which had been adjacent the Maine Yankee Building) was demolished on February 12. Removal of two adjacent, makeshift structures that had housed sand and salt for snow & ice abatement continues.

### VY Status Update Presented at Joint Hearing of the Committees on Natural Resources and Energy

On February 11, the House & Senate Committees on Natural Resources and Energy held a joint hearing to update the Committees on the status of VY's decommissioning. Mike Twomey, Entergy Vice-President for External Affairs, testified on VY's decommissioning. Commissioner Recchia's testimony briefly summarized the State's and the Nuclear Decommissioning Citizen's Advisory Panel's actions to date regarding VY's decommissioning. He also noted that 1) the NRC does not have consistent rules for non-operating plants, 2) the State disagrees with VY's request to reduce the Emergency Planning Zone (and petitioned the NRC on this matter last week), 3) the State needs to have a role in disbursing money from VY's Decommissioning Trust Fund (DTF), and 4) he is optimistic that the growth of the DTF will allow full VY decommissioning on an earlier schedule than currently estimated by Entergy and the NRC.

### NRC Formally Issues VY Integrated Inspection Report for Defueling Activities

On February 11, the State Nuclear Engineer received formal notification of the NRC's Integrated Inspection Report for VY covering its final defueling in January 2015. The report identifies one minor violation that was previously discussed in the NRC's "Exit Interview" for the inspection

period (details provided in the weekly report two weeks ago). The NRC is treating the finding as a non-cited violation because of the very low safety significance level (green), and because it is already being addressed through VY's corrective action program. As such, the NRC will take no action against VY for the finding. This was the last VY inspection conducted by the NRC's Operating Reactor Regulation division. Future inspections will be conducted by the Division of Nuclear Materials Safety (DNMS).

#### NRC Formally Grants VY License Amendment on Secondary Containment Requirements during Fuel Handling

On February 13, the State Nuclear Engineer received formal notification that the NRC had granted VY its License Amendment Request (LAR) to modify Fuel Handling procedures with the relaxation of several Secondary Containment System requirements now that VY has permanently ceased power generating operations. The change allows fuel handling (i.e. the moving of fuel assemblies within the VY Spent Fuel Pool and to and from the VY refueling floor) without requiring full activation of VY's Secondary Containment, Control Room High Efficiency Air Filtration or Standby Gas Treatment systems. (These systems would still fully activate if indications of radiation were detected on the refueling floor during fuel handling.) VY submitted this LAR in November 2013 and provided additional information to the NRC between June and November 2014. The State Nuclear Engineer reviewed this material, and had no questions that were not addressed in the subsequent additional information letters.

On February 14, the State Nuclear Engineer received notification that the NRC had granted VY an Exemption from 10 CFR Part 73 Requirements regarding the qualifications of on-site VY staff who are permitted to suspend certain VY security measures in an Emergency Condition or during Severe Weather. Previously, this type of decision had to be made by an on-site, certified Senior Reactor Operator. These decisions may now be made by an on-site Certified Fuel Handler. This Exemption is consistent with the new VY minimum on-site staffing and Emergency Response Organization requirements implemented earlier this month. The State Nuclear Engineer has reviewed the Exemption and had no questions or concerns regarding its implementation.

#### New NRC Inspector General's Report Identifies Need for Improvement in Spent Fuel Pool Oversight

The NRC Office of the Inspector General (OIG) released a report (OIG-15-A-06, published 2/10/2015) that audited the NRC's regulatory oversight of spent fuel pools at operating and decommissioning nuclear reactors. The report notes that "regulatory uncertainty" exists in the NRC's evaluation of spent fuel pool criticality safety analyses. Additionally, gaps exist in the NRC's spent fuel pool inspection program as inspections of spent fuel pools greatly vary between individual plant / facility sites and are sometimes limited in scope. (One of the report's four recommendations is an updating of the NRC Inspection Manual and Procedures regarding Spent Fuel Pools.) Much of the report's discussion indicates that existing spent fuel pool criticality evaluation guidance to NRC staff and licensees is outdated (from the late 1990s) and subject to interpretation. These findings may bolster the State's arguments in its petition to intervene / hearing request on the proposed VY Emergency Planning Zone (EPZ) reduction

(noted in last week's report). (The EPZ change guidance for decommissioning plants is from the same time frame; there is likely cross-over to the documentation noted as outdated in the OIG Report.)

#### 2015 Vermont Gas Systems Addison Transmission Pipeline Project

VGS and Engineers Construction (ECI) of Williston VT met to review procedures necessary to install a segment of 12" diameter pipeline in Williston. ECI presented specific procedures to install approximately 700 feet of pipeline through a route which was made by directional drilling, under Redmond Road and an adjacent ravine, in 2014. VGS revised and presented procedures for several processes, including welding and coating application, required during the installation. This portion of the project is planned to be installed on the week of 2/23/15, if weather permits.

#### Vermont Gas Systems plastic fusion failure

The Department Gas Engineer observed two sites in Enosburg Falls, this report period, where the company's contractor (ECI) utilized ground-thawing equipment prior to excavation(s) for an investigation of distribution components which may have been incorrectly installed. The electrofusion process to install service tees in 2013 was found to be unsatisfactory in two separate locations. These specific examinations are part of a plan to investigate the extent of similar components which may also be incorrectly installed in the VGS system. The Gas Engineer will continue to review the instigation methods and results with the company.

#### Weekly Summary of Underground Damage Prevention Activities

* Underground Facility Damage Reports (UFDR) received:	0
* Notice of Probable Violations (NOPV) issued:	0
* NOPV Agreed to by Violator:	4
* NOPV Challenged by Violator and requesting a hearing:	0
* Assessment Letters on contested cases to PSB:	0
* PSB Orders issued – agreed with Dept. assessment	2

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

#### Electric

VEC: Tariff 8554 - VEC filed a petition to update rates for its miscellaneous services (such as disconnections, reconnections, establishment of service) that were last updated in 2009. The proposed changes are to reflect VEC's current costs to provide such services based on cost causation. We have completed our review the filing and have provided our recommendation that the rates be approved but asked that the Board consider changing the process for updating miscellaneous service rates in the future to be done in conjunction with rate cases and or rate design cases as opposed to being done independently. The PSD filed recommendation with the Board on February 13.

#### Natural Gas

Vermont Gas Systems (VGS): Alt Reg Plan (ARP) extension - the parties have agreed to extending the current VGS Alt Reg Plan for one additional year ending September 30, 2016. Changes to the Alt Reg Plan agreed to by the Department and VGS include: elimination of all Phase I (Addison) expansion costs from rates, clarification of the weighted average cost of capital used in determining the return to VGS, the cost of service to held subject to the 'known and measureable' standard, as well as numerous miscellaneous changes. The renewed Alt Reg Plan filing was extended and the agreement filed on-time with the PSB on February 13, 2105 for approval.

VGS: Interruptible Tariffs including its Lock Price Program - Staff continues working with VGS on redesigning its interruptible tariffs with an objective to streamline and reduce the current 200 page tariff to something more manageable.

VGS: System Expansion Reliability Fund (SERF) - Department staff is working with VGS on the use of rate payer provided expansion funding. The parties have agreed to work together to build a 'model' that will delineate the least cost rate payer impact of various options. PA is assessing the probability of a successful outcome regarding a possible IRS private letter ruling. We are continuing work on the model this week.

VGS: LNG Plan – VGS is short capacity for the 2015-16 heating season and plans to use LNG to augment its capacity shortfall until the Phase II looping project is completed (anticipated to be completed in time for the 2016-17 heating season). VGS plans to file a 248 petition to effectuate the LNG Plan. Finance & Economics is reviewing the economic/financial aspects of the Plan to assure a least cost solution for gas customers.

### ***Public Advocacy***

GMP Actual O&M Cost Proceeding – Docket No. 8389 – On February 17, the Department and GMP filed an MOU resolving all issues in this proceeding and with respect to GMP's 2014 Earnings Sharing and Exogenous Storm filing. The MOU accepts all of GMP's major storm costs and makes no adjustment to the Earnings Sharing Mechanism. Adjustments were agreed to with respect to the Actual O&M cost filing. Those adjustments do not affect GMP's revenue requirement; rather, they will serve as the basis for GMP's upcoming rate design filing. Additionally, pursuant to the MOU, GMP made a number of commitments, relating to recovery of lobbying and civic expenses, employee credit card usage policy, recovery of storm restoration costs from telecoms, and vegetative maintenance. Both GMP and the Department welcomed a Board hearing or workshop so as to provide with Board with any additional information it may want.

VGS – Alternative Regulation – No Docket – On February 13, the Department and Vermont Gas filed an agreed-upon one-year extension of Vermont Gas's existing alternative regulation plan. The revised plan makes some technical clarifications, and it memorializes an agreement that Vermont Gas will not include any Phase I capital costs in base rates for the upcoming rate year (beginning Oct. 1, 2015).

VGS – Penalty Proceeding for Violation of Rule 5.409 – On February 17, the Department filed testimony from Commissioner Recchia responding to the questions set forth by the Board in this proceeding. The Department does not anticipate significant discovery in this case (Vermont Gas is the only other party). A technical hearing is scheduled for late March.

VEPPI – VEC Wheeling Dispute – No Docket – A dispute has arisen as to the manner in which VEC is charging VEPPI for wheeling services provided for a standard offer resource. The issue is pending in an informal manner at present, outside of a docket. Briefly, VEPPI contends that VEC is billing it in a manner that is at odds with a wheeling methodology adopted by the Board. Other utilities (that ultimately must reimburse VEPPI for this charge) tend to agree. VEC contends that it is billing VEPPI in a manner consistent with its OATT, and that the OATT would trump any wheeling methodology adopted by the Board. The Department agrees that VEC must bill VEPPI in a manner consistent with its OATT, and that if VEC's OATT is at odds with the Board's wheeling methodology, that should be looked at going forward. On February 13, the Board issued a memo seeking comments from Vermont utilities and the Department as to whether VEC is correctly interpreting its OATT. This is procedurally bizarre, as no party has heretofore challenged VEC's interpretation of its OATT, and VEPPI's failure to pay its bill is subject to interest for delinquent payments. Comments are due February 27.

SunCommon – VEC Interconnection Dispute – No Docket – On January 20, 2015, SunCommon sent a letter to the Department seeking assistance in resolving a dispute between SunCommon and Vermont Electric Cooperative, Inc. (VEC). The dispute pertains to VEC's interconnection requirements for a 150 kW community solar project at the so-called "Bushey Site" in Fairfield, Vermont. Specifically, VEC is requiring SunCommon (the installer of the system) to install a transformer, recloser, and SCADA equipment, as a condition of interconnecting the system. SunCommon believes that this equipment is unnecessary, and that it inappropriately increases the costs of the system by approx. \$17,000. VEC responds that its interconnection requirements are consistent with Board rules and VEC's tariff. VEC further contends that the disputed equipment would not be necessary but for the existence of the Project, and therefore the costs are appropriately allocated to SunCommon. Department staff is currently reviewing the legal and technical issues and will make a recommendation to the leadership within a week.

Untariffed Services – No Docket – On February 13, the Board issued a number of memoranda to the Department seeking its position on untariffed services currently being provided by the utilities. The Board seeks comments by February 27. The Department is currently evaluating the Board's questions.

Rule 4.100 Workshop – No Docket – The Board will hold a workshop to discuss potential revisions to Rule 4.100 on February 19. GMP has developed a presentation that explains how other states implement PURPA. This will help serve as a jumping off point for discussion.

VY – No Docket – The NRC noticed in the Federal Register an Entergy license amendment request seeking elimination of Entergy's obligation to give 30 days notice to the NRC of a

withdrawal from the decommissioning trust fund. Comments in response to the LAR are due March 19, and request for hearing is due April 20.

VY PSDAR – No Docket – The Department continues to work with ANR and VDH in developing comments to the NRC in response to Entergy’s PSDAR filing. The agencies are exploring if and how the recent discovery of strontium at the VY site impacts the State’s approach to its comments.

FairPoint Service Quality Investigation – Docket 8390 – The Department worked out an agreement with FairPoint requiring FairPoint to provide data to the Department regarding issuance of customer bill credits as a result of service interruption per PSB Rule 7.609(c), and provide monthly reporting on the same going forward. The Board had given indications that it may be considering initiating a separate enforcement action on the topic. The Department would like to keep the issue within the existing service quality investigation.

### ***Telecommunications***

Broadband Data – The PSD maintains a database that allows PSD staff including consumer affairs specialists to view broadband availability information gathered from providers. Presently the data depicted is 6/30/13. In uploading the latest 6/30/14 data, PSD staff determined that the free software that allows PSD staff to view this information is out of date. PSD staff has updated the software and will load the latest broadband data this week.

FairPoint Service Quality – PSD telecommunications staff assisted the PSD legal and consumer affairs staff to develop testimony that tracks the service quality metrics that have been in place and evolved over time since 2005 to the present.

Vermont Cyber Security – PSD staff participated in a meeting of a new group of Vermont state agencies called CyBORG. The group will focus on cyber security and is organized by the Vermont DEMHS. The group plans to conduct a table-top exercise of a hypothetical cyber security problem affecting electric distribution utilities later in 2015.

National Governor’s Association Cyber Security – The NGA is considering inviting Vermont to present information about cyber security preparedness in late March, 2015. DEMHS indicated that if the invitation is received it would be helpful if Public Service participated in the contingent.

H.R. 117 – On Thursday, February 12, the House Commerce Committee held a hearing on proposed legislation that would create the Division for Telecommunications and Connectivity within the Department of Public Service. During markup, the majority of members showed tentative support for the bill, but all agreed for the need to revisit the advisory board. A majority of members stated their preference that the advisory board be strengthened in some way. One member (Dakin) questioned the need for the bill at all.



Stowe Cable Survey, Docket 8428 – Staff completed the final draft of the Stowe Cable subscriber survey. The survey will be distributed to current subscribers and will help the Department gauge Stowe consumers' satisfaction with their current service. The Survey asks basic questions and is not intended as a community assessment. The Department will likely not receive a statistically valid number of responses.

Connectivity Initiative RFP – Four respondents submitted notices of intent to respond to the Department's Connectivity Initiative RFP.

Rural Economic Development Ad-Hoc Committee Presented – Staff presented at an informal group of legislators concerned about economic development in rural Vermont. They wanted to know about the present availability of broadband outside Chittenden County. Drawing on the Broadband Availability report and the Telecommunications Plan, staff presented group with an overview of what locations are served.

Duncan Cable CPG Renewal — The Board issued an order commencing a renewal proceeding for Duncan Cable's CPG and scheduled a prehearing conference on Thursday, February 26.

Transition of the VTA to PSD — Department staff met with representatives of the VTA to continue discussions regarding the upcoming transition on Friday, February 13. The meeting covered a proposed RFP from the VTA for management of dark fiber assets and the status of CoverageCo assets and build out.

Wireless Telecommunications Facilities (248a) Petitions — PSD submitted recommendation letters to the Board in response to the following applications:

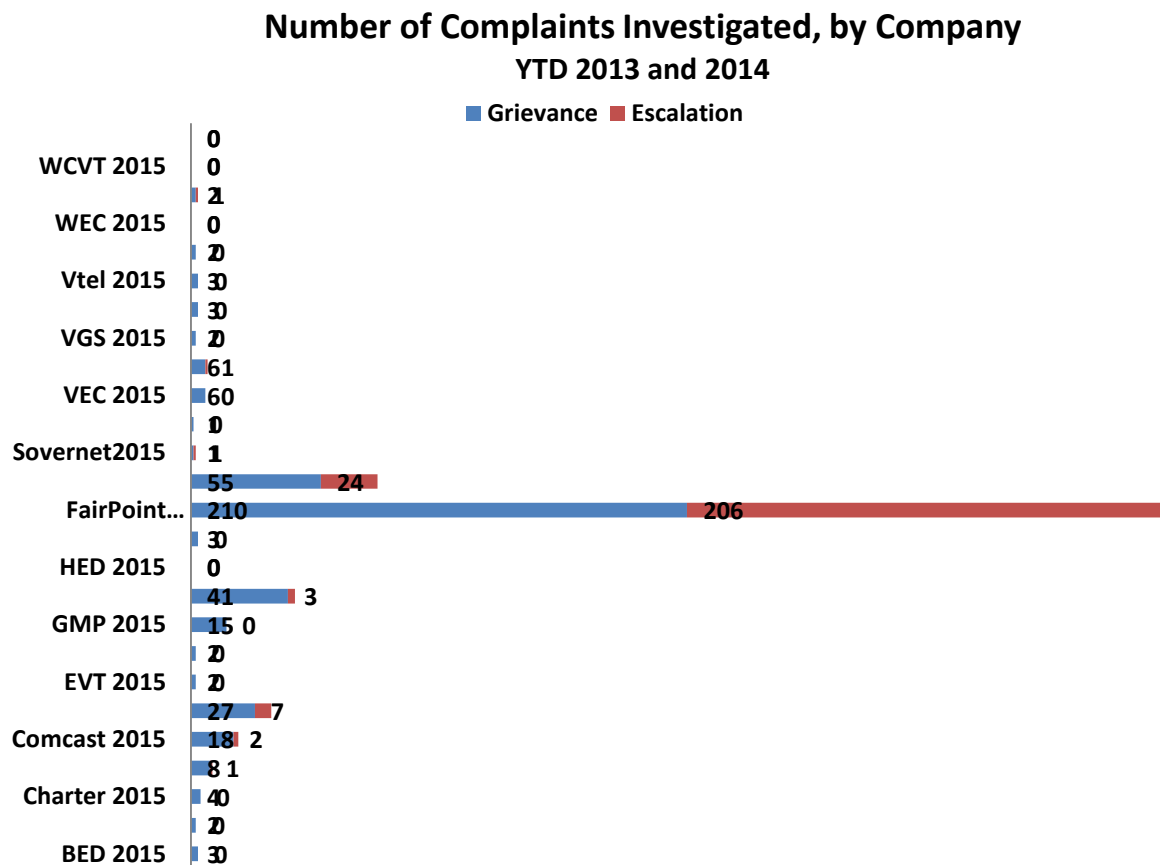
- AT&T *de minimis* modification to a 280 foot guyed tower in Essex Junction — PSD recommended approval of the application;
- VELCO *de minimis* modification to a 134' foot tower in Hartford — PSD recommended approval of the project;
- T-Mobile full application for construction of a 146' tower in Highgate — PSD recommended that the Board withhold issuing an order on the application because the applicant had not fully satisfied the 45 day notice requirements and the application did not include required elevation drawings;
- Verizon limited size and scope application for construction of a 100' tower in Rockingham — PSD recommended approval of the application and ANR submitted comments requesting that the Board issue a CPG with conditions that require the applicant to obtain stormwater and wetland permits.

PSD received notices or applications for the following:

- VTel application for limited size and scope construction of a 90' tower in Greensboro;
- VELCO application for *de minimis* modification of a 190' guyed tower in East Corinth;
- AT&T application for *de minimis* modification of a 100' monopine tower in Fairlee;
- VTel 45 day notice for construction of a limited size and scope 100' tower in Pownal;
- VTel 45 day notice for construction of a limited size and scope 90' tower in Cabot.

Division staff also attended a joint public meeting of the Barre Town Selectboard and Planning Commission on Wednesday, February 19, to review a proposed tower from AT&T. AT&T submitted a 45 day notice to construct a 110' tower in Barre Town in December, 2014. The Barre Town town manager requested that PSD staff attend the meeting. The Barre Town officials appeared to generally support the project and will circulate a recommendation level requesting that AT&T make a few minor modifications to the project.

## CAPI



Consumer Complaints: Complaint topics included, but were not limited to:

- 20 FairPoint
- VEC customer on the border of Swanton Electric service territory who wants to be a SE customer
- Ludlow Electric customer inquiring about programs/service to reduce electric usage and/or that provide incentives for alternative energy
- Shoreham Telephone/OTT phone rate complaint
- GMP line extension delay

Public Engagement: Members of the Department were joined by Sarah Hofmann in a discussion of public engagement by the Department and the Public Service Board. We reviewed the

multiple types of public engagement opportunities and ideas for improvement. The 248 hearing process became a particular focus, with a decision to meet again for further discussion of possible improvements.

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

**To:** The Honorable Peter Shumlin  
**From:** Keith Flynn, Commissioner of Public Safety  
**Date:** February 20, 2015  
**Subject:** Weekly Report

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## **Vermont State Police**

### **A Troop**

10 Total arrests, 5 DUI arrests

Williston Troopers responded to over 53 crash scenes and TCNR scenes during very cold snow storm weather over multiple days. One chain reaction scene on I89 resulted in documentation of 14 crashes.

St. A. Troopers responded to (21) MV crashes during winter weather events this past week. Multiple crashes in Middlesex area to include one cruiser being hit, no injury.

Investigation into an 8 week old child transferred from Copley Hospital in Morrisville to UVM Medical Center, suspicion that baby had toxic levels of opiates in his system, investigation continues.

Governor Dean contacted Det. Sgt. Tara Thomas regarding a Twitter communication he received with a man holding a gun, investigation continues to the origin.

Drug case at CCCC, bupe in mail.

Case at NWRCF involving indecent exposure from one male inmate to another, investigation revealed no crime.

### **B Troop**

13 Total arrests, 6 DUI arrests

Investigation of report of JV female disclosing to school counselor that she was abducted 4 yrs. ago by a male in a van while she was walking, brought to a house, sexually assaulted and then brought back to the same place on the road dropped off and she was home in time for dinner. She possibly saw one of the offenders at the Lyndonville ice rink two weeks ago.

Embezzlement at the St. Johnsbury Dunkin Donuts. \$9k. Offender is dating a St. J PD officer, took investigation as conflict case at request of STJPD Chief.

## C Troop

16 Total arrests, 5 DUI arrests

Again this week, many crash related incidents this week due to poor weather and road conditions (39 crashes investigated).

5 separate incidents of Lost Skiers from both Pico and Killington. No activation of SAR needed. A total of 11 skiers out of bounds.

Responded to a check on an elderly hoarder who would not come out of her house even though she needed medical attention, several troopers from shift responded and took the subject out through a window because all the doors were blocked with garbage.

Shaftsbury Troops investigated 18 accidents and truck traffic trying to climb Woodford MT during snow storms.

Troops rescued 2 cross country skiers who were stranded in a cabin on Prospect MT in Woodford in subzero temperatures.

Arrested Jeremy Greene for possession of narcotic at Marble Valley Regional Correctional Center.

Arrested Trevor Burton for possession of narcotic at Marble Valley Regional Correctional Center.

## D Troop

15 Total arrests, 5 DUI arrests

11 year old had marijuana in school. Follow up interview set with child and parents.

Report of a vehicle traveling NB in the SB lane of I91 by the Mass line. Troopers located the vehicle and made the stop. Randall Scott was arrested for DWI and Gross Neg. Operation.

## TOPS

Multiple crashes investigated as well as assistance offered to Field Troops and other agencies due to poor weather conditions.

## Fire Safety

The Division received \$13.3 Million in new plan review construction valuation collecting \$72,000.00 in permit fee revenue.

The plumbing rules seem to be moving through the rule making process on schedule.

A stop work order was issued to an architect in Stowe for building an apartment building with no permit after being told he needed one. The architect is coming in today with additional plans and it is possible the order will be lifted.

The haz-mat team should be taking delivery of the new command vehicle within the next couple of months.

There is some conflicting information circulating around some fire departments regarding when the fire investigation unit responds on the weekends. This was brought to my attention by my Representative Linda Martin from Wolcott. I have asked the Fire Investigation Unit to put something together in writing outlining the expectations so everyone is on the same page.

The e-mail and letter from Susan Carpenter, Director, Vermont Housing Finance Agency is not surprising to me. All the housing advocates want us to take over everything from rat infestation to removal of un-registered vehicles and garbage.

Legislative:

S.24 (Residential Housing Accessibility): Bill introduced by Senator Sirotkin. I spoke with the Senator and have scheduled a meeting with him for tomorrow. Act 88 – passed in 2000 requires all new residential construction other than a house constructed by the owner to meet certain handicap provisions. We regulate accessibility in all public buildings which includes residential except for owner occupied homes. I will have a clear understanding of the implications after meeting with him tomorrow than I will discuss with you.

H.108 (Electrical Installation Bill): Bill introduced by Representative Buck Shaw. Same bill as last year. I need to meet with Rep Shaw as the bill does not reflect the current situation but we are in support of some of it. I will schedule time to discuss with you. I think Rep. Shaw will re-write some it to address new information. This bill has several key points; Any existing electrical installation in any structure including single-family owner occupied free standing residence, disconnected as the result of an emergency that affects the internal electrical circuits shall not be re-connected to a source of electrical energy until the electrical installation has been inspected and determined safe by a licensed journeyman or licensed master electrician.

Under license required it removes the handyman exemption for the single family owner occupied freestanding residence and one & two family dwelling thus if an owner hires someone to do wiring in his/her freestanding single family owner occupied dwelling he/she must be a licensed journeyman. 99% of our 1&2 family structures are currently wired by master electricians so there is no impact on this for us. We still would not be involved in any single family home wiring.

Solar Installs: This bill as written would exempt the solar contractors from being licensed- we oppose this as we now have a type –S license for Solar which we created this summer in anticipation of the bill being re-introduced. Everyone agrees solar installers need to be licensed due to life safety and fire hazards.

## **DEMHS**

DEMHS supported the EMAC mission to send VT National Guard resources to the Commonwealth of Massachusetts. DEMHS will continue to monitor the EMAC mission until resources are returned to Vermont.

The Home Heating Fuel emergency declaration, which allows extended driving hours for fuel carriers (retail and wholesale) expired 19-February-2015. It is expected that the declaration will be extended for another 14 days.

To date, 34 applicants have submitted Requests for Public Assistance for DR4207. The PAO is reaching out to prospective applicants and another 10 or so are expected before the deadline of March 5. DR4207 Applicant Briefing is now available on youtube: <https://www.youtube.com/watch?v=iMKAzHXRDUg>.

Legislative Contact:

Provided responses on 02-17 regarding status and progress of the Public Assistance and Hazard Mitigation programs for legislative testimony.

Deputy and COS provided Budget Testimony at the House Appropriations Committee

### **Activities of Interest**

Budget testimony was presented to House Appropriations on Wednesday 2/18/15.

Deputy Commissioner sat in on DHR explanation of RIF process to the House Government Operations Committee in relation to the department's dispatch consolidation. This occurred on Friday 2/13/15

Testimony was given last week in Senate Judiciary surrounding S.10 the DNA conviction bill. After hearing there is a 2500 DNA backlog the committee decided to table the bill until the department could reduce the backlog. The committee want to hear testimony regarding the lab's plan to reduce the backlog. This will occur after the break and crossover.

Commissioner met with the E 911 board and briefed them on issues relating to the 911 move to DPS and dispatch consolidation as it relates to the department's handling of 911 calls.

Commissioner appeared before Senate Government Operations Committee on Friday 2/20 to update them on the Colorado marijuana trip and his thinking surrounding the legalization of marijuana issue.



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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Justin Johnson**  
**DATE: February 20, 2015**  
**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Of Special Interest to 5<sup>th</sup> Floor from BGS Directors:**

Colchester New Health Lab: Reviewed outstanding group of Change Request Proposals with UVM. Good review and we seem to be on the same page to respond to PCC, more to come on some of these outstanding issues. Some background information is necessary before we respond. Field verification of site conditions for additional design work is scheduled to be accomplished this Thursday, February 19<sup>th</sup>, with design to follow later next week.

Randolph AG/ANR Lab: Still working on completion of conceptual design and basis of design review. Hope to complete this week. Also working on provisions for VTC students observing the soil boring/coring operations beginning on February 24<sup>th</sup>.

**FINANCE AND MANAGEMENT**

**Issue Updates:**

**FY 2016 Big Bill:**

- Departments continue to provide testimony to the House and Senate Appropriations committees on their budgets.
- The House plans to start marking up the bill next week. They are working with Ways and Means to determine a revenue target versus and an appropriation reduction target.



- A few minor technical issues have arisen in the budget bill since presentation to the Legislature. We are planning to present a technical letter to the House to have these issues addressed. These changes will not affect policy or the bottom line.

#### FY 2015 BAA:

- The House concurred with the Senate proposal of amendment to the FY2015 Budget Adjustment Act. We will be working on a bill review next week.

#### Fee Bill:

- The Fee Bill passed the House this week. There were some changes to the fees for the Health Department, Education and the Natural Resources Board.
- Some other fees related to water quality were moved from the Fee Bill to other policy bills. We will be working with the appropriate departments to track the other bills and keep the budget aligned with the changes to fees.
- We will be drafting a letter to Senate Finance in response to the House changes to the fee bill that addresses the potential budgetary issues that may result from the House changes.

### **HEALTH CARE REFORM**

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

All Payer Model: Lawrence, Michael, and Robin attended the All Payer Model Project kickoff meeting. The meeting focused on developing a consistent message, reviewing project staffing, setting goals for the first 60 days, and a frank discussion of risks. The good news is that actual work is commencing in an organized way after much talk. The bad news is that the project is beset by serious problems. Here are the three biggest issues right now.

- First, the Board continues to delay entering into a contract with a vendor. The stated reason for delay is that the Board isn't sure of the project scope given flux at the federal and state level. This creates a problem sending the vendor a specific statement of work. Michael thinks the GMCB making the perfect the enemy of the good. The GMCB knows the services it needs, even if the ultimate scope is a little unclear. Furthermore, the Board has a perfectly acceptable statement of work in hand today and a preferred vendor selected after a complete bid process.
- Second, the timeline seems unachievable. Al continues to talk about a waiver that would be active in some way in 2016. That seems unreasonable from the start, even more so in the absence of a vendor.
- Third, Richard Slusky of the GMCB is using an ACO operations sub-group to create all-payer modeling options. The work essentially outsources all payer model policy development to the private sector. Beyond the advisability of that approach, the group is off and running ahead of the project itself.

Michael Costa will continue to work with the GMCB daily to help resolve the issues described above with guidance and help from Lawrence and Robin.

**SIM:** Three members of the SIM team went to Arkansas as part of a state-to-state learning. The focus was on payment model development: Episodes of Care and Patient-Centered Medical Home because Arkansas and Vermont are leaders in each of these, respectively. Additionally, there was info sharing about health data infrastructure and lessons learned by each state. Three of the SIM Work Groups: HIE/HIT, Workforce, and DLTSS also met this week and discussed progress to date on key activities. We officially kicked off the telemedicine planning work as well as a process for updating the Workforce Strategic Plan. Coming up next week, the Quality and Performance Measures Work Group will hopefully approve the year two Medicaid benchmarking process for the Shared Savings Program. The Steering Committee will also meet next week, with Steve Costantino serving as Chair in his new role. The SIM Medicaid team submitted the, hopefully, final set of responses to CMS in support of the State Plan Amendment for the Shared Savings Program this week. We anticipate finally receiving approval for this in the next few weeks.

The SIM team also met with Hal Cohen and others in AHS to begin to develop a process for how the Agency could work with the SIM team to handle requests from the provider community for payment reform. We are working with DAIL regarding a new Prospective Payment System, working with the DAs on identifying which new payment models are best for that system, and there are several other requests that are being worked on.

**HIT Investments:** The formal kick-off for the HIT Strategic Plan occurred this week. The plan is intended to guide the state's investments in this area. The plan should be completed in about six months and the hope is that this version will be more specific in terms of priorities and goals than previous versions.

Conversation continues between VITL and the state to determine the feasibility of a new federal grant opportunity to support interoperability.

### **Legislative Issues/Pending Legislation:**

**Revenue:** Michael Costa is working with the Tax Department to finish various tax scenarios to develop a response to legislative alternatives to the payroll tax and revenue alternatives if the Administration takes a different approach to fund the cost shift proposal. Also, Michael is overseeing work on AGI based tax reform options given its frequent appearance in the clips and private conversations at the legislature. Michael and Mary Peterson will update Justin and Lawrence regarding revenue and tax reform options next Friday.

**H.203 Policy Bill:** Introduced! HHC clearly will do something on the cost sharing proposal, likely they will want to add money. Unclear if they will act on this in H.203, a committee bill, or pass to Appropriations to include in the budget. Also, unclear whether they will act on any other parts before cross over. HHC did pass out exchange language, which could be an amendment to H.203 or could be a committee bill. Robin is working with VITL on amending language in H.203. There are 2 outstanding issues with VITL that we've agreed to disagree: 1) including board composition in statute & 2) GMCB review of their full operations/budget.

**HCR Budget Items:** HHC is working to understand the budget proposals in order to make a recommendation to Approps. Bill Lipper thinks that they will need to shoot for a lower budget target, but he either doesn't know what that is or didn't tell Robin. He is supportive of the Blueprint, cost-sharing, and cost shift dollars, but may look to reduce all of the above in order to hit the lower amount.

Also, Robin's guess is that he'll recommend ditching the health home \$ or move those \$\$ into cost-sharing. Robin will update when there is more clarity.

Senate Finance Committee Bill: Finance is working on a committee bill. There are parts of H.203 that look like they will be included. Finance supported removing the sunset on the medical malpractice reform from 2012. They took testimony on removing the sunset on the HIT claims assessment, although it is not clear what they will do. They also considered our GMCB proposal and the VITL board membership language. Again, it is not yet clear what they are thinking about substantively.

Universal Primary Care: We will meet weekly to work on a cost estimate. There seems to be consensus that this proposal will land as a study this session. Robin told legislative leaders that, depending on what they want, we might need \$ for actuarial or other analysis.

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

Feb. 17: Robin, Lawrence, and Floyd met with Main Street Alliance to discuss a series of health care policy forums they are organizing around the state to provide information on the current state of health care, the future, and to hear the thoughts of business owners. Marisa sent them our powerpoints to use. Robin will review their final version before they use it to make sure that the slides are correct & up to date.

Feb. 17: Robin, Aly, and Michael met with the school board association, Stephen Dale, Laura Soares, Nicole Mace to discuss the cost shift proposal. They generally remain supportive, but worry about timing & how to get savings back to taxpayers. Their concern is if they refund to schools, that they will spend the \$, not return to the tax payers. The simple way to deal with this is to relieve them of the tax & appropriate money directly for the cost shift to DVHA. But we'd still have to think about how to then transfer extra surplus back to taxpayers.

Feb. 18 Workforce Work Group Meeting: The workforce workgroup is sending a memo to Sec Johnson and the Governor expressing their support for funding the VDH loan forgiveness program that was eliminated. Robin is working on some shifts in the HCR proposal to cover this.

## **HUMAN RESOURCES**

### **Legislative Update:**

Testified before House government Operations on the Reduction in Force process and reemployment rights for employees that are laid off. Room was full of PSAP folks and VSEA, but our role was simply to provide a general overview of the process and did not get into the specifics regarding the policy decision surrounding the PSAPs. Committee members seemed generally satisfied at the idea that folks in Derby and Rutland would be offered positions in Williston and Rockingham, accordingly (assuming vacancies and based on seniority). They also seemed satisfied with the State's reemployment policies.

Testified before House General about H.174 – making binding arbitration as the last step in the grievance process a permissible subject of bargaining. Both VSEA and DHR testified in support of the concept and asked the committee to allow DHR and VSEA to work with Legislative Counsel to come up with language that worked for all parties. Tim Noonan of VLRB, while stating he was “neutral”

presented testimony as to the possible difficulties of the binding arbitration process. Bottom line is really a concern for eroding the authority and subject matter jurisdiction of the VLRB.

### **Media Contacts:**

Provided information to Neal Goswami/Time Argus on the 10m in cost avoidance from the BCBSVT health plan contract. He was angling for a story as to why these savings could not be applied to the 10m we are asking for in labor cost savings. Once explaining the cost avoidance concept, I received no further questions.

Received a request from Jennifer Costa/WCAX for numbers (employees and total cost to state) of “on call status”. Provided her with numbers, have yet to receive further follow-up.

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

Conference call with folks from DVHA – appears that state employee health plan is making its community health team payments to BCBSVT, who is then supposed to pass them on the DVHA, but they are not doing so. Working on a plan to rectify.

General Counsel met with HRC to discuss working collaboratively on the DHR policy manual sections that address EEO related issues.

Auditor Hoffer’s office may wish to audit the health plan. When his staff conferred with Clarke, they were primarily interested in the issue of pricing differentials between providers, and asked for some reports. We will try to get some info from BCBSVT, but cautioned them that this will not get them the ultimate data they are looking for. They also wanted some general info on large claims and copies of consultant reports.

Work continues with AOT, AHS and DII on an enterprise-wide training registration and tracking system. The desired outcome of this effort is to implement and support an enterprise learning management system that will support a workforce with high mobility between agencies and departments, that will shave hours of labor and error management off of manual course registration systems, and that will provide a platform for web-based course development and access.

Toured the VT College of Fine Arts College site today and scoped out the wireless and data needs for the facility, with DII and our BGS project manager. We will get a cost estimate/proposal from DII with about a week. Whether the wireless is paid by DHR or by DII depends on the “public” nature of the facility. We will begin those conversations with DII.

We continue to conduct successful elective courses at The Summit, with several of them full. We have also had requests to bring those classes to worksites for intact teams, and are working with departments on that where we can.

Recruitment actions have slowed in response to AoA directive and general budgetary concerns.

## **INFORMATION AND INNOVATION**

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

Healthcare: The healthcare executive steering committee has selected Optum as the new hosting provider. A contract will take weeks to complete, so to get them working as soon as possible on the transition from CGI, we will deliver a letter of intent authorizing work to start in the next few days.

### **Evolving Issues:**

Vermont Veteran's Home (Bennington): They lost their IT person, and have reached out to us for assistance. We are doing an assessment and hope to save them money while increasing the quality of technical support.

### **Web:**

- Harry Bell will be meeting with the Tax Department on 2/24 to restart their Website redesign project and demonstrate the data.vermont.gov portal where they will be hosting the data currently shared via downloads from their Website.
- The new Forest, Parks and Recreation Website is scheduled to go live on 2/23.
- Harry will be meeting with Larry Sandage from health about using the data.vermont.gov program for collecting information on health data sets throughout the State.

ERP: VTHR and VISION service went down on 2/19/15 for about 30 minutes. This was a technical issue that was identified and resolved quickly. Measures have been taken to fix the root cause.

## **LIBRARIES**

No report.

## **TAXES**

### **Legislative Update:**

Busy week for Tax staff, following the “nonrevenue” bill in W&M, the ed proposals in House and Senate Ed, and the water quality bills – during height of tax season.

### **Miscellaneous Tax Bill:**

Ways & Means has passed out a “nonrevenue” bill – although it includes current use savings, mainly in the out years.

### ***Municipalities:***

*Municipal Garages:* W&M once again removed this provision requested by the towns. Winooski does have the most immediate issue, raised by the auditor.

*TIF Provisions:* W&M left in as drafted, towns still want broader authority to use user fees without liability to the Ed Fund.

*Downtown Credits:* Included changes requested by ACCD.

### ***Other Miscellaneous Issues***

*Annual Link to IRS Code:* This is the annual must have provision.

*Administrative Provisions:* Included the housekeeping provisions requested by Dept. except...

*Amendment to Household Income:* Committee got hung up on including in statute the requirement that taxpayers have 60 days to amend prior property tax adjustment claims (up to 3 years) if they learn of error – this is already our interpretation, simply consistent with all our other taxes. Instead committee started considering giving taxpayers more time to amend. So for ex, when IRS notifies taxpayer that they found more income than claimed, the taxpayer would have longer to rectify with the state.

*Cigarette CleanUp:* We had included very technical housekeeping language, W&M took out in case they considered other changes (clear signal).

*Homestead Declaration:* W&M included fix to unworkable renter language they passed last year.

*Amazon:* Not included in the bill.

*Publicly Traded Partnerships:* W&M declined to include a provision to relax some partnership requirements, Betsy Bishop is going to try again in Finance.

### ***Current Use***

*Current Use:* In scheme of things, W&M spent an extraordinary amount of time on Current Use (as opposed to other pressing revenue issues). They did not include the 30% farm building provision, or any haircut. They did include a new LUCT structure (10% on fmv, including on parcel) and an easy out, only for full parcels, and only up to \$50,000 in tax. JFO projection was that in out years, the LUCT would yield \$2.6-3M, 3x current law – the committee changed the formula distribution of the LUCT to  $\frac{3}{4}$  EF. JFO estimated that the easy out would yield \$900,000 EF in FY16 and \$500,000GF in FY17. They also included some appraisal provisions.

### **Revenue Issues:**

*Payroll Tax:* W&M continues to noodle over. Expressing concern over Tax \$3.4M implementation cost – this is the placeholder for a VTax contract amendment with FAST, likely would come in less. Both legislators and JFO also expressed concern that the Dept is spending money this year – we have explained that in actuality we have not put any new resource on this, rather VTax team members are just designing the next phase around the possibility.

*Estate Tax:* We met with Sen. Lyons, practitioners and JFO – Mark Langan and Steve Trenholm are great witnesses in clearing up misconceptions about how tax works now, and Ginny signaled that having a 3 year look back on deathbed gifts should eliminate any lingering revenue issues. Mark also debunked Sara Teachout's theory that the Dept had failed to account for a fed change in its forms leading to a loss of revenue.

## **Water Quality:**

Water Quality: The Dept continues in testimony to support the fertilizer and original impervious proposal, while assisting Ag and ANR with info on any alternatives the legislature might consider. Deb Brighton, in her capacity as JFO consultant, has weighed in to say that the Grand List categories are an unreliable basis for a tax. In meantime, Sen. Starr, never a fan of the Dept, tried to claim in our Budget presentation to Appropriations that we had testified that it costs \$100 to process a return – we set the record straight with the assistance of Sen. Snelling and Kitchel.

## **Cloud:**

The Commissioner testified again in Senate Finance, supporting Peter Griffin's draft language to clarify the tangible personal property definition in session law. Appeared that all members supported, although Sen. MacDonald was usual confusing self, so it was going to be introduced as a free standing committee bill. There should not be any revenue loss from a clarification – but haven't heard JFO weigh in yet. The House bill sponsored by Heidi and others continues on as an exemption – since that actually implies current taxability, it would generate a fiscal note. Heidi has not cleared this up, although the Commissioner has briefed her that her bill is counterproductive as written.

## **Education Finance:**

The Commissioner continues to have behind the scenes discussions with Deb Brighton and Mark Perrault on the impact and possible cost of eliminating the look back on income sensitivity. There are losers that the committee apparently wants to hold harmless in convoluted way. It is apparent that this change would cause a lot of work for us and the towns – and at best will simply confuse taxpayers. The Commissioner had a fairly hilarious discussion with Rep. Greshin on how he tried valiantly to explain the yield proposal, and gave up when he could not even get his wife to understand.

## **Tax Appeals:**

*AIG at Supreme Court:* General Counsel was not optimistic given the questioning at oral argument – we should be prepared to lose this \$900,000 case, in which event we will get bad tax press nationally. The Department has always advised of the risk that we had bad facts on this first test of our unitary combined rules.

*Administrative Appeal:* Five legislators, including Sen. Starr and Rogers, showed up at a taxpayer hearing. We have offered to debrief with them. Sen. Ashe seems to be holding the line that Finance will not entertain taxpayer forgiveness bills this session – both Starr and Rogers for moment have backed off on Dept audits. In meantime, Mary Hooper is resurrecting the idea of an administrative law panel – I just explained to her that we would need a dedicated hearing officer even on such a panel since tax issues are so complex.

*Compliance Reboot:* Val Rickert is uncovering great challenges and opportunities as she studies our audit and compliance business processes. She has been charged to come up with a plan to deal with stale cases.

### **Department of Revenue:**

Since we just finally killed the mandate from the Pelham era that we change our name to DOR, the idea of course has come back (raised by Rep. Hooper and Sen. Kitchel) We are gathering and updating the research on this proposal that has been kicking around forever. In many states, the DOR does have broader duties (including child support in MA, DMV duties in many others) – and often sits in the state Treasury agency (generally a non-elected position), as with the federal govt (IRS is branch of Treasury).

### **R&D Credits:**

We are doing the background work on publishing the list. One question is whether to publish the name of an entity that has no income tax liability and carries forward the credit. Another issue is pass through entities. We intend to notify taxpayers first so they have opportunity to amend if they don't want publicity.

### **Tax Havens:**

Both W&M and Finance are interested in this legislation that has passed in a few states. It would add into state income the income reported in so called tax havens, variously defined. Obviously, very unpopular with business community. Our estimate, extrapolated from Montana data, is that we might gain \$150 – 700K in new revenue. There is a question as to the constitutionality of the way the tax has been structured in some of the states.

### **Operations:**

Tax Season: We are slowly working through the backlog of fraud review – the extra time with the phones down on Wednesdays and staff time over the long weekend helped. We will have updated numbers on Monday.

**VTax:** Our consultant has provided a review of our first phase, with some very helpful lessons learned and steps to implement as we continue in second phase. Corporate and Business income continues to be a success – the greatest challenge remains clean-up on some returns that were never processed in ETM. In meantime, we are in design for Sales & Use, Meals & Rooms and Withholding – the policy issues that need to be resolved (such as how/when assessments are made for non-filing) are higher stakes for these larger taxes.



## CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin  
From: Michael J. Hogan, Commissioner of Liquor Control  
Date: February 20, 2015  
Re: Weekly Report

### Status of Governor's Priorities:

- Staying in touch with my counterparts in Washing and Oregon on the implementation of legalized marijuana. FYI: Colorado \$700 million sales and over \$70million in tax revenue for first year.
- February sales looking good: +6% thru yesterday!!
- Budget presentations today in the Senate and Monday in the House.

### Legislative Issues/Contacts/Updates:

- Miscellaneous clean up language for Title 7. Working on some housekeeping changes.
- Couple of bills introduced (H219, S80) to sell fortified wine by 2<sup>nd</sup> class license owners. We have an approach that could satisfy the small number of stores that want to sell these products. It will take some compromise to make it happen. Working through a possible compromise
- H201 is a bill to create a farm brewers license- interesting concept I believe patterned after New York State. Supposed to testify next week.
- H254 makes some changes to allow retailers to refill clean growlers. It enhances the current department regulations.
- H252 Agency Controlled Substances- Alcohol, tobacco, lottery, games of chance, horse racing, and marijuana under one agency.

### Press Issues/Releases/Contacts: None

Significant Events/Meetings: Next Board Meeting 03/04/2015 - Enforcement Hearings.

### Evolving Issues:

- ERP/POS Project underway. Excellent Progress! Recent meeting with vendors and staff working through the particular functions of the front end and back end systems. Testing is going very well.
- Preliminary review of department processes for potential licensing and enforcement system. .
- Break open ticket reporting process is working. Live data is being entered. Should have some numbers by the end of the first quarter.

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### Summary of Key Department Activity:

- Reviewing internal controls with staff and department committee.
- Looking closely at more cross training for some of our divisions.
- Commissioner's Commentary: Have a great weekend. Great job yesterday on Vermont Edition!