

**From:** Miller, Elizabeth [Elizabeth.Miller@state.vt.us]

**Sent:** Sunday, July 13, 2014 3:22 PM

**To:** GPS

**CC:** Allen, Susan; Spaulding, Jeb; Coriell, Scott; Richards, Alyson; London, Sarah; Miller, Lawrence

**Subject:** Weekly Reports - Executive Privilege 07 11 14.pdf

**Attachments:** Weekly Reports - Executive Privilege 07 11 14.pdf; ATT00001.txt

a few highlights. lawrence, note DII report re: POAM, not favorable

# WEEKLY REPORTS

Checklist  
7/11/14

Elizabeth Miller/Alyson Richards

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

TBD

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

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

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**To: Governor Peter Shumlin**

**From: Patricia Moulton, Secretary - Agency of Commerce and Community Development**

**Date: July 11, 2014**


**Re: Weekly Report**

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**PATRICIA MOULTON, SECRETARY:**

VY/Windham Economic Development Grant Program (WEDGP): The meeting in Brattleboro with the Governor went well. Admittedly, there was limited time for questions but the Governor did a great job and was very clear on intent particularly why not grants for for-profit businesses. The meeting and public hearing Thursday regarding a revolving loan fund (RLF) was more of the same. Those who spoke want a grant program for small businesses. Others want the funding to plug philanthropic holes created by the loss of donations from Entergy. Others want the funding to fill revenue gaps for businesses losing activity due to the closure of VY. Others were positive about an RLF. A few concerns that the Legislature not “sweep” this funding for budget gaps or that funding be spent outside of Windham County. Overall, it was disappointing the lack of “vision” by those who spoke for reshaping the economy for long term sustainability. We will absolutely be criticized for whatever decisions we make. Therefore, we need to hold firm on making funding available for activities that will rebuild the economy and not one time, short term gains.

EB5/Jay Peak: We have followed up in writing from a meeting with Bill Stenger and Bill Kelly in person and Ariel Quiros on the phone. We laid out our concerns for the offering memo on AncBio. We have advice from experience SEC attorneys that the offering is not providing material disclosures relating to the auction of the AncBio facility in Korea, tax issues in Korea, IP issues and that investors will “buying” assets for the Vermont operation of AncBio from Ariel Quiro personally. We have asked them to stop marketing AncBio until we receive an opinion from their counsel that the offering meets all SEC requirements for disclosure. We have also rescinded the MOU on the West Bowl (which actually expired in 2010) project as it has had no activity and is in the older format without SEC requirements. We also asked them to provide a legal opinion to us that the Q Burke offering also meets al SEC requirements. We gave them a list of other issues I can provide if you would like. The meeting was productive. We URGED them to provide regular and detailed communications to all their phase I and II investors. We continue to get complaints but primarily from a group of about 15 investors, lead by one or two more vocal folks, about the conversion of their investment to debt. As you know, Jim Condos’s office received 15 letters of complaint from Jay investors, the same group. We have alerted DRF and the Auditor’s office should they too receive complaints.

 A weird event was that Ariel Quiros called Brent Raymond for a “man to man” private conversation a day or so after our meeting. He claims he could not hear anything on the phone, despite our asking him several times if he could hear ok and he acknowledging he could. He claims he did not know who was on the phone despite Bill Stengers 5 minute introduction of all of us in the beginning. And he pushed Brent to acknowledge that he “knows the offering memo’s are fine, they meet all USCIS requirements and that is all we need.” Brent let us know but has done nothing other than to continue to assert to Mr. Quiros that USCIS is not the only regulatory hurdle and that we need them to comply with our requests.

Champlain College and China MOU: We did not sign on to the MOU between Champlain College Champlain College (Emergent Media Center), Jiuyou Fund, Shanghai, China: and the North American High Tech Center (NAHTC, a Chinese owned company located in Massachusetts that assists in “relations between the US and China” namely education and business). We explained to Champlain why not and the new President as well as David Provost of Champlain seemed fine and to completely understand. I was unable to attend the event Tuesday evening due to a family emergency but Brent, Becky Fu and Lars Torres were all there.

CEDS: We are working to finalize the “public”, more user friendly version of the CEDS vs. the one submitted to EDA in their bureaucratic format. We will need time to finalize and then roll out. Looking at perhaps a business event to roll it out vs. a weekly press conference.

IBM: We will prepare a presentation “package” of information to present to a buyer when the time comes regarding any announcements. Also, while I have not read it in its entirety, it seems the 7 Days article was not that bad.

CBDG: The Community Development Board met yesterday to decide on applications. There was a group of “protestors” but quiet, from Bennington who do not want a 24 unit affordable housing project to get funded. They are worried it will bring the “wrong element” of people to town, crowd the schools and have other negative impacts. Rep. Mary Morrissey is among those who do NOT want the project funded. They want to know who makes the final decision, and who they can contact. The project was approved by the Bennington Select Board by 5-2 on two different occasions. There is very low rental vacancies in Bennington and there is significant need. The Board is recommending funding. Our job is assure the project is feasible, ready to proceed and in compliance with federal, state and local regulations which it is. So no reason not to fund. But heads up, the fur may fly!

**LUCY LERICHE**: Lucy was out on vacation last week and out sick with a terrible cold/flu this week. She has been working from home and has **the following to report**:

**Vermont Center for Geographic Information**: The Statement of Legislative Intent for the budget bill has been approved. This document clarifies that the transition of the Vermont Center for Geographic Information into ACCD will proceed along a more realistic timeframe than we all had initially feared. A team at ACCD is actively engaged in the transition and integration with a target date for completion of March 2015.

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Lisa Gosselin, Commissioner**

- Vermont’s first state-wide **Comprehensive Economic Development Strategy** “Vermont 2020” was delivered to EDA, thanks to an enormous amount of hard work by Ken Jones and Shelley Pembroke, the CEDS Committee and many, many participants across state agencies. The process itself was a good opportunity for building dialogue and the next steps are to identify how we move forward accomplishing the initiatives that will help us achieve goals by 2020 in our four key “action areas”: an increase of \$1 billion in access to capital and financing; a 5% increase in worker productivity; designated infrastructure improvements in water, transportation, housing, energy, telecom and more; and an improved business environment that would lead to a 4% increase in Gross Domestic Product (GDP). The final full document is available at [http://accd.vermont.gov/business/strategic\\_planning](http://accd.vermont.gov/business/strategic_planning). This is an iterative document that will be continually added to, revised and updated and a shorter consumer-friendly version is under development along with a roll-out and implementation plan.
- The inter-agency **One Stop Portal** committee has had several meetings, reviewed other state portals and identified best practices, and is in the process of selecting a consultant to work with. Lisa met with a potential consultant, **Rich Nadworny**, on 7/9 and outlined project. The goal is to have a solid plan by fall for a user-friendly site that will make it easy for businesses to access the information and assistance they need for all aspects of business planning, creation, expansion and transition in the state.
- The **Cloud Tax** was the main topic of a meeting Commissioner Mary Peterson called on 6/26. Lisa Gosselin and Lars Torres reviewed the new draft language being proposed and will be working with the Vermont Tech Alliance and a sampling of businesses who may be impacted to provide feedback and make recommendations on how we move forward. We also discussed creating a ‘wish list’ of ways we can creatively convey the messages that a) Vermont is business-friendly and b) incent young people to return to or remain in Vermont without unduly impacting revenues.
- Lisa Gosselin met with Megan Sullivan of **Congressman Welch’s** office on 7/9 and discussed the impact of the stringent new EPA regulations on Vermont’s wood manufacturers stove. Vermont Castings and others recommend a “cash for clunkers” style program that would get the biggest polluters, old stoves (the majority of stoves currently in use are 10-20 years old) out of homes and incent the purchase of the new, cleaner models they and others are now producing. Also discussed how to improve NBRC grant applications and the success of the ExporTech program in helping Vermont companies as they expand to new markets.

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

- **Velan Valve – Williston:** Reports full time employment at 150 in Williston. Business is steady and they are awaiting word on a new naval vessel contract. They have four plants in Montreal, one in Granby, PQ and Williston. The Williston operation has become a model of lean process and in-house education and training for machinists which has been a perennial problem. They worked with VMEC several years ago and now have a full time black belt. New hires understand that there is active promotion from within the company, and classes are held in remedial math and CNC programming to develop new machinists. Average wage is \$21/hr. with full benefits. The company praised the Vermont Training Program. In the last four years the company has invested \$4 million on building infrastructure, and over \$1 million on new equipment. A full review of programs and services was made with no immediate needs expressed at this time.
- **Enpro – Burlington:** This hazardous waste removal company holds the exclusive license in northern New England for waste disposal and storage which gives them a competitive advantage over four other competitors in Vermont. They are busy with contaminated soil removal and underground storage tank removal. Their biggest challenge is finding qualified new hires. Full time staff in Williston is at 10 and 11 full time in Burlington. They are actively considering expansion into New York State to develop new customers. Appropriate referrals will be made.

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

- **‘Captive Insurance Clarification Act’ is Expected to be Introduced by Senator Leahy this week:** Dan Towle, Director of Financial Services is pleased to share that legislation to fix the confusion surrounding the Non Admitted Reinsurance Reform Act (NRA) part of Dodd Frank is scheduled to be introduced this week by Senator Leahy. Dan has been working with the Vermont Captive Insurance Association (VCIA) in pushing forward a legislative fix. This has been a long term effort coordinated by ACCD and the VCIA. The Governor’s Office and the Department of Financial Regulation have also been vital to these efforts. We are working with the Senator’s office and our connections with the captive insurance industry to help him find a co-sponsor, likely Senator Lindsay Graham of South Carolina will join Senator Leahy. South Carolina is a captive domicile with whom we are well connected.
- **Orthopedic Sports Medicine Group Captive Prospect Meeting:** Dan met with members of the Department of Financial Regulation on a new captive opportunity. Four members from the Chicago area flew to Vermont to discuss the proposed structure and operations of their potential captive and have their questions answered. This was a referral from Scott Beckman of ISMIE, who Dan has been networking with for several years.

#### **INTERNATIONAL (EB-5/Vermont Global Trade Partnership) ♦ Brent Raymond, Director**

- Brent appeared on Vermont Edition with Chelsea Lewis of Ag to discuss Vermont exports. Brent noted Governor Shumlin's strong support for growing VT's exports and provided his contact information to listeners. He's received calls for export assistance from several new business clients.
- Brent has been continuing correspondence with Quebec Economic Development officials and small Quebec companies considering growing their business via locating in VT.

#### **VT EB-5 Regional Center**

- The Morrisville/Stowe Airport EB-5 project has been approved, and Brent continues to work with the principals and team on marketing strategy.
- Seldon Technologies EB-5 project has received its first I-829 investor permanent green card approval.
- The VT RC now has 7 projects that have obtained I-829 permanent residency approvals for investors and over 190 total approvals.
- AnC Bio has had approximately 20 investor I-526 (visa approval with conditions to be met before I-829 submission for removal of conditions and granting permanent residency) approvals issued by USCIS.

- Brent met with Beth Boutin of Housing Vermont to further discuss a formal relationship between their New Market Tax Credit (NMTC) program and the VT EB-5 RC.

#### **OFFICE OF THE CREATIVE ECONOMY ♦ Lars Torres, Director**

- **Startup Essex:** Briefly presented the Office and state support for entrepreneurship at Startup Essex, attended by about 75 techies, business owners, etc. Connected with a group of young engineering entrepreneurs keen to develop new marketing tools and messages for the state. We'll be exploring ideas in the weeks ahead.
- **VT Makers:** Participated in a gathering of makers (do it yourself hobbyists, hackers, etc.) aimed at presenting plans for the Champlain Minimizer Faire October 4-5 at Shelburne Farms. Great to hear about new makerspaces in development around the state including Bennington.

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

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

- |  |  |
|--|--|
| – Allen Brothers Oil, LLC - Westminster                              | – Nu Harbor - Huntington                         |
| – Beans Cleaning Services - Lyndonville                              | – Production Advantage Inc. - Williston          |
| – Colleen Mari Painting & Property Care (CMP Property Care) - Warren | – Pure Water Technology, Inc. - Stowe            |
| – Corporate Lactation Services, Inc. - Chester                       | – Resource Systems Group Inc. - White River Jct. |
| – Cota & Cota, Inc. - Bellows Falls                                  | – Revision Military Ltd - Essex Jct.             |
| – Cumberland Group, Inc. - Williston                                 | – Spates Construction Inc. - Derby               |
| – Dynapower - South Burlington                                       | – Sunglow Consulting - Essex Junction            |
| – HB Plumbing And Heating Inc. - Springfield                         | – Superior Technical Ceramics - St. Albans       |
| – Linesync Architecture & Planning - Wilmington                      | – Technical Connection Inc. - Burlington         |
| – Mcallister Maintenance, Inc. - Grand Isle                          |  |

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

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

##### **Commissioner MacKay**

- **Getting Back Into the Swing of Things:** Thanks to Jen, Kitty, Lucie and the DHCD team, I was able to hit the ground running this week after recouping at home. Folks support was very much appreciated. You are an amazing group, thanks.
- **Toll Fellowship:** Will be attending the Council of State Government's Henry Toll Fellowship Program in September. Each year, they bring together state policy makers from around the country for an intensive five-day leadership training. The program is held in Lexington, KY in September. Currently working on filling out all the paperwork and answering the many questions. Thank you to the Governor, Liz, Jeb and Lawrence for their support!

- **Mad River Valley Shows Nation Ways to Prepare for Future Floods:** EPA released its report, “[Planning for Flood Recovery and Long-Term Resilience in Vermont: Smart Growth Approaches for Disaster-Resilient Communities](#).” The Department, working with FEMA and EPA, its state agency partners (AAF+M, AOT, ANR) and Mad River towns and organizations led this effort to help Vermont and communities across the nation reduce damage from severe flooding. The announcement was featured locally on [Vermont Public Radio](#) and the [Times Argus/Herald](#). In August, EPA will follow up with national webinar on lessons learned in Vermont featuring speakers from FEMA, the Department and the Mad River Valley Planning District.

#### **Deputy Commissioner Hollar**

- **Vermont Community Development Program:** Assisted the VCDP Team with application reviews as it prepared for this week’s board meeting. The Board considered and made funding recommendations on three disaster recovery projects, including the City of Barre’s Enterprise Alley, and one new affordable housing project in Bennington. Monument View is a 24-unit infill project that picks up where a failed condo development left off. Despite steady support by the Town, a group of neighbors and private landlords strongly oppose the project and brought their objections directly to the board. Given their determination, it would not be surprising if they also bring their concerns to Secretary Moulton, who makes the final funding decisions, and the Governor’s Office.
- **Rutland Revitalization:** With Governor Shumlin and Mayor Christopher Louras, announced a \$1.25 million VCDP grant to the City for the revitalization of its Northwest Neighborhood. The funding will be used to assess vacant and abandoned properties in the targeted area to determine if they can be saved. NeighborWorks of Western Vermont will purchase and repair up to seven buildings and provide downpayment assistance and housing counseling services to increase single family homeownership in the area. If, after careful analysis, it is determined a building can’t be rehabilitated, grant funds will be used to demolish up to four buildings and repurpose the properties in consultation with the neighborhood. Tremendous credit is due to Lisa Ryan who has worked with the City and its partners for years, including through two planning grants, to develop a comprehensive and fundable approach to the project. To kick off the initiative, the City demolished a building it had purchased at tax sale ending the event on a dramatic note (but not part of the VCDP funded work.)
- **Environmental Review:** Participated in a number of meetings and discussion related to the NEPA requirements for project funded by CDBG and HOME. Developers remain concerned that HUD’s rules exceed what state and local permits require. And they do. The standard for federal investment is higher, particularly for housing uses. Communication and technical assistance, led by Kate Fournier and Ann Kroll, continue. Beth Held, HUD Environmental Officer, has been extremely generous with her time and has traveled to the state repeatedly for trainings and site visits. She joined us again this week for meetings with Champlain Housing Trust, Chris Snyder, the Town of Hinesburg and Housing Vermont.

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

- **The Future of Economic Development:** A working group met last week to review a rough scope and timeline to implement Act 146 which requires the department to update the [State Land Use Planning Manual](#) by November 2015. This publication is the primary guidance document for the 5,000 volunteers (Planning Commissions, Development Review Boards) that regulate \$90 billion dollars of property and plan Vermont’s economic development future. The last comprehensive update of the manual was in 1988 and in a number of areas the document recommends policies and approaches that undermine the state land use goals and the work of the designation programs. For this and other reasons, the working group members see this as an exciting opportunity to improve the local planning and permitting process (identified in the Act 59 report as a major impediment to growth). Similar overhauls in other states showed that quality guidance (along with training) can improve the predictability and timeliness of local permitting -- especially in small municipalities with limited capacity. We expect to see similar results in Vermont.

#### **State Designation Programs**

- **Tax Credits:** We received 43 applications for the FY 2015 Downtown and Village Center Tax Credit program, including 1 Sales Tax Reallocation application. The total amount requested is roughly \$2.8



million with \$2.2 million in credits available. This is up from last year when we had 34 applications with \$2 million in requests (30 projects were funded with the \$1.9 million available in FY 2014).

### **Inter-Agency Partnerships**

- **Brownfields:** ACCD, ANR and AOT have created a state-level brownfield partnership (modeled after the HUD-DOT-EPA Partnership for Sustainable Communities) to better coordinate policies, programs and funding to support state-designated areas. The partners are currently working to build community support for EPA-funded area wide planning projects (action/implementation plans) in Northfield and Bennington. Next steps are to finalize local commitments and develop scopes of work. Project kick offs are expected this fall.
- **Village Greens:** With support from ANR, UVM, and the Preservation Trust of Vermont, Kate O'Brien (project intern) is working hard to identify and document all of Vermont's village greens and is developing 25 "one-pagers" showcasing 25 greens with photos, maps and narratives. We will use this information to raise awareness about Village Greens (thanks to Tourism and Marketing) and lay the groundwork to increase the investment in and the use of these important community gathering places. Special thanks to the Preservation Trust of Vermont for funding Kate's internship.
- **Municipal Day:** Met with ANR and AOT to discuss ideas to improve this training event which was widely praised by participants (ACCD's sessions received top marks). The next municipal day is planned for November 13 and ACCD will lead 2 education sessions highlighting successful partnerships.
- **Location Efficiency:** AOT graciously underwrote the consultant costs to help build consensus among agency partners (ACCD, ANR, AOT, PSD) on the needs and costs to make HUD's location affordability tool work in Vermont's rural areas. We have since learned that many other rural states are similarly affected and that HUD may have an upgrade in the works to address this limitation. We have reached out to HUD to learn more about their plans, but have yet to hear back. Next steps are temporarily on hold until we learn more about HUD's plans and timeline.

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

#### **Environmental Review**

- **State House:** Jamie participated in a meeting at the State House with representatives from BGS and the State Curator's office to discuss a project considering insulating the State House attic. Two strategies were identified as being feasible and will be explored by outside contractors, who will report back to the group in the near future. DHP is anxious to ensure the best preservation methods are employed.
- **St. Michael's College, Colchester:** Jamie and Scott attended a meeting with representatives from St. Michael's College and the District 4 Environmental Commission to discuss the proposed demolition of the creamery building, a historic agricultural building that has not been maintained and is now derelict and partially collapsed. The group worked up a solution that will provide sufficient mitigation for the loss of this building and protect adjacent archaeologically sensitive areas on campus.

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

- Arthur met with Dale Azaria to discuss mobile home park issues. We are grappling with our role in the ongoing lease dispute at the Greene's MHP in Randolph. To date the park owner has not made changes acceptable to the leaseholders. Our enforcement capacity is limited but we do have jurisdiction of mobile home park leases. The question is how can we be most helpful to achieving a good resolution? Arthur and Dale also discussed the Eaton's MHP in South Royalton where the park owner wanted to be released from the 120 negotiation period to sell the park privately, now that Twin Pines Housing Trust has decided they are not interested in buying the park. In that case we decided that a petition the park owner asked residents to sign is acceptable and based on that and a number of other factors, continuing the 120 period does not make sense at this time.

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

#### **Regular CDBG**



## **Applications**

- **Town of Bennington:** An implementation grant in support of the construction of 24 units of new affordable rental housing in Bennington will be reviewed at the July 10<sup>th</sup> board meeting. There has been significant public input into this project. We expect there will be several people who oppose the project to participate in the public comment period, as well as supporters from the town and staff from Shires Housing. A packet of letters of opposition was faxed to Lisa Ryan and was distributed to the CD board and management staff for review. The town and Shires has made many efforts to address concerns raised and provide additional information when requested.

## **DEPARTMENT OF TOURISM & MARKETING**

### **Megan Smith, Commissioner**

- The beautiful holiday weekend was very successful for the Tourism Industry. All events are still showing increased registration over last year and the state parks are having a very strong season.
- Megan brought a group together to meet with Francois Rebello, President of Train-Hotel, Inc., about his interest to bring a train up from Boston to Montreal. He had with him a member of the Island Pond select board to discuss a stop in Island Pond on the train's return trip from Montreal. The representative from Customs and Border Protection was very clear that they would need to build a platform at the border to enable Customs officers admitting the passengers.

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

#### **Autumn 2014 Advertising Campaign**

- **Creative Direction:** Promote special Vermont lodging packages to consumers within our drive market. Focus on price points and mid-week.
- **Contest:** Consumers can enter to win a Vermont Vacation Package.  
  
Media will drive to Vermont micro page.  
  
Media may/will include a mix of digital, broadcast, digital radio.
- **Development:** Repurpose and update the design of the existing summer landing page. Update a tab for "Vacation Packages".
- **Site Tabs**
  - State Parks
  - Fish & Wildlife
  - Vacation Packages
  - Foliage Reports
  - Cabot (Choice)
  - Live in VT

#### **Secondary Programs:**

- **Orbitz:** \$50,000 on OTA includes direct fly markets from BTV.
- \$20,000 with triple match from Brand USA & Orbitz for \$60,000 in media focused in Quebec.
- American Top Chef with Cabot focused in Boston DMA.
- Boston Herald: Editorial and digital placement. \$20,000.

### **MARKETING ♦ Patrick MacCormack, Digital Marketing Coordinator**

- **Sitecore / VermontVacation.com:** Besides the day-to-day maintenance of VDTM's website, bigger updates include the addition of 'Vermont Taps State Parks' article in the Press Room. Vermont State Parks and Whetstone Station in Brattleboro, Vt. partnered to create two special edition beers, both brewed with water from specific state parks. A [July Events](#) article was added to the Press Room. In addition to fireworks, there is plenty to keep visitors busy: festivals, attractions and even an animal auction!

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

### **Operations**

- **511 Traveler and Road Conditions:** The Tri-State collaboration among Maine, New Hampshire and Vermont to create a combined and overlapping Automated Traffic Management System (ATMS) is well underway. Greg Gerdel is serving on the Vermont review team with AOT's Robert T. White and Erik Filkorn, primarily from the perspective of the telecommunications component and the consumer face of the 511 service. All Vermont 511 calls are currently answered at the RDI call center in Newport, Vt., the same contractor that handles tourism calls to 800-Vermont. Call center agents also provide information to VTrans and Public Safety when callers report incidents or road hazards.

While most 511 systems use digital recording systems to handle telephone calls, Vermont is likely the only state to answer all 511 calls with live agents. This has proved fortunate when calls escalate to 911 issues; call center agents have a specific protocol to follow in those circumstances. During the year and a half the live agent system has been in place, the center has been able to handle the high call volumes generated by storms. The highest call volume to date (1325) came during the ice storm in mid-January of this year.

Development of the ATMS programing in underway and is expected to take about 18 months.

### **Research**

- **Hospitality/Recreation Strong during 2013:** The Tax Department's updated report for calendar 2013 shows a 9.27 percent increase in room sales over the previous year. Room sales are a leading indicator of activity in the Hospitality/Recreation sector, though only part of the impact of visitor spending. Taxable receipts for the sale of meals and alcohol also show real growth above inflation for the year; the CPI rose just 1.5 percent for the year.

<b>Calendar Year Taxable Receipts: % Change 2013/2012/2011</b>						
	<b>Meals</b>	<b>Rooms</b>	<b>Alcohol</b>	<b>MRA Total</b>	<b>Est. Revenue</b>	<b>MR Revenue Total</b>
<b>2013</b>	<b>912,556,509</b>	<b>434,545,813</b>	<b>171,557,220</b>	<b>\$ 1,518,659,542</b>	<b>\$ 138,394,931</b>	<b>\$ 121,239,209</b>
2012	874,187,148	397,673,819	158,659,866	\$ 1,430,520,833	\$ 130,333,474	\$ 114,467,487
2011	\$ 831,367,980	\$ 381,001,406	\$ 149,421,238	\$ 1,361,790,624	\$ 124,055,369	\$ 109,113,245
<b>2013 /2012</b>	<b>4.39%</b>	<b>9.27%</b>	<b>8.13%</b>	<b>6.16%</b>	<b>6.19%</b>	<b>5.92%</b>
2013/2011	<b>9.77%</b>	<b>14.05%</b>	<b>14.81%</b>	<b>11.52%</b>	<b>11.56%</b>	<b>11.11%</b>

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

- **Fancy Food Show:** The "Vermont Makes It Special" booth got a great response and a strong crowd of visitors at the Fancy Food Show in NYC last week. Several Vermont companies took home top honors in the Sofi awards as well, which generated some really positive PR for Castleton Crackers, Tonewood Maple Products, Vermont Creamery and Wozz Kitchen Creations. David Burnell also got some great video footage of the show – thanks to David for making the trip.
- **Great Jobs in VT:** Nancy is working to coordinate some meetings with Steve Cook, Lisa Gosselin, Pat Moulton and Aly Richards to discuss next steps for this campaign – (1) ways to increase college participation in the program and (2) to begin discussion of where this campaign should "live" online after the summer VermontVacation.com landing page comes down at the end of the season.
- **Amtrak Marketing:** Amtrak got a tremendous boost in ridership in May (10.9% increase on the Vermonter line) – a result that may be partly attributable to the Vermont Life e-newsletter blast sent in mid-May. Stats on open rates and click-throughs on that e-blast were also very strong, so we're going to schedule another one. Nancy is also working with Amtrak to design a brochure to market train travel to and from Vermont's college campuses as an affordable and convenient way for students to travel.

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**PRIVILEGED AND CONFIDENTIAL**

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**TO:** GOVERNOR PETER SHUMLIN  
**FROM:** LAWRENCE MILLER  
**SUBJECT:** HCR WEEKLY REPORT  
**DATE:** JULY 10, 2014  
**CC:** EXE

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**Top Issues**

**Medicaid Re-Enrollment:** VHC, after investigating a few individual cases, has recently discovered a significant number of Medicaid cases, like 7-10 thousand, that were dropped in re-enrollment over the last few months. Noticing may have been an issue. Obviously this is now a top priority and Cass Gekas has been designated lead at VHC. They are talking to CMS on Friday. There is an action plan for reinstatement of this group and suspending renewal until the reasons are known.

big  
ugh

**VHC:** Confidential discussions are ongoing regarding a transition to a new vendor. CGI appears to be reducing staffing. Target for term sheet with CGI is July 18. Optum is yet hitting the expected daily COC numbers by a wide margin. The UAT plan is final and beginning. The team has been asked to consider a strategy that delivers COC functionality to customer service representatives more quickly with less testing but enhanced Quality Assurance and then continue testing before full deployment. On a related note, David Martini is beginning to transition into management of VHC operations.

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**ACO's:** Additional operational funding will be put to SIM Core Team vote Wednesday: ~\$2.6M for OneCare, ~\$533k for CHAC, based on \$26 per participant for one year. Healthfirst already has received more than this so no extra \$\$ for them.

**Significant Events/Meetings**

Robin and Lawrence met with the Brattleboro Hospital board. It made it clear how far we have to go to help people understand basic elements, even when they are involved in hospital governance. Patty O'Donnell on that board with good questions and non-combative. That was a new experience for me.

I had a 1:1 with John Brumsted at his request, ahead of the group meeting regarding Tilley Drive. Basic relationship building; no surprises. FAHC followed up after the joint meeting with Noelle Mackay asking for her help thinking about the potential campus and will invite Chris Cole to attend as well.

Next Week: Tuesday w/ Blueprint and ACO's, VTTL Board; Thursday GMCB and VTTL.

### **Press Issues/Contact**

An hour and a half on background with Ham Davis talking about the HSE, how VHC is just a start, and why the federal exchange would not meet our needs. He is working towards a September article. I did give him a preview of setting up the operations side of VHC more professionally.

### **Other Issues**

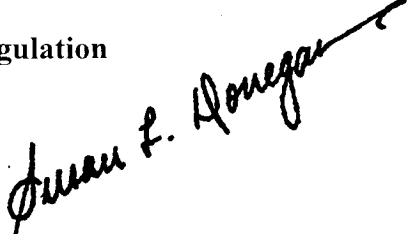
The staffing request from the Health and Human Services Enterprise Program for the various projects is coming for consideration and submittal to the Joint Fiscal meeting later this month.

State of Vermont  
Department of Financial Regulation  
89 Main Street  
Montpelier, VT 05620-3101

For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
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[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

## CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: July 11, 2014  
Re: Weekly Report



### Securities Division:

This past week, folks from the Securities Division spoke with two companies interested in taking advantage of the Vermont Small Business Offering Exemption (VSBOE). The first is a renewable energy company interested in seeking investments to help finance renewable energy projects in the state. The other is a medical data analytics company currently located in Massachusetts but considering moving to the St. Johnsbury area. Once it has relocated to Vermont, they would hope to raise \$500,000 to increase software production and hire up to 10 new employees.

On Wednesday, Deputy Commissioner Mike Pieciak was interviewed on the WDEV radio program "The Vermont Conversation" specifically to discuss VSBOE and promote its awareness. On Thursday, he met with John Mandeville, executive director of the Lamoille Economic Development Corp., to talk about outreach to the Lamoille County business community regarding VSBOE.

### Other news:

Commissioner Susan Donegan and David Provost, deputy commissioner of the Captive Insurance Division, attended the National Association of Insurance Commissioners (NAIC) Mid-Year Commissioners' conference this week. The Commissioner presented a report to the members concerning the adoption of a new model law and regulation relating to enhanced disclosure of insurance company corporate governance practices. She has chaired the Corporate Governance Working Group for the past two years and been involved in the standard setting committees at the NAIC and the International Association of Insurance Supervisors.



The Commissioner is attending the National Conference of Insurance Legislators' summer meeting in Boston today. Vermont has a strong contingent of state legislators who participate in this organization including Reps. William Botzow (Bennington), Kathleen Keenan (St. Albans), Warren Kitzmiller (Montpelier) and Michael Marcotte (Newport). The Commissioner will be speaking on two panels that address the federal mortgage reform efforts and health exchange updates. She contacted Robin Lunge for specific Vermont talking points to include in her remarks.



120 State Street, Montpelier VT 05620-2501  
(p) 802-828-3135 | (f) 802-828-3140

**CONFIDENTIAL AND PRIVILEGED**

**MEMORANDUM**

TO: Governor Peter Shumlin  
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: July 11, 2014

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**VSBA retreat**

Wednesday, I joined the first half of the VSBA retreat to participate in discussions and preparation for their fall sessions for all board members, to see if we could play a useful role in that conversation. More on that below. Facts to keep in mind: something like 13% of the workforce in VT is involved with public schools in some way, direct or indirect. Board members need to cut staffing to reflect declining enrollments, but also face substantial budget pressures associated with Universal PK and Act 77 and a few other initiatives sponsored in Montpelier.

**CCSSO**

I am at CCSSO yesterday and today, for a meeting of the chiefs. Of substance, this provides a critical opportunity for us to network with a handful of states engaged in similar work and facing similar challenges. We made some good headway on issues related to CTE and proficiency based assessment, and got some insight on how USDOE is messaging to other states, all of which is useful for us as we work with USDOE. The first session was a canned seminar run by Disney on how to develop your organizational capacity, which began with a tour of one of the parks:





It began with a lengthy “touchstone” story by their CEO about how when a little girl threw her Belle doll over a fence, the company “overmanaged” by sending a team to find the doll, washing the doll, sewing new clothes for the doll, and creating a photo album of the doll cavorting with other Disney princesses to return with the doll. As a teacher, of course, I would have told my students tough luck if they intentionally threw their dolls over a construction fence, lest they try throwing two dolls over the following day to see if they could get twice as many presents.. I am sure Disney got a good tax write off for this presentation and conference, just as Michael Milken gets a good write off for his similarly cheesy and more self serving teacher awards. John Fischer and I ended up playing hookey to get some work done.

**Upcoming:** Aaron Brodeur of the AOE will be meeting with Jim Reardon soon to discuss estimated interest on Ed funds kept by municipalities. In sum, we estimate municipalities collectively retain about \$1.9 million a year in interest on Ed Fund money. This is interest on revenues collected by municipalities and then help f a short time before the capital is turned over to districts. This is in addition to ~\$2.2 million municipalities retain for acting as agents of the state by collecting the education property taxes. I mention this because this is a symbolic way in which the Ed Fund is subsidizing municipaliits and redistributing resources across municipalities.

### **Isle La Motte:**

We are starting to get a lot of buzz from Isle La Motte, which saw a huge tax increase and blames the state. Less well discussed facts include that their town board ran a deficit for two years in a row and that it all happened because of 5 new tuition students (added to their based of 25 students). They are making no mention of why they



planned on a \$1.81 tax rate but the actual rate was more like \$2.27 due to the deficit. We are unclear why the deficit was not brought up at the town meeting nor included in their figures.

### **Emerging Issues**

#### **Isle La Motte:**

We are starting to get a lot of buzz from Isle La Motte, which saw a huge tax increase and blames the state. Less well discussed facts include that their town board ran a deficit for two years in a row and that it all happened because of 5 new tuition students (added to their based of 25 students). They are making no mention of why they planned on a \$1.81 tax rate but the actual rate was more like \$2.27 due to the deficit. We are unclear why the deficit was not brought up at the town meeting nor included in their figures.

#### **Dual Enrollment:**

More on this next week, but I think we ought to weight the pros and cons of taking the cost of dual enrollment off the top of the Ed Fund. There are both cost and equity concerns here.

As responsibility for paying for dual enrollment shifts to the districts, it will create substantial pressures on districts associated with increasing payments to the college system. This pressure will be more acute in some districts than others, and harder to accommodate in very small districts, where dual enrollment will represent a larger proportion of total costs.

We have some anecdotal evidence that this is possible affecting dual enrollment in two ways.

1. there are two ways to do dual enrollment: offer courses onsite (usually college courses taught by college-approved high school teachers at the high school) and offer college courses at the college. In the research literature on effectiveness, the courses taught at the HS by HS teachers do not have the same impact on post secondary outcomes as courses taught at the college or taught by someone who is solely a college level instructor. However, the HS based courses are cheaper, so are more appealing to cash strapped districts. Our concern is that in less affluent towns, dual enrollment will come in the form of HS-based courses, which deprives less affluent kids who need dual enrollment the most of opportunities to access genuine dual enrollment.
2. We see some evidence that districts that appreciate the future impact of dual enrollment on their bottom line are not pushing it as an option, much as they have been reluctant to push CTE, because these initiatives are in direct



competition for resources that these districts use to run their traditional high schools.

Pulling dual enrollment off the top of the ed fund might make it more broadly available, and would streamline the payment process (we could manage the logistics of paying the colleges.)

There are considerable down sides to this approach as well, obviously. However as we head into a very tough budget cycle, it is worth weighing alternatives.

### **Addison Northwest SU**

We just sent a very strong letter to this district, whose business operations are in greater disarray than those of Burlington. We have asked them to replace their business manager and close a cash account which they were replenishing with federal funds without any explanation, and they are already on suspension of federal funds for failing because they are three years behind on annual audits. The cash fund has caught the attention of the feds and may trigger a forensic audit. It was a fairly strong intervention, but we feel it was necessary. This district is a mess and has not made progress despite years of feedback. This is still playing out; it may hit the papers, though our preference is to draw minimal attention to the issue, so that the new superintendent and reasonably new board chair can focus their attention on fixing the problems. Liz Miller and Susan Allen have a copy of the letter, in case you get queries.

### **VSBA and Messaging to School Boards**

One option that came out of the VSBA conversation was the option of inviting the Governor to a meeting with School Board Members, after their fall meetings, to stand shoulder to shoulder with Board members to express shared responsibility for the common challenges around school funding and school transformation, and to invite all stakeholders to engage in frank collaboration to find ways forward.

I am hearing that School Boards are feeling a fair amount of anger at the Governor right now around school funding. Rightly or wrongly, they feel blamed for rising education costs even as "Montpelier":

1. continues to pass legislation that raises local costs (examples mentioned included Universal PK, Act 77) and
2. "raids the Ed Fund."

It would be powerful and perhaps disarming if the Governor came out with a message that basically said:

- We (as Vermonters) understand that public education plays an incredibly important role in strengthening the civic and economic life of our communities.



- We know that to be the engine of innovation and prosperity in VT, all of our children, including those who might not historically have gone to college, need to be educated to think critically and problem solve and communicate in a technology-rich world.
- We also know that together we face real and serious threats to the economic sustainability of our education system, even at a moment when we need to be supporting innovation in our schools.
- We spend more per pupil than just about any state, but we find ourselves struggling to pay our taxes and worried about how to pay for the programs and opportunities to learn we know are so critical to our children's learning and the civic and economic future of our state

You may need to address the question: Why public education?

- We support local schools because we know that our strength as a state is in the social contract we have formed to ensure that the most vulnerable amongst us have opportunities to learn and develop and become productive citizens.
- We know that turning our back on less fortunate neighboring towns today means paying more in the future in terms of lost potential and social services (this was the rationale for universal PK as well).
- We know that that education fund, as a statewide fund, unifies us all to allocate resources in an equitable way, so that no student is denied opportunity based on town of residence—something over which students have no control. Before Act 60 and 68,, when districts had only their own local tax base to support their schools, we saw gross inequity across the state. As some schools debated adding tennis courts, others struggled to provide textbooks and fix broken windows. Increasingly we find ourselves in the same situation today.
- We know the strength of our education fund is that it includes all of us—we are all bound together in this mission of providing for all of our students. Before we had an education fund, when districts had only their own local tax base to support their schools, we saw gross inequity across the state. (Think of the analogies to health care.)

You can acknowledge the absolutely critical role of the historical independents in serving Vermont children:

- From the beginning, we have worked with many partners to provide good solutions for our children.
- Years ago, the historical Academies—Thetford, St. Johnsbury, Burr and Burton, and Lyndon Institute—were founded as “public schools with a different form of



governance” to provide access to secondary education for huge regions of the state.

- These schools operated as private institutions, but embraced a public purpose, and **rapidly became an essential and indispensable element** of our education landscape. To this day, these schools still embrace this purpose and provide a broad range of supports that some of our most vulnerable students need to thrive and excel in the rich environment these institutions provide. We could not educate our students without them.

However we need to emphasize that as a state, we cannot sustain the current pace of education spending increases and need to work together to find solutions:

- We are not going to be able to spend more; we are going to have to figure out how to spend what we spend efficiently.
- We need to work together to find ways to make sure that our precious tax dollars are spent where they matter most: to improve the quality of teaching and learning for the 21<sup>st</sup> century.
- To do this will be challenging. It is a shared problem, that resists easy solutions.
- Towns that are very small are currently subsidized by other towns, but also face challenges associated with fluctuating numbers, and are on their own as they try to adjust to the fluctuations in revenue associated with changes in their numbers.
- Towns that don’t operate schools at all levels are dependent on choices made by others.
- If your enrollment is declining, maintaining your current program requires raising your taxes, because your cost per pupil is increasing.
- We have school districts with fewer than 20 children. In most states, that would not be enough students for a single class, but those districts, by law, still have to fulfill every single responsibility required of a district with 5000 children. That comes with a price.

I increasingly get the sense **the public needs to hear us acknowledge that it is challenging and scary, because we all feel we potentially have something to lose. They need to understand that NOT changing may leave us in an even worse situation.**

Overall, our schools have not narrowed achievement gaps nor made achievement gains over the past five years, even at a time when other states are beginning to see incremental improvements. State wide, we face a growing number of children growing up in poverty. As one UVM researcher noted, one in three children born at Fletcher Allen last year was born to an opiate addicted mother, which means the child was



addicted at birth. We can do nothing and wait until our schools are struggling to address challenges even as they seek to improve outcomes, on their own, isolated across the state, competing for ever-scarcer resources. Or, we can roll up our sleeves, sit down side by side at the table, take out our ingenuity and agree to have some hard but honest conversations about how we provide for a high quality education for every child in the state.

What the VSBA folk want to hear is that solving the spending crisis is not the unique responsibility of the legislature or the school boards. We need to come together and work **shoulder to shoulder** to put all challenges and options on the table, to figure out solutions that serve our shared commitments to:

- Clear aspirational learning **goals** for all VT children
- Clarity around who is **responsible** for ensuring all children have access to high
- Local autonomy and flexibility to innovate and develop appropriate strategies to achieve those goals
- Fiscal sustainability and stability and efficiency, so that boards can plan and achieve long term goals
- Ensuring our schools and educators have opportunities and the support they need to innovate and engage in necessary R and D to figure out how to systematically ensure that every child in every classroom has opportunities to develop 21<sup>st</sup> century skills.

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Happy weekend all. I am off to the conference now.

Rebecca

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## **CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: July 3, 2014**  
**Re: Weekly Report**

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

none

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

none

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

none

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

I had some good back and forth with Tom Kavet about some projections for lottery sales over the next 4 years. I remain low key on this due to not wanting more attention for the new bar vending machines, and the overall lack of interest in lottery sales growth that I hear each session – 10% sales growth is too high and the resulting profits from that are too meager. I pointed him toward the Massachusetts model that uses a higher prize payout than any other state and how high their per capita sales and profits are. I believe his plan will be to point out some opportunities that he sees and I will continue to look at successful efforts in other states that might benefit VT. He will run statistical analysis on what is brought forward. I don't have anything that I am pushing for now other than getting this test quantity of machines on the market by November. I did not tell him anything about that.

*Jeff F-11*

### **Evolving Issues:**

There seems to be some concern in Finance based on the Lottery's and DOH's interest in having the Lottery administer the Problem Gambling Grant. I have talked with our analyst, David Beatty, a few times about our plans and why but I still hear concern in his voice. We are all aware that the budget bill states that the Lottery will fund this grant to DOH. We also did not start talking about this transition until the very last days of the legis. session. I am writing the requested report to the Joint Fiscal Comm about our plan for providing problem gambling services in FY15. We will also be requesting approval to administer the grant so that the required language change can move forward through budget adjustment. DOH and Finance will both see the report before it is submitted.

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

Still pushing forward with our new website RFP, assisted by DII and BGS. It should be posted next week. We will make contact with bars that previously expressed interest in the new vending machines, and recruiting other businesses if some have changed their minds. We just cut checks for our 2<sup>nd</sup> quarter results for the agent incentive payment, with 250 agents raising their sales high enough to earn a check. Our Q4 '14 sales were up on instant tickets over Q3 '13 by \$1.7M, or 7%.

### **Executive Director's Commentary:**

One of our commissioners, Tom Scala from Brattleboro, will be resigning in Sept. He will announce this at the VLC meeting next Wed. He is also our Tri-State commissioner so we will need to replace his efforts there as well.



**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, July 11, 2014  
**SUBJECT:** VTrans - Confidential Report to the Governor

**NOTES FOR GOVERNOR**

**Vilas Bridge Update**

I have asked the Rockingham Economic Development Director, Dutch Walsh, for a read on how important the project is to the recently reported potential for Chroma to invest \$12-15 million in a new facility on "The Island" near downtown Bellows Falls. As you know, the Vilas Bridge connects that property to New Hampshire.

**MTQ-VTrans Dialogue**

You will be seeing Premier Coulliard at Bretton Woods soon so you should know that he has been briefed on our mutual interests and has reportedly stated that the preclearance facility in Montreal for rail traffic is a high priority. We are preparing for a meeting with the new Transport Minister Robert Poëti this fall. Premier Coulliard has also been briefed on the many border issues we face, particularly around the progress on Autoroute-35. We are obviously very pleased to be, once again, fully engaged on these important matters.

**Fast Fix '14**

This project has been a huge success. All projects are either under contract or under construction and the feedback from staff and the public about these quick fixes to 145 miles of bad road surfaces not scheduled for major projects has been extraordinary. The lesson here is that you can make folks happy with a Band-Aid, if that's all you have available at the time.

**Rumble Stripe Policy Review**

Given what we have learned from other states about some new approaches to these safety features and given our record of successes and difficulties, we are delaying further deployment of these center-line rumble stripes for a month or two while we update our policy. We'll look at noise, traffic and accident data thresholds and public involvement. Recently we did a poor job on the latter and I've pulled 2.9 miles of stripes off a Route 12

1

paving project between Elmore and Morrisville. Shap Smith has been very helpful in this situation and is pleased with the outcome.

## **NOTES FOR STAFF**

### **Highway Trust Fund Insolvency**

We are learning more about the “cash management” plan from USDOT and now believe that, if implemented, we will likely accrue more than \$10 million in receivables by September 30. This means that without action by Congress to restore the trust fund we would likely have to slow or stop certain projects to make the cash flow work. There has been much media on this problem across the nation and Congressman Welch will have a news conference in Waterbury on the subject on Monday morning. I will participate in that presser.

It would seem that the pressure Congress is feeling may have some results as both the Senate and House are moving proposals toward floor action over the last couple of days. The House has a plan that would prop up the HTF until the end of next year. This is opposed by Senators Boxer and Carper as a ploy to delay the much-needed discussion on a reauthorization bill and its long-term funding component. Most of the money in the House bill comes from federal pension “smoothing”.

### **Federal Share Increased For Irene Projects**

Thanks to the Congressional Delegation, particularly Sen. Sanders, the threshold has been crossed and we now qualify for 90% Emergency Relief instead of 80%. I mention this again (it was speculated about in an earlier Weekly) because this money does not come from the HTF and therefore will continue to flow. It is anticipated that this will be worth about \$8 million to the state by the time we’re done with all Irene repairs.

### **Letter from Cider House BBQ and Pub – Waterbury**

64 I received a letter (on which the Governor was copied) from the proprietor of this Route 2 business, Thomas Sullivan, who is claiming a 40% loss due to our reclaim paving project which started last fall and will finish up later this year. His wish was that we reimburse him \$21,000. I explained in a letter back to him that although we understood his position and felt badly for his current situation we have no process or funds that would reimburse someone in these circumstances. You may hear again from Mr. Sullivan.

### **Update – Morse Airport in Bennington**

You will recall that we have had significant issues with a business person and former temporary employee named Lofton who now operates New England AirMotive. Recent discussions have resulted in a letter terminating his lease effective August 1. He has contacted everyone in the delegation from Bennington and will likely contact your office, if he hasn’t already. Send him to me. Thanks.

### **DMV Automated Written Testing System**

Installation of the new DMV automated written testing system has proceeded ahead of schedule this week. The system is already being used at our Montpelier location and will

be installed at two additional sites before the end of this week. All locations will be running on the new system by July 17<sup>th</sup>. When fully installed, this will be a technology success.

### **Motor Vehicle Crash Facts**

#### Fatal Crashes **July 1 – July 7, 2014:**

- 7/2/14: Mount Holly, Bowlsville Road. Single lawn tractor crash, ran off road. Driver fatality, alcohol involved.
- 7/5/14: Barre City, Hill Street (FAU 6014). Single vehicle, passenger fatality. Unknown other details.
- 7/6/14: Mount Holly, VT 103. Single vehicle, ran off road. Driver fatality, seatbelt used.

--**2014** Fatalities: **20 Total** – **15** vehicle operators (3 motorcycles; 1 snowmobile), **3** passenger and **2** pedestrians.

As of <b>July 7 in each calendar year:</b>		
<u>Year</u>	<u>Fatalities (people)</u>	<u>Fatal Crashes</u>
2014	20	20
2013	28	27
2012	42	37
2011	22	19

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** July 11, 2014

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I will be on vacation the week of July 21.

On Thursday, I met with the Governor's Pathways from Poverty Council at their request to listen to concerns about possible changes at DCF in response to your charge to me to present conceptual proposals by August 1. Floyd was also in attendance.

They are worried we might actually detract from our goal of better coordination of services and supports for children and families if we separate Economic Services from Family Services. Most of the meeting was focused on other systems changes that could improve integration within AHS and with our community partners. Much of the discussion involved looking for better responses to the underlying causes of family stress, particularly poverty, substance abuse and trauma.

They will be sending you a letter asking you to delay the August 1 deadline so they can engage in a public process to gather ideas for improvement in DCF's systems and policies.

Also on Thursday, Stephanie Beck (Program Director for the Health and Human Services Enterprise (HSE)), and I presented the program to the Green Mountain Care Board. It was an opportunity to tell the AHS story about our vision for integration of services and how HSE is vital to realizing our many goals of health care reform, cost control, and better health outcomes for Vermonters.

**Vermont Department of Health (VDH)**

**Rutland Constituent Complaint:**

On July 2<sup>nd</sup>, the Commissioner, and others (including your office) received an email from a Rutland resident describing a situation in a Rutland apartment building. The email detailed actions by the landlord that were of concern to the author. Many of the complaints are private landlord-tenant issues, were beyond the scope of the VDH, and were already being investigated by the Rutland City Police Department. Department staff contacted the Rutland City Town Health Officer, Michael Brookman, who indicated that he would contact the city fire chief to set up a joint inspection. The VDH will follow up.

**802Quits Pregnant Smokers Video:**

To reduce the prevalence of pregnant smokers, the VDH is targeting women with tailored information about 802Quits cessation resources. To help promote these resources, a video featuring Kathryn, a Vermonter who quit smoking during her pregnancy, was posted to the 802Quits website. In the video Kathryn tells a compelling story from the time she began smoking to the moment she became pregnant and saw an 802Quits pamphlet, through her journey to become an ex-smoker with

the help of Vermont's Quitline. Since the video was posted the average time spent on the 802Quits.org "baby" webpage increased by 81.5% from the previous month.

#### Asthma Learning Collaborative Recognized:

On July 8<sup>th</sup> the VDH was acknowledged by CDC for its accomplishments related to the Asthma Learning Collaborative. The Collaborative brings together primary care practices across the state and engages them in quality improvement areas to enhance adherence to guideline based asthma care, with the goal of reducing asthma morbidity.

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

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

Eight patients from Morrisville were relocated to the VPCH in Berlin on July 2, 2014. The move went well. Buildings and General Services (BGS) continues to monitor the final work that needs to be completed on the doors and locks.

New staff training is ongoing. The Department is on track to have all 25 beds open by early fall.

##### Brattleboro Retreat:

Brattleboro Retreat notified the department that they received two findings from Licensing and Protection's review of the May incident on behalf of CMS, which rose to a "Conditions of Participation" level. As a result, they must file a Plan of Correction with CMS by July 18<sup>th</sup>. They were also notified that if not resolved through an acceptable Plan of Correction, their Medicare Agreement will be terminated on October 6<sup>th</sup>. Rob Simpson, Chief Executive Officer of Brattleboro Retreat reported that he would call Jeb Spaulding to update him on the situation.

##### Representative Tony Klein:

Representative Tony Klein asked Commissioner Dupre about a possible high risk patient going from the Retreat to the Middlesex secure residential facility. Some of his constituents are upset with this possibility. He told Commissioner Dupre that Patrick Flood had told neighbors that no high risk patients would be going to the Middlesex facility. Commissioner Dupre informed him that he was never made aware of any such statements and would research this with Deputy Commissioner Reed regarding patients who might or might not go to the secure residential facility.

##### Vermont Psychiatric Survivor's (VPS):

The Board of Directors has contracted for an interim director while they search for a CEO. They continue to work on the organization's financial operation policies.

As reported last week, Linda Corey who was the previous Executive Director for VPS had a medical emergency and is still in a coma.

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

##### U.S Department of Labor Employment and Training Administration Awards Training Grant:

DAIL was awarded \$114,000 out of \$3.2 million awarded to 14 national organizations. Only high performing Senior Community Service Employment Program (SCSEP) grantees were asked to apply for this highly competitive, one-year award.

The SCSEP, authorized by Title V of the Older Americans Act, is the only federally sponsored employment and training program targeted to unemployed, low-income individuals age 55 +. The program has dual goals of promoting community service and helping participants achieve economic self-sufficiency by guiding them into unsubsidized employment.

DAIL Commissioner to Testify Next Week before Health Care Oversight Committee on Adult Protective Services (APS):

Commissioner Wehry will be presenting the 4<sup>th</sup> quarter APS report as required by last year's APS bill. No surprises. The program remains strong.

Developer Selling Assisted Living Facilities:

VTDigger carried a story this week of a pending sale of 4 assisted living facilities currently owned by Greg Beldock of Bullrock Corporation. Mr. Beldock has been frustrated by his inability to supersede building codes (fire safety regulations) in Vermont and one year ago said his business was not sustainable without a variance. We have change of ownership licensure applications on these pending transactions and will be looking closely at buyers' expectations regarding use of these facilities. There is no Certificate of Need (CON) process for Assisted Living facilities in Vermont due to deregulation a decade ago.

**Department of Corrections (DOC)**

VTDigger Article:

VTDigger featured an article this week regarding inmates held pending finding appropriate housing. This is a complex issue and receives much attention from the Corrections Oversight Committee. It is often felt that if this issue were resolved, it would result in significant savings to the DOC budget. While true, the cases in this category are complex, consisting of people with sex offenses, violent offenses, and often histories of failed community supervision. The DOC has assigned staff to address this specific issue. While we are hopeful that we will make gains, it is an area that we will address while mindful of potential impacts to the community.

Community High School of Vermont (CHSVT) – College Credit:

The CHSVT has entered the Vermont Dual Enrollment Program sponsored by the Agency of Education. The Dual Enrollment Program will allow high school students to earn college credit while still in high school. This opportunity will allow CHSVT students to take two college courses at any of the five Vermont State Colleges (Castleton State College, Community College of Vermont, Johnson State College, Lyndon State College and Vermont Technical College) tuition free. It will also open up the Flexible Pathways even further for CHSVT students who need to travel a different path in order to complete their High School diploma or move on to higher learning opportunities. We are pleased to be joining this positive productive program.

Population:

The Department's incarcerated population averaged 2,039 for the previous week. The incarcerated male population averaged 1,900 with 326 being pre-sentenced inmates. The female population averaged 139 with 32 being pre-sentenced inmates.

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

### **Office of Child Support (OCS) Applying for a Demonstration Grant:**

The Office of Child Support is planning to apply for a 5 year demonstration grant through the Federal Office of Child Support Enforcement to test principles of behavioral economics in an effort to improve child support payment rates, rates of appearance at scheduled court events, and the degree of employer compliance with child support wage withholding requirements. We anticipate that the effort would not only benefit child support programs but would demonstrate repeatable methodologies that could be applied to other human services programs. If our application is successful the award would be approximately \$1,147,057 over the five year life of the grant. There is no state match requirement.

### **New Work Shifts in Health Access Eligibility Unit (HAEU) to Cover Phone Needs:**

Since the launch of Vermont Health Connect, the number of callers needing a higher level of service than Maximus (the level one call center vendor) can provide, has increased substantially.

Historically, HAEU was able to cover these calls with one staff member each day. It now takes 20 staff. This, combined with the extended evening and weekend call hours, has made it increasingly difficult to continue providing this level of service. This has increased overtime costs, and staff volunteers to cover the phones are dwindling.

As a result, an agreement was reached with the Vermont State Employees Association (VSEA) to implement several new work shifts to cover the phones on nights and weekends. The process to implement and assign staff to these shifts is under way. This will result in involuntary re-assignment of staff shifts that they do not want. It is expected that this will cause staff to reach out to VSEA and could potentially bring publicity to the issue.

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

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

*VHC Exchange/Optum Transition Services:* DVHA continues to transition hosting, maintenance, operations and design services currently provided by Exchange vendor CGI to another vendor, OPTUM, INSIGHT INC. On June 9<sup>th</sup>, after two weeks of intense negotiation, a contract with OPTUM was executed to perform 4 streams of work, including assessment of ongoing exchange operations, and the reduction in the backlog of cases involving change in circumstance of customers at VHC. This work has led DVHA to the conclusion that it needs to transition services from CGI to another vendor. DVHA is negotiating with CGI regarding how it will phase out this vendor.

### **Recent Suicide Attempts in Brattleboro Retreat Adolescent Unit:**

During the course of performing concurrent review, DVHA received information from the Brattleboro Retreat that between 6/12/14 and 6/23/14 four adolescents on the inpatient unit made suicide attempts by strangulation. No deaths resulted from these attempts.

DVHA followed up with the Brattleboro Retreat to ensure that incident reports were sent to the Department of Mental Health. DVHA Chief Medical Officer Dr. Tom Simpatico and DMH Medical Director for Children's Services Dr. Bill McMains are working collaboratively on this issue. DMH is awaiting notification from the Retreat as to whether a formal critical incident review



was performed. Follow up will include a visit to the Retreat by Drs. Simpatico and McMains to review its corrective action plan and begin an ongoing quality improvement process.

Fletcher Allen Health Care versus DVHA, Washington Superior Court Update:

On May 23<sup>rd</sup>, DVHA received a primarily good decision from Judge Helen M. Toor regarding litigation challenging the validity of the State's provider tax assessment to hospitals. The case involves a number of hospitals challenging whether Vermont's Medicaid Hospital Tax under 33 V.S.A. § 1950-1958 violates federal law and whether the term "physician's office practice" exempts hospital purchases of physician practices in Vermont.

While the decision remands the case back to DVHA, the court did hold that the statute did not violate federal law. The issue the court had with the case before the agency is that the term "physician's office practice" did not appear to have sufficient facts to support the decision. We will be engaging the plaintiffs in settlement discussions in the coming months.

Update on Health Benefits Eligibility and Enrollment Rulemaking:

DCF and DVHA presented the proposed Health Benefits and Eligibility rule to LCAR on Thursday, June 26<sup>th</sup>. This rule implements eligibility and enrollment requirements for Vermont's health insurance exchange, Vermont Health Connect. Vermont Legal Aid (VLA) objected to the rule, asserting that the rule changes eligibility requirements for Vermont's Choices for Care (CFC) program that provides long-term care Medicaid services. The committee chose to delay a vote on the rule and asked the state to present again on July 10<sup>th</sup>. Since June 26<sup>th</sup>, CMS has provided written support of the State's position on CFC eligibility and VLA has communicated that they will withdraw their objection during testimony on July 10<sup>th</sup>. The state has committed to VLA to work with them moving forward to improve CFC program materials so that they are less likely to be misunderstood.

Addison County Buprenorphine Clinic:

To address the lack of access to medication assisted treatment with Buprenorphine, Porter Medical Center and Counseling Services of Addison County (CSAC) proposed to develop a clinic in which area physicians would prescribe from a shared facility (not in their own practices). The clinic is projected to operate at a deficit; DVHA was not able to develop a funding method for the deficit prior to the finalization of the Porter budget although the Green Mountain Care Board (GMCB) was supportive of covering the costs in the hospital rate setting process. DVHA has committed to working with Porter to find an acceptable funding method and Porter is again considering developing the clinic. In the meantime, three providers are now planning to offer care in one office, Bristol Internal Medicine, a very positive development.

116 STATE STREET  
MONTPELIER, VERMONT 05620



OFFICE OF THE SECRETARY  
TEL: (802) 828-1619  
FAX: (802) 828-2361

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: July 11, 2014

**Secretary's Top Issues**

The Dairy Section is now overseeing 115 processing plants with 10 pending facilities that will be coming on-line soon. The section receives several calls per week from individuals interesting in starting a processing facility. 17 new facilities have come on line this fiscal year. This growth is a great trend but presents challenges with the existing workforce in the dairy section. **The Dairy Section has cut back on all inspections to the statutory minimums.** This means that cheese facilities are now being inspected every 6 months instead of quarterly. This is a concern for any possible recall situations. The next cuts will be more painful as the dairy section will now have to **cut back on technical assistance that is offered to farmers and plants.** While cutting back technical assistance will be counter-productive over the long view, the Dairy Section does not have staffing to maintain inspection. More dairy plant inspectors are needed – as with the meat industry – the dairy processing industry continues to grow. **For FY 16 Ag will be requesting 2 dairy plant inspectors.**

NASDA: Plans continue to evolve for the National Association of State Departments of Agriculture (NASDA) conference September 10-13 at the Burlington Hilton. We are currently building an exciting itinerary of tours and events that highlight Vermont agriculture. Sponsors include major national companies representing a wide swath of agricultural services (equipment, pharmaceuticals, biotechnology) as well as some outstanding local companies. The Governor has been invited to attend and we are hopeful he can come speak to this dynamic group of agricultural leaders from all 50 states.

Animal Health is working with the Hooved Animal Sanctuary to resolve an animal welfare complaint in Topsham regarding a livestock producer who utilizes a rotational grazing pasture for a small number of sheep. The producers are working with the University of Vermont Extension regarding their husbandry design and are featured on the University's website. The complaints happen on a yearly basis and center around a lack of shade for the livestock.

**Act 250 – 9(B) Criterion Review:**

The VAAFM took the following actions during the month of June. One review findings result in 16.74 acres of primary agricultural soils preserved for on-site mitigation. The remaining projects potentially require the payment of off-site mitigation fees totaling \$110,020 (53.05 acres), and we are awaiting a decision from the District Commission to determine if "appropriate circumstances" have been met to allow for mitigation flexibility. One mitigation agreement was drafted, which will result in the payment of \$77,566 to VHCB prior to the commencement of construction for this project.

Henry Marckres, Chief, Consumer Protection, has been receiving copies of letters addressed to Governor Shumlin from individuals upset about the pending vote at the National Conference on Weights and Measures regarding the method of sale of natural gas. There is a proposal to change from gallon equivalents to kilograms for measuring compressed natural gas and liquefied natural gas. The proponents say this would be a more fair method of measuring these products. Groups such as the American Public Gas Association have come out strongly against this change. The current gasoline gallon equivalent has been in place since 1994, and seems to work well. The Vermont Consumer Protection Section has not taken a position on this matter. We do not have the equipment to measure natural gas, and will not be attending the conference, where the issue might come to a vote of weights and measures officials. We have not spoken with the Vermont Fuel Dealers Association, and are not aware of their position.

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TO: Gov. Peter Shumlin  
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**Status of Governor's Priorities:**

**Press**

State Veterinarian Dr. Kristin Haas was quoted in the Sunday edition of the New York Times as part of a story on Porcine Epidemic Diarrhea virus.

Received an inquiry from Portland (ME) Herald regarding EEE and forwarded the Vermont Department of Health (VDH) press release dated 7/1. VDH may receive a follow-up communication from the reporter, North Cairn. They have been informed.

**Significant Events/Meetings:**

NASDA: Plans continue to evolve for the National Association of State Departments of Agriculture (NASDA) conference September 10-13 at the Burlington Hilton. We are currently building an exciting itinerary of tours that highlight Vermont agriculture on 9/13. We have special events planned aboard the Spirit of Ethan Allen (9/11) and at Shelburne Farms (9/12). We are hard at work arranging details and logistics. Sponsors include major national companies representing a wide swath of agricultural services (equipment, pharmaceuticals, biotechnology) as well as some outstanding local companies. The Governor has been invited to attend and we are hopeful he can come speak to this dynamic group of agricultural leaders from all 50 states.

State Veterinarian, Dr. Kristin Haas, worked with Vermont federal veterinarian Dr. Joel Russo to provide veterinary accreditation training to five new VT veterinarians. This additional certification allows VT veterinarians to perform certain regulatory duties that aid the State and federal government.

State Veterinarian, Dr. Kristin Haas, participated in the 2<sup>nd</sup> in a series of Vermont Antibiotic Residue Task Force conference calls for the purpose of collaborating with veterinary colleagues on the manner in which the industry outreach/education program on residue avoidance will be implemented in VT. This program will augment the regulatory program that already exists in VT and is implemented by the Animal Health section of VAAFM.

State Veterinarian, Dr. Kristin Haas, represented Secretary Ross at the quarterly Endangered Species Committee meeting. Notable topics covered included a vote to list a plant species as endangered due to the fact that its only known location in the world is in Haystack pond in Wilmington Vermont, and a presentation by ANR legal counsel of proposed statutory amendments to the Endangered Species law that would impact VAAFM. They are seeking comment from VAAFM by early September.

FSCP subject matter experts participated with Deputy Secretary Bothfeld in a meeting with Kim Greenwood of the VT Beekeepers Association regarding VAAFM future plans to implement the "bee fee" developed during the last legislative session and to hire a temporary employee to provide technical assistance to commercial and hobby industry members. Current demand for these services exceeds VAAFM capacity due to the need to also focus energy on competing priorities.

### **Evolving Issues:**

- Animal Health has received a number of emails and phone calls from a Massachusetts resident who traveled to Vermont for what she said was a pre-arranged purchase of an equine. The individual did not purchase the pony because the owners had not obtained a Coggins test within the previous 60 days, as required by VT statute. Animal Health contacted the owners to explain the Vermont required regarding the sale/purchase/barter of a horse and issued a letter of warning. The owners had since obtained a Coggins test. The MA resident does not seem satisfied with the situation and wants to take the owners to court.
- Animal Health is working with the Hooved Animal Sanctuary to resolve an animal welfare complaint in Topsham regarding a livestock producer who utilizes a rotational grazing pasture for a small number of sheep. The producers are working with the University of Vermont Extension regarding their husbandry design and are featured on the University's website. The complaints happen on a yearly basis and center around a lack of shade for the livestock.
- Animal Health issued an import permit to a cervid owner in Orleans this week, allowing her to import two female reindeer into Vermont from New York.

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

#### **Administration:**

Agency of Agriculture staff took part in All Agency staff meeting on July 9. Training on managing stress and difficult people was provided by the Employee Assistance Program. Staff learned of recent changes in travel reimbursement, staffing changes at the agency and preparations for farmers markets regulatory monitoring.

Wallace Nolan has requested that the Agency of Agriculture begin an investigation of a local gas station/convenience store due to violations of the ADA requirement for assistance in pumping gas, requirement that the store remain open 7 days per week for access to gas under ADA and investigation of the sell by date on beef jerky that was too tough to chew. The Agency has no jurisdiction on ADA requirements at gas stations and has notified the Department of Motor Vehicles of Mr. Nolan's request. AG's office assigned lawyer to agency provided guidance to the agency – collect information on gas station/Convenience store for all agency licenses (all in good standing), let Mr. Nolan know of good standing and that ADA is a DMV requirement and beef jerky labeling requirements from meat inspection.

#### **Ag Development:**

#### **Agricultural Development:**

Three representatives of the Irish Extension Service visited the Agency of Agriculture to discuss the dairy industry. These representatives worked specifically on financial management of dairy farms. As the European Union moves away from a quota system controlling the production of milk in 2016, Ireland is preparing to triple its dairy farm numbers, herd size and milk production. The change in the European Union away from a milk quota system will be a paradigm shift for the industry in Ireland and this extension service is working closely with farmers to prepare for the changes and the potential to change herd size in a profitable manner. Water quality, farm transition to the next generation and milk pricing were discussed with the group.

#### **Land Use:**

##### **Act 250 – 9(B) Criterion Review:**

The VAAFM took the following actions during the month of June. The Agency issued 9 review letters for proposed projects that triggered review under criterion 9(B) under Act 250. Of the review letters sent, 5 projects did not require any mitigation due to soils not meeting the definition, no impacts to PAS, or proposed gravel pit reclamation. The review findings result in 16.74 acres of primary agricultural soils preserved for on-site mitigation. The remaining projects potentially require the payment of off-site mitigation fees totaling \$110,020 (53.05 acres), and we are awaiting a decision from the District Commission to determine if "appropriate circumstances" have been met to allow for mitigation flexibility. One mitigation agreement was drafted, which will result in the payment of \$77,566 to VHCB prior to the commencement of construction for this project. Additionally, the Agency is tracking 14 open applications that require a response for impacts to primary agricultural soils from previous months requiring follow up from the Applicant or input from other agencies.

### **Primary Agricultural Soils – Change in Definition:**

On July 1, a provision under Act 159 (H.869) was enacted amending 10 V.S.A § 6001(15), affecting Criterion 9(B) under Act 250. In general, the new law changes the definition of primary agricultural soils so that the definition focuses on the physical characteristics of the soils and whether they are capable of supporting agricultural production, as determined by the District Commission and guided by the Secretary of the Agency. The new definition removes the “size and location” considerations contained in the previous statutory definition, enacted in 2006. In addition, the new law provides a 1:1 mitigation ratio and a presumption of off-site mitigation in the following areas: a downtown development district, a growth center, neighborhood development areas associated with downtown development districts and new town centers designated on or before January 1, 2014. The Agency is in the process of updating policies and procedures to provide clear and consistent reviews of Act 250 Criterion 9(B) application submissions in accordance with the new law.

### **Food Solutions New England gathering, Rhode Island:**

- VAAFM staff, Abbey Willard, and 11 other Vermont representatives joined representatives from the other five New England states in Rhode Island on June 12 & 13 to discuss ‘A New England Food Vision’ and discuss food access and equity issues within our food system.
- Group discussed value of health, food justice, food access, social and racial equity messaging as we build local and regional food systems.

### **Farm to Health Care Forum: Champions of Change:**

- June 25 at Wake Robin Senior Care Living facility hosted the 2<sup>nd</sup> Champions of Change workshop.
- Representatives from numerous Vermont hospitals and health care facilities attended with a focus on “optimizing health through the supply chain in Vermont”.
- VAAFM staff, Abbey Willard, shared trends and accomplishments from the health care sector of farm to institution.
- Distributor representatives from Black River Produce, US Foods, and Reinhart Foodservice each shared their willingness to track and report on local products sold to Vermont health care facilities.
- All three distributors shared at least 15% increase in sales to health care facilities over the past year.

### **Farm to School Network Gathering and Vermont Community Foundation Food and Farm Initiative event:**

- June 25 at Shelburne Farms, the Vermont Farm to School Network and Vermont Community Foundation Food and Farm Initiative grantees gathered to celebrate new programs and philanthropic investments in farm to school.
- National Farm to School Network staff also attended and recognized Vermont’s leadership in the national farm to school movement.
- Speakers recognized local and federal next steps exist around Child Nutrition Reauthorization.

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

State Veterinarians worked collaboratively this week with colleagues in the VT Department of Fish and Wildlife to complete and submit VT’s annual Chronic Wasting Disease report to USDA-APHIS-Veterinary Services. Approval of this report will enable VT to maintain its federally consistent status which in turn allows VT producers to export cervids if they so choose.

### **Consumer Protection:**

Henry Marckres, Chief, Consumer Protection, has been receiving copies of letters addressed to Governor Shumlin from individuals upset about the pending vote at the National Conference on Weights and Measures regarding the method of sale of natural gas. There is a proposal to change from gallon equivalents to kilograms for measuring compressed natural gas and liquefied natural gas. The proponents say this would be a more fair method of measuring these products. Groups such as the American Public Gas Association have come out strongly against this change. The current gasoline gallon equivalent has been in place since 1994, and seems to work well. The Vermont Consumer Protection Section has not taken a position on this matter. We do not have the equipment to measure natural gas, and will not be attending the conference, where the issue might come to a vote of weights and measures officials. We have not spoken with the Vermont Fuel Dealers Association, and are not aware of their position.

### **Meat Inspection:**

- Maple Wind farm has transitioned to Federal inspection but the state is still providing inspection under the cross utilization program.

- Black river Meats has transferred ownership and is now Vermont Packing house. They have added three days of slaughter to their schedule and Vermont is providing Inspection under the Cross-utilization program
- Vermont continues to cover the federal slaughterhouse in Lyndonville again under the cross utilization program
- Program has been in conversation with several individuals concerning startup of new state inspected facilities, a processing plant in Arlington, a Ready to eat processing plant in Burlington, a slaughter and processing plant in Pantton and one poultry further processing plant somewhere in southern VT (the individual will be relocating from Connecticut).
- Construction continues to progress at the plants seeking state inspection for poultry, one in Berlin with a target date to start operations July 23<sup>rd</sup>, one in Randolph Center with a target date of September 1<sup>st</sup>, one red meat processing in Orange with target date of September 1st (eventually adding smoking and curing and finally slaughter), and a red meat slaughter and processing facility in Milton with an undetermined start date. No recent word on the Grand Isle plant.
- The federal slaughter and processing plant in Benson is still pursuing the possibility of adding state inspected Alpaca slaughter.
- Onsite federal review for designation as an “At Least Equal to” meat inspection program has been completed and exit conference is scheduled for July 22. One minor finding by the federal reviewers to be discussed and may be appealed by the Vermont program based on federal policy already established. The finding contradicts acceptable practices established by federal policy branch.
- **Compliance and Enforcement:**
  - Investigation conducted in regard to possible on farm slaughter and sales of roaster pigs in Franklin county area.
  - Two new retail firms reviewed for acceptability for licensure.

### **Animal Health:**

- Animal Health issues a notice of violation to a non-compliant cervid producer located in southern Vermont. The Section has been working with the producer to bring the premises into compliance with state and federal cervid regulations since last July. The compliance timelines, which have been extended previously, have passed and the producer has not corrected the deficiencies.
- Animal Health extended the compliance timelines for two cervid producers located in the Royalton area.
- AH Program Coordinator is attended the annual National Poultry Improvement Plan in North Carolina. Funding for travel is provided by USDA cooperative agreements. At this meeting, attendees will review the updated CFR for NPIP and provide input on policies that affect NPIP participants, of which VT has a growing number.
- State Veterinarians participated in a webinar hosted by Texas AM regarding an iPad application for the electronic Certificates of Veterinary Inspection. Utilization of this app by VT veterinarians will increase the efficiency of animal movement date entry into the USAHerds database by eliminating a number of steps.
- As of July 1, Animal Health will no longer provide Certificates of Veterinary Inspection or Coggins test forms free of charge to veterinary clinics. Veterinary clinic have received notice of this change a number of times starting last summer. They have been provided with alternatives means – they can pay for the forms (approximately 12cents each) through the state corrections print shop, obtain Coggins forms free of charge from USDA, or utilize the free electronic CVIs.
- The livestock dealer/transporter/packer licenses were due for renewal as of July 1. The increase in the licensing cost, passed in last year’s fee bill, will come into effect. The fee had not been increase since the early 1990s.
- AH staff inspected a pet shop in Morrisville and met with livestock dealers in Lamoille County.

### **Dairy:**

- This week two new milk processors started up.
- The Dairy Section is now overseeing 115 processing plants with 10 pending facilities that will be coming on-line soon. The section receives several calls per week from individuals interesting in starting a processing facility.
- 17 new facilities have come on line this fiscal year. This growth is a great trend but presents challenges with the existing workforce in the dairy section. The Dairy Section has cut back on all inspections to the statutory minimums. This means that cheese facilities are now being inspected every 6 months instead of quarterly. Creamery stands are only inspected on a complaint basis.

- The next cuts will be more painful as the dairy section will now have to cut back on technical assistance that is offered to farmers and plants. While cutting back technical assistance will be counter-productive over the long view the Dairy Section has no choice. One of the reasons Vermont has this growth in dairy processing is that Vermont has some of the highest quality milk in the country. The average somatic cell count for Vermont is one of the lowest in the country. This is not by accident the Agency has had a specialist working with farmers to help them improve milk quality for around 30 years.
- With the increase in processing plants the section will be cutting back on those services to shift some of that position's time to inspecting processing plants. This is not a move that the Dairy Section wants to do but protecting public health is our primary responsibility and takes priority over technical assistance.
- The Section will soon be forced to also cut back on technical assistance to new start-ups. A significant amount of time is invested in plants that are coming on-line to assure they understand how to do the processing they want to do and how to do it safely while making a quality product. Many of these new start-ups are small initially and do not have the skills and resources to put together a facility without this assistance. By working with them through the entire planning process the processors save significant amounts of money by assuring the equipment they are installing will meet the sanitary requirements without having to re-work or replace what was installed. This also significantly reduces the chance of catastrophic errors at start up that could compromise public health and safety and the likely success of the facility.
- Right now the Dairy Section is having great success at retaining processing plants this will be less likely with lower levels of technical assistance.
- It speaks well of the current level of assistance that is provided with 17 new facilities this year and 14 last year none of the existing plants went out of business this year.

### **Agricultural Resource Management:**

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

- Staff conducted technical assistance visits on five MFOs in Addison County. The visits were to discuss BMPs for improving water quality and to evaluate potential sediment runoff from a farm's corn field onto neighboring property.
- Staff conducted joint visits with EPA on two farms in Addison County. VAAFM conducted MFO General Permit inspections on the two farms while EPA conducted their CAFO inspections.
- Staff conducted technical assistance visits on multiple facilities associated with a LFO in Franklin County and on a LFO in Addison County. The Franklin County visit was to develop a silage runoff containment system at two facilities. The Addison County visit was to deliver the farm their recently signed LFO permit and to discuss and evaluate a variance request for building within the town setback. Jim Leland: Director of Ag. Resource Management and Stephanie Smith: Chief Policy Enforcement Officer also attended the visit.
- Staff conducted a complaint investigation on a MFO in Addison County where the complainant stated that manure and sediment were running off of a field and impacting neighbors down gradient from corn field. There were no MFO compliance concerns noted during the evaluation. Stephanie Smith and Jim Leland also attended the visit.
- Staff attended two public informational meetings for LFOs that are proposing changes in their operations that require permit amendments. The meetings were held in Franklin and Washington Counties.
- Staff conducted field checks of no-till equipment that was purchased by farms and a custom operator through the Capital Equipment Assistance Program (CEAP). One custom operator was visited in Caledonia County and 2 MFOs were visited in Franklin County. The field checks in Franklin County took two days to complete. The goal is to document that farms are meeting the conditions of their grant agreements and implementing no-till as specified in their grant agreements. Thirteen farms received financial assistance to purchase no-till corn planters through CEAP.
- Staff assisted with a FOIA request related to past water quality complaints on a LFO in Franklin County.
- Staff are continuing to process applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Several draft permits and permit amendments have been submitted to our Directors for review and are being revised as needed. We are also working with farms to set up public meetings if the farms are proposing to build animal housing. Adding animal housing requires a discretionary public information meeting as well as a permit amendment for existing LFOs.

- Staff are working on developing the water quality section of the new CAI USA Food Safety water quality database.

## **SECRETARY'S COMMENTS:**

### **EVENTS :**

VAAFM all Agency Staff meeting, Wrightsville Rec Area: conducted semi- annual meeting, well attended, review changes and accomplishments of Agency

### **MEETINGS:**

- Dan Smith, Acting President of Vermont Technical College, Middlesex: met with President Smith to review range of items connecting VTC and VAAFM including digester, dairy program
- Tim Camisa, VT Organics of St. Albans, Richmond: discussed work of VT Organics and how VAAFM can support their work extracting nutrients from ag waste streams; VT Organics currently has northeast regional accounts with Burpee, Home Depot and Gardners Supply. Bob Stiller just deepened his investment in the company.
- Marli Rupe, RCPP, Montpelier: discussed application and New York's decline on participation.
- NASDA, Hinesburg: made fund raising calls from home for the Annual Meeting this September in Burlington from Sept 10 through Sept 13.
- Brian Baenig, USDA COS to Vilsack: telephone calls regarding possible scheduling of Vilsack visit, no firm plans yet but understand Governor's schedule challenges during the week of August 25



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

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

[www.anr.state.vt.us](http://www.anr.state.vt.us)



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:** July 11, 2014

**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Shoreland implementation meetings:** July 1 we launched the new shoreline protection program. Our public-facing website site is up, including the new Shorelands Handbook, procedures, application forms, database, etc. The program has reached out to towns that are seeking delegation, including Colchester, and have a timeline set to complete the process. The program is also holding numerous meetings with different groups (both external and internal) to spread the word about the new rules and to answer questions. Justin and I have taken turns attending some of them and we have been happily surprised that folks are coming out to learn about what the law requires and how to apply for delegation, and that we have gotten very little pushback about the law overall.

**CLF Residual Designation Authority (RDA) Petition:** DEC received a petition from the Conservation Law Foundation on 6/25 that would have us exercise our Residual Designation Authority pursuant to the federal Clean Water Act to require all stormwater discharges from commercial, industrial, and institutional land uses in the Lake Champlain watershed that discharge more than de minimis levels of phosphorus to obtain stormwater permit coverage. As a practical matter this would require most of the existing development in Chittenden County to invest in stormwater controls.

Our Phase 1 Implementation Plan for the Lake Champlain TMDL recognizes stormwater is a source of phosphorus pollution that will need to be addressed during the implementation process. When I spoke to the press about this I emphasized that we expect to use our residual designation authority as part of our implementation of the TMDL but the first step is to bring together the various stakeholders to discuss how best to address stormwater from existing development, and that we needed to have the discussion about how improvements such as these, as well as

improvements to address runoff from farms, roads and other built infrastructure. CLF's position is that the polluter should pay – and that we should not be considering the cost to businesses as we roll out this regulatory authority.

**Vermont Yankee Thermal Discharge Permit:** Jon Groveman and Alyssa Schuren did a great job shepherding through the draft thermal discharge permit. They worked closely with Entergy to come up permit requirements that made a difference for water quality, but which VY could live with. The permit established a clear precedent related to a new standard that the technical staff and EAC believed was necessary, but then made it clear that because VY is closing, we would not be requiring them to make significant infrastructure investments to meet the standard. A sign of the success of this approach is that VY made no comment on the permit and David Deen and the other Enviro's were able to talk about the permit as a long awaited victory (since our technical staff agreed with their approach to measuring thermal impact). We will be collecting public comments on the proposed permit for 30 days and will then write up a "responsiveness summary" and issue the final permit which will be good for two years.

**Derby Walmart:** Developers of the Derby Walmart discovered that they had inaccurately characterized the soils in the area intended for their stormwater management. Consequently they are working to revise their design. We are hoping that the new design also addresses potential encroachment into the buffer along a headwater stream adjacent to the project. Their consultants and our staff are working closely on these issues.

**Waterbury Hydroelectric Project:** We held a meeting with the stakeholders and town of Waterbury on July 8 to review the 401 conditions before putting it on notice. The team will attend to answer questions.

**Morrisville Hydroelectric Project:** FERC released the Environmental Assessment evaluating the environmental impact of Morrisville's proposed hydro operations for their new license. The report found that the environmental impact of Morrisville's proposed bypass flow for the Morrisville and Cadys Falls development were not acceptable and stated any license would have conditions with the bypass flows recommended by the Agency.

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## **EVERYTHING ELSE:**

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

We have had some informal conversations with John Campbell about potential new chair for the Senate Natural Resources Committee. We feel strongly that it should be someone who lives in the Lake Champlain Basin (maybe Chris Bray?) who will be interested in working on the TMDL implementation which will be the major work of the committee in the upcoming session.

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

**Materials Management Plan in Effect:** On June 18 the Vermont Materials Management Plan (MMP) went into effect replacing the prior plan, written in 2001. This Plan will help guide municipalities and solid waste management districts to effectively implement the Universal Recycling law (Act 148). News of the release was covered by the Times Argus and the VTDigger. Municipalities charged with solid waste management will have one year from the effective date to submit a Solid Waste Implementation Plan for ANR to review and approve if found to be in conformance with the MMP.

**Geology on VPR:** On July 1, the State Geologist and Prof Charlotte Mehrtens of UVM were on Vermont Edition to cover geology topics and take calls.

**F&W:** Vermont Wildlife Course for Educators, July 13-18; Boating Infrastructure Grants Available; Vermont's Moose Lottery Drawing on July 17, at the Statehouse.

**Number One Brew State, Vermont Taps State Parks for New Pint Partnership:** Vermont State Parks and [Whetstone Station](#) in Brattleboro have brewed up a partnership that features two State Park-named beers, Fort Dummer Summer and Molly Stark Dark, brewed with water sourced directly from those two State Parks. The partnership also includes free entry to State Parks and local charitable giving. Beginning July 16, Whetstone will give away up to 100 vouchers for free park entry into Fort Dummer and Molly Stark State Parks to patrons who order these limited edition brews. Fort Dummer Summer, with a release date of July 16, is a tribute to the beautiful Fort Dummer State Park in Guilford. Molly Stark Dark, being released on August 13, is a tribute to the Vermont State Park of the Year, Molly Stark State Park in Wilmington. The launch dates of each brew are set for Whetstone's Community Pint Nights. Each Wednesday, \$1 from every brew sold goes to a local charity.

### **Legislative Contacts:**

**Solar Summit Planning Meeting:** Justin and OPLA Senior Planner Billy Coster met with Darren Springer to discuss a 'Solar Summit' scheduled for July 16. Rep. Klein will host the summit and bring legislators, regulators, developers, industry representative and community leaders together to discuss policy, permitting and other issues related to solar development in the context of meeting the state's carbon reduction and renewable energy goals.

**Climate Change Research/Policy Conference:** UVM and the Legislature's Climate Caucus are planning a day long symposium in late June on Climate Change. I was asked to participate in the organizing committee to help craft an agenda that will help legislators learn more about the issue and help them understand what we are already working on at ANR and through the Climate Cabinet.

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

**St. Johnsbury Sewer Line Break, Drinking Water Contamination:** On June 25, DEC received a report that sewage from a failed municipal wastewater disposal line entered the public water system effecting service to approximately 160 - 175 individuals, including an elderly housing complex, a doctor's office, a church and mixed residential housing. At the time of the incident, the affected properties were not being provided water due to the construction project. Contamination occurred during a planned permitted water system improvements project. A plug in a cut wastewater disposal line "let-go" and sewage from the line filled the contractor's excavation trench and filled about 500 feet of the new drinking water distribution main line just prior to the completion of construction. The public was notified, and the water system was shocked and flushed. The municipal operators are currently in the process of collecting coliform bacteria samples to determine the effectiveness of these maintenance activities at eliminating biological contamination from this section of the water system prior to allowing use again.

**Barbara Ernst - Carrigan Failed Septic Complaint (Fisher Point Road):** I personally called Barbara to let her know that we sent the head of our Enforcement division to look into her complaint and that he found no violation, or evidence of past violation, on this property. She was very upset (as we knew would happen – which is why I called instead of staff.) She then contacted the Regional Engineer in an effort to appeal the determination of no violation found. No new information was provided during this follow-up complaint. The complainant then contacted EPA Region I. Region I has now responded to her via letter letting her know that they do not have jurisdiction over the complaint. The appeal period over the town's determination that the Carrigan's property can be used as a year round residence has nearly run and it is expected that if DEC takes no action that the complainant will appeal that determination. I also followed up with calls to her local legislators, all of whom contacted us about this complaint.

**Supreme Court GHG Decision:** The U.S. Supreme Court issued a decision on EPA's regulation of greenhouse gases under the Clean Air Act permitting provisions. The Court determined that EPA cannot require permits for sources solely due to their greenhouse gas emissions. However, sources that are required to obtain a permit anyway due to other conventional pollutants may still be subject to permitting for their greenhouse gas emissions. The vast majority of sources that EPA was subjecting to permits for their greenhouse gases were also subject to other pollutants and thus would continue to be subject based on the recent court decision. The decision may, however, affect IBM as well as other semiconductor plants in MA and NH that were subject to Title V operating permits due to their greenhouse gas emissions predominately from the use of perfluorocarbons with very high greenhouse gas potentials.

**Forest Legacy Program Review:** The U.S.D.A Forest Service is conducting a "Program Review" of Vermont's Forest Legacy program this week. Officials from the Forest Service are meeting with Lands Administration and Forestry Division staff to discuss program requirements and challenges; assess the Department's administration of the Forest Legacy program and stewardship of Legacy projects; meet with Vermont's Forest Legacy NGO partners including the Vermont Land Trust, Trust for Public Land, and The Conservation Fund; review Legacy project records; and conduct site visits to completed and proposed Legacy project areas.

**Statewide LiDAR:** DEC worked with AOT and other partners to secure \$80,000 for Statewide LiDAR from the US Army Corps Silver Jackets program.

**Superintendents Association:** On June 13, Waste Management staff met with Superintendents, School Boards, and Principals Associations to introduce them to the Universal Recycling law and the requirements that are placed on schools. We received a lot of great feedback and will be reconnecting with the Agency of Ed and other school related associations for partnerships.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of Legal and Planning Affairs**

**EAN/Solar Industry Workgroup Meeting:** OPLA facilitated another bi-monthly workgroup meeting that included staff from ANR, PSD, VAAFM, and ACCD, solar developers, and executive directors from Energy Action Network and Renewable Energy Vermont to continue our efforts to streamline permitting of well sited group net-metered solar projects. This installment focused on the potential for legislative permit/process reform related to the siting commission recommendations and discussion of ANR's proposed check-list/guidance document intended to clarify and standardize the solar permitting process.

**Costco Trial:** The Costco trial moved into its second of three (possibly 4) weeks. ANR General Council, OPLA land use attorney, and DEC staff attorney are representing ANR and supporting witnesses from the stormwater, monitoring and wetlands programs. This trial has involved a significant amount of staff time (mostly just waiting around) and reaffirms our belief that the current system is broken and that on the record review of environmental permit decisions is necessary.

**Renewable Energy Atlas/ANR Natural Resource Atlas:** OPLA and ANR IT staff met with staff from PSD to discuss PSD's interest in expanding the renewable energy planning tools available to Vermonters. Currently the Sustainable Jobs Fund hosts the Renewable Energy Atlas; PSD would like to broaden the functionality of that atlas and incorporate much of the data and tools associated with ANR's very popular Natural Resource Atlas on-line mapping tool. ANR offered to provide technical assistance, to incorporate renewable energy data into our existing Atlas, or potentially develop a new mapping tool for PSD; given those options PSD will regroup internally and continue the conversation at a later date.

**TDI New England Clean Power Link:** TDI provided ANR with an updated Water Quality Modelling work plan for their proposed 100-mile lake bottom construction component. The modeling is necessary to demonstrate the project's compliance with state water quality standards during construction. Staff from OPLA and DEC have worked closely with TDI to identify gaps in their initial proposal and help their consultants to revise the model to better address pollutants such as phosphorus. ANR will review the plan in the coming week and provide comments back to TDI. TDI also informed ANR that they have hired the Manley's from Middlebury College to

assist in gathering lake data. The Manley's have already analyzed TDI's New York State lake data to determine if it's applicable to the VT alignment, while most data is applicable, TDI will have the Manley's conduct additional research this summer to fill in gaps.

**Vermont Gas Addison-Rutland Phase I:** Vermont Gas obtained their final permit for Phase I from the Army Corp of Engineers and plans to begin construction immediately. While VG is able to begin work on the vast majority of the Phase I alignment, VG's CPG includes requirements that they secure mitigation for impacts to the Pine Oak Heath Sandplain Forest and Red/Silver Maple Green Ash Swamp. Construction cannot commence in either of these two communities until VG has obtained for the benefit of ANR, conservation easements that can satisfy the mitigation requirements for each parcel. ANR continues to work with VG to identify and secure the mitigation parcels.

**Solar Technical Assistance:** OPLA staff provided technical assistance and coordinated staff review of a proposed 2mw solar facility in Bridport, a ~2mw solar facility in Sudbury and a 500kw group net metered solar facility in Pittsford. OPLA attorney represented ANR Thursday at a PSB hearing for the 1mw Rutland Renewable Energy project, ANR and the applicant have entered into an MOU for the project that addresses amongst other things, wetland and GHG reporting.

**PCP in Utility Poles:** OPLA attorneys, along with the Health Department, are leading a multi-agency response to the residents' request to open an investigation into the practice of using Pentachlorophenol (PCP) on utility poles – submitted in the context of the Vermont Gas Line Project in Addison County.

**New Applications:** OPLA received 7 new Sec. 248 applications and 14 new Act 250 applications this week. WOW!

### **Environmental Conservation**

**LC TMDL:** EPA Region 1 submitted two proposal ideas to headquarters for additional funds for DEC: (\$60,000) to support contracting services we need as part of the Lake Champlain Phosphorus TMDL for a cost-benefit analysis of the Better Back Road Best Management Practices (highest priority), and an evaluation of the developed land impervious surface thresholds described on the TMDL Phase I plan. Funding is competitive. We should learn soon whether we have secured these funds.

**Nutrient Trading:** VAAFM is managing a federal grant to investigate watershed-based nutrient trading with the US Dept. of Agriculture (NRCS). DEC has been assisting VAAFM by drafting a RFP seeking technical assistance (supported using \$50K of Ecosystem Restoration Program Operating and \$50K of federal funds). At VAAFM's request, DEC will manage the RFP, which we expect to release in the coming weeks.

**Water Infrastructure Finance and Innovation Act:** As part of WRRDA (Water Resources Reform and Development Act), Congress recently passed a new "WIFIA" (Water Infrastructure

Finance and Innovation Act ) program, modeled after the USDOT's TIFIA, considered a very successful federal program to provide financial support for transportation projects. It is a 5-year pilot, separate from State Revolving Funds, with a potentially significant increase in federal funding for infrastructure projects.

**Website:** DEC recently signed a project plan authorization with The Nerdery, a website developer and data management entity. HMC, our prior contractor, was unable to complete the work because of a delayed timeline (we stretched the timeline due to financial reasons), and an overabundance of other contracts, once DEC was ready to reengage. We have developed a detailed project plan and Statement of work with The Nerdery. Our staff are working closely with the Vermont Information Consortium (the developer of the state portal) and The Nerdery so that they can understand what features and functionality the portal supports.

**Contrails/Chemtrails:** In response to several recent complaints/inquires, Air Quality & Climate staff developed a fact sheet pertaining to aircraft contrails and chemtrails. Visible contrails are long, thin "condensation trails" composed primarily of tiny ice particles that sometimes form behind aircraft at higher altitudes. The term "chemtrails" is used to describe what some believe represent secret attempts to modify human health, behavior or climate through the widespread distribution of various chemical agents, often allegedly including the elements aluminum, barium and/or strontium.

### **Fish & Wildlife**

**Legal Updates:** Next week, ANR will issue 2 NOAVs to PCL Civil Constructors and Tetra Tech, LLC, for violations regarding T&E species. Both are contractors for VTrans in design build projects involving bridge construction and relate to the failure to properly identify, survey and protect endangered species, in accordance with the applicable statutory and T&E permit conditions. ANR has coordinated with VTrans on the issuance of the NOAVs.

**Turtle Release:** Staff helped lead a turtle release event at North Hero State Park with ECHO staff who had raised Soft-shell and Map hatchlings that were provided to them last fall. There were about 35 participants evenly split between happy parents and even happier kids, as well as 10 kayakers who just happened to stop by. We released 19 Soft-shell and 3 Maps from 2013 that had grown substantially as well as 4 Maps and 2 Painted Turtles that staff recovered from nests this spring (both species can overwinter as hatchlings in the nest).

**Osprey Nest in Danger:** Staff discussed an issue with an osprey nest on a landowner's property in West Addison. The nest has collapsed a couple times over the years and one adult was hit by a car last year. The nest needs to be moved off the hot utility line but the landowner does not want a new pole nest on her property. The only option may be to recommend to Green Mountain Power to remove the nest after nesting is completed in September.

**Search & Rescue in Pownal:** Wardens assisted the state police in a search for a missing woman. They were tasked with patrolling a river on kayaks in case the woman had entered the

water. They didn't locate anything and the woman eventually walked out of the woods just over the New York state border.

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

**Long Range Management Plans:** The public comment period for the draft management plans for the Kingdom Heritage Lands (West Mountain Wildlife Management Area and the Public Access Plan for the Plum Creek Timberlands) ended recently. District staff and project partners, including the Vermont Land Trust, The Nature Conservancy, and Vermont Housing and Conservation Board, are reviewing this input and will be developing a responsiveness summary and making various revisions to the plan documents. District stewardship staff have nearly completed a revised draft long-range management plan for the Camel's Hump Management Unit (Camel's Hump State Park, Camel's Hump State Forest, Huntington Gap Wildlife Management Area, and Robbins Mountain Wildlife Management Area) which is expected to be approved for public release later this summer. Final proposed long-range management plans for Atherton Meadows and Knapp Pond WMAs have been submitted to the Agency for review and are expected to be approved by the Agency in the near future.

**Camp Removal:** On June 27, State Lands Forester Dave Wilcox, Forester Emily Potter and Diana Frederick met with F&W Game Warden Chad Barrett to inspect an illegal campsite on the Perry Hill Block of CC Putnam State Forest in Waterbury. Staff then dismantled the site by removing the tent platform and tarp, taking all hardware out of the trees, scattering the collected firewood and basically removed all features of the camp. This site had been reported to FPR by an individual who observed the campsite while visiting the property. Perry Hill is not an area designated for primitive camping, but even if it was, this was not primitive camping.

**FEMA Repairs:** Foresters Jason Nerenberg, Mike Johnson, Matt Leonard and Forestry District Manager Bill Baron led two separate showings of FEMA storm damage recovery work on Camel's Hump State Park in Duxbury and Bolton. Contractors viewing the project sites asked many questions and offered practical advice on various aspects of FEMA-funded repairs to critical infrastructure on CHSP.

**Stowe Mountain Resort Storm Damage:** A blowdown as result of a microburst occurred at the Stowe Mountain Resort on Mount Mansfield during a storm on July 3 or 4. Since trails and the new zipline construction site were affected, State Lands Forester Brad Greenough will be visiting this site.

**Johnson State College Sale:** According to Lamoille County Forester Ray Toolan, the Johnson State College anticipated timber harvest is moving along. Ray has been GPS'ing boundaries, the trail system, "special areas" and other features. This is a slow process as he is dealing with the State colleges with a myriad of administrative layers so he is proceeding in a very much step-by-step process. So far, so good. The actual harvest should be occurring this winter.

**Parks Attendance:** Park visitation for this year is 30% ahead of last season. Day use is up 49% and camping 8%.





**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: July 11, 2014

Subject: Weekly Report

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**Governor Level Issues:**

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

**VGS:** VGS filed their modified cost estimation for Phase I, due primarily to increased costs of construction in bids received. Up \$37M from \$83M to \$121M. We have received several press inquiries. Jeb and I met with the Addison County delegation yesterday – they are recommending we do more to make legal services available to landowners facing eminent domain, thoroughly critique VGS’s cost estimations and reason for “over-runs.” We are working on options and I owe them an e-mail next week. We will be filing comments with the board but the cost increases still are far below the expected benefits so we’ll be urging the Board this does not alter the CPG results and not to delay the construction due to any process they wish to engage in because of the new estimates. I have a call into Don Gilbert to discuss further and am awaiting their proposal for Phase II that is now late.

**Regional Initiative:** I met with VELCO Board on the third last week and had a good discussion of the regional initiative - with all its warts and concerns. I think they appreciated hearing we are fully aware of the difficulties and concerns associated with

moving forward. This will be a topic at the Governor's CONEG breakfast during the NEG/ECP mtg on Monday. NH and Vermont think we need to figure out faster market solutions to the gas problem. CT has an unrealistic expectation about moving forward (wanting to complete RFP review and project selection process by January – (which is crazy on many fronts) while I think NH, VT and now MA want to slow this way down. I will do briefing notes on this over the weekend for you. Other states may be asking for Governor's reaction to doing another statement in August reiterating need to work together but emphasizing state's commitments to renewables, efficiency, and DG. I also met with VELCO and GMP management yesterday to discuss the RI further, and specifically the topic of what, if anything, it is reasonable to expect Vermont to contribute to a regional initiative.

We received both the CLF Public Records Appeal and multiple press inquiries about it, from VT Digger, AP, VPR, and I'm responding that I have received the appeal and am evaluating the request. NESCOE also getting many press inquiries and attacks from CLF. As CLF seems to be working through VT, I have been stating this has and will continue to be an open and transparent process, beginning with the Governor's direction to us to work on this, but that we are a long way away from any work product or proposal. We will hold public meetings and opportunities to comment when we have something to comment on, but we do not yet have a proposal to be considered.

**Deerfield:** It appears that GMP will be moving forward with a recommendation to their Board that they purchase Deerfield. They are also believing it is the appropriate time to simultaneously re-power Searsburg. While this is good news, it means a delay in any announcement until probably September. We will be working with them to try to facilitate the process and get ducks in a row before any announcement.

**First Wind/Sheffield:** Placed a call to Geoff Hand. Discussions with the Therriens are not dead, but they're not moving very much either. Proposals and counterproposals are still be given, but they are pretty far apart on what each party thinks is a reasonable sum.

**BT:** Public hearing in Burlington. Filed testimony last week which we reviewed with the Mayor's office. I believe he is happy, as we are fully supportive of the proposed resolution of this matter if not how we got here.

**FairPoint Anticipated Strike** – The CWA are voting this week whether to authorize a strike at FairPoint. It is safe to assume that the union will authorize a strike. It is generally believed that a strike will commence around August 2.

**VSNAP/DCAP:** Getting to the point where we'll need to move forward with appointments of some kind. Entergy expects to have Site Assessment to us by October 1. Would be great to have an earlier meeting in August or September on overall decommissioning process and discussion of SA before that occurs.

**Vermont Renewable Energy Credits:** A NEPOOL market participant attempted to start a process that would result in Vermont Renewable Energy Credits (RECs) being separately tracked in the Generator Information System (GIS) and also altering the GIS such that Vermont RECs could not be counted toward compliance in any state unless that state made an affirmative finding that Vermont RECs should be counted. VPPSA and DPS staff were successful in having NEPOOL reject that proposal based on the arguments that (1) it was based on an inaccurate understanding of the SPEED program and (2) the proposal would transfer control of state policy from states to market participants.

Connecticut Public Utility Regulatory Authority is holding a workshop on July 21 to discuss whether the Vermont SPEED program constitutes double counting of Vermont RECs. DPS staff will be present to explain the Vermont programs and argue that there is no double counting until 2017, at the earliest. A recent letter from NextEra seems to imply they are backing off their insistence that VT's program "double-counts" RECs. We're making progress on this one!

## **Meetings:**

July 7 – PSD/VEC meeting

July 8 – Chris meets with Harlan Sylvester – good meeting – nothing "bad" happening (anymore) that he wanted to tell me about; Chris/Darren/Asa meet on RPS at 5<sup>th</sup> floor; Chris meets with Matt Cota, Mike Ryan and Joe Rose on propane issues; PSD/GMP meeting on VY windfall; Darren meeting with Todd Bailey of KSE and Andrew MacLean of MMR to discuss energy/legislative issues

July 9 – Chris meets with ROV along with Governor and Pat Moulton; Darren participates in video conference with Senator Sanders and DOE Asst. Secretary Danielson regarding Moniz visit follow-up

July 10 – Chris and Ed McNamara meet with GMP and VELCO; Darren delivers opening remarks at Gas Pipeline Safety meeting at Norwich University; Chris and Louise Porter meet with Addison County legislative delegation and Jeb Spaulding to discuss ANGP phases I and II.

July 14 – Chris, Darren and Ed McNamara attend NEG/ECP meeting at Bretton Woods

July 15 – Chris participates at decommissioning briefing at NRC

July 16 – Solar summit at State House

July 17 – PSD meeting with Neal Lunderville BED/McNeil; Special CEDF Board Meeting

**Media:** Darren quoted in Seven Days story on IBM, regarding rate freeze agreement. Chris in VT digger on Regional Initiative and PRR appeal. Lots of press inquiries today on VGS cost "overruns," and CLF appeal today and yesterday.

## **Everything Else:**

## **PERD**

### SEP Competitive

- Commercial Energy Efficiency Finance Program
  - Received budget change request to add 2 new sub-contractors to the program and decrease the amount of funding used by one other approved sub-contractor
  - Processed invoice #22 (\$18,337.45)
- Labeling/Benchmarking and Interconnection proposals
  - Both proposals were completed and uploaded to DOE on the deadline - Monday, June 30<sup>th</sup>.

### PERD Awards

- DEV Outreach –
  - Reviewed the final report, shared it with VTrans and ANR, approved the final invoice of \$460 and closed the grant.
- VSJF Energy Atlas Grant –
  - Sent their amendment to extend the grant through Nov 30 to load LIDAR data. Requested that they hold all work to automate the CEDF and Sitting Commission maps until PSD makes decisions regarding which route(s) to take to set up PSD's in-house tools and databases for energy project mapping.

### Renewable Energy Items

- Heard back from GMP on the potential ANR operation lands for state solar projects; the only good candidate seems to be the Essex Tree Nursery property, but they need more information on how much land there is available and how many neighbors could be affected. They're still reviewing the BGS properties and asked for additional location-specific information on two of them.
- Heard from ANR that they may have concerns with a net metered wind turbine proposed in Dorset, due to its proximity to a major bat hibernaculum. The turbine is one of the Star Wind models proposed for manufacture in VT by Jason Day, whose application to the CEDF community solar & wind RFP was not chosen for funding. Also heard "through the grapevine" from ANR that a 12 MW PV project is being explored in Rutland by a MN company. (There has also been some press about this project due to 45-day notice filings.)

### Net-metering

- Began to create the structure for the net metering report due Oct 1.
- Sent letter to PSB and stakeholders regarding REC transparency requirements of ACT 99 and PSB form. DPS intends to object to petitions as incomplete if installers do not begin to fill out the REC data box in coming months, as required by ACT 99.
- Requested data from utilities on the NM systems actually *installed* on their systems, rather than just the CPGs approved. WEC has already responded.
- Working on Act 99 net metering study literature review.

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**Net Metering Activity 6/21/14 – 7/4/14**

	Registrations*	Applications	CPGs Granted
<b>Count</b>	50	4	64
<b>kWAC</b>	323.57	406.2	1052.54
<b>Ave Size kW</b>	6.472	101.550	16.446

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**Cumulative Capacity of Registrations and Applications Submitted**

Year To Date		Total Since 1999	
2013 kW	2014 kW	1999 – 2014 kW	% of 15% CAP
4705.23	7096.18	44244.52	~ 30.4%

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

\*\* Note: That table does not include systems larger than 150kW that go through the full 248 process. Those projects (pending or approved) total approximately 12 MW to date.

***Engineering*****VY to Perform Enhanced Control Rod Monitoring based on Industry Operating Experience**

In compliance with operating experience recommendations for all Boiling Water Reactor (BWR) operators within the US, VY has instituted a program to measure its control rod insertion abilities against a criterion known as the Cell Friction Metric (CFM) limit. Evaluating to the CFM limit assures that all control rods will fully insert upon demand in spite of adverse conditions (friction) potentially caused by the combined impact of fuel assembly bowing (expansion), lower system pressures during some operating conditions and the location of specific control rods within the reactor core. While CFM limit is of minimal concern at VY due to its shorter (18 month) fuel cycle length (vs. 24 months at other BWRs), its less susceptible fuel design, and its relatively high (1000 psi) operating pressure vs. the operating pressure of concern (< 800 psi), operators will nonetheless monitor 12 of VY's 89 control rods more closely for the remainder of VY's last operating cycle because of this program.

**VY Addresses On-Site Air Conditioning Issues**

Hot weather and local thunderstorms on July 1 and 2 resulted in the malfunctioning of several industrial air conditioning units at the VY site. Consequently, air conditioning was unavailable within most of the plant's Reactor and Turbine buildings on July 3. While malfunctioning air conditioning may sound like a rather mundane concern, it could have resulted in significant plant operational issues had the Reactor Control Room been affected by these malfunctions. Air

conditioning was fully restored to the affected buildings over the Fourth of July holiday weekend. (Note that the air conditioning remains out of service in one non-essential building on-site. Restoration is expected in this last building once a replacement part is received, most likely by the end of the day on July 9.)

#### VY Nuclear Alert System Phones Found to Be Non-Functional During a Training Session

The State Nuclear Engineer (Tony Leshinskie) was notified that on July 1, voice communication using VY's Nuclear Alert System (NAS) telephones was discovered to be non-functional. The NAS phones serve as a back-up to the InForm System for notifying the State of Vermont of emergency classifications during an on-going alert or emergency condition. Recently, VY installed Voice Over Internet (VOIP) phone lines to supersede the use of the landline-based NAS phones for notifying the State of emergency classifications. Nonetheless, VY had the NAS phones repaired and returned to service. (A subsequent test of the NAS phones verified their restored operability.) Emergency Management staff for Vermont, New Hampshire and Massachusetts were notified regarding this outage.

#### State Nuclear Engineer Interviewed by Rutland Herald Reporter

At the request of the Public Service Commissioner, Chris Recchia, the State Nuclear Engineer (Tony Leshinskie) was recently interviewed by Susan Smallheer, a reporter for the Rutland Herald. The interview focused on Tony's nuclear power background and his initial observations regarding whether VY was being run safely despite its imminent cessation of power operations. The interview was conducted on July 2, with Tony answering several following up questions during a brief July 8 phone interview. It is expected that the resulting news article will appear in either the July 13 or the July 20 (Sunday) edition of the Herald. Because the Herald and the Montpelier Times-Argus frequently share resources, the news report is likely also appear in the Times-Argus.

#### Gas transmission pipeline construction inspection services

The Public Service Department has selected a company to perform inspection activities during construction of the VGS Addison/ Rutland gas transmission pipeline. The Engineering Division has informed the company of this decision and is currently negotiating/preparing a contract.

#### Gas pipeline inspection activity

The Department Gas Engineer inspected Vermont Gas System Inc.'s distribution system procedures and records this report period. Field verifications were also performed. The USDOT Pipeline and Hazardous Materials Safety Administrations (PHMSA) categorizes these gas pipeline safety code compliance verifications as Standard Distribution Inspections. No immediate hazards to public safety were discovered.

#### SDPP Grant Project Report and Water Sector Damage Prevention Forum

The Department and Norwich University are administering an event, on 7/10/14, to present the results of a State Damage Prevention Program grant research project completed by the university. Following the report presentation at the Norwich University Library, a forum will be held to explore the cost/benefits for water sector operators (supply and waste water) to be

One-Call members (membership with the underground facility One-Call center, i.e.: the Dig Safe Systems Inc. call center). Approximately 60 representatives from all facets of underground facility protection in Vermont are expected to attend.

#### VELCO & PSD Periodic Meeting

Engineering met with VELCO on June 27, and was briefed on the ongoing work at VELCO. VELCO is thoroughly evaluating the conditions at all of its substations, and the next one to be upgraded is St. Albans, which is expected to be submitted for review in August. All of the VELCO lines have been reviewed and pole replacements for condition or for line clearance issues are being scheduled or currently underway with an estimated 139 poles to be replaced. Due to lack of ability to take some lines out of service for the pole work, VELCO is now going to do some work with the lines energized. The first will be the K51 line where 27 structures will be worked on energized. FERC mandated that all lines be reviewed for their ratings – particularly sag issues. VELCO found 226 locations and has corrected them, (each one was not a major problem, and 2 more need review). The Essex STATCOM device repair / replacement has been bid on by several vendors, which are presently being evaluated, with the end of the year as a goal for a final decision on the project. All of the VELCO transformer fleet has been evaluated and VELCO has two new spare units being delivered soon and will be going out to bid soon on two more – the goal is to have a spare for each voltage transformation on the VELCO system.

ISO-NE has completed a new analysis and now confirms that there are no thermal limits in the northern part of the state and the system can accommodate all of the present generation along with the full output of the Highgate Converter. There are, however, voltage issues being caused by frequent switching of the capacitors at Jay along with this issue causing the synchronous condenser to hunt to maintain the proper voltage in the area.

A new VT/NH needs and solutions study is expected to be reviewed at the ISO-NE Planning Committee in August. The study seems to indicate that there is high voltage in the area at times. All present and future ISO-NE studies will no longer include VY. The studies also indicate that there is no more need for new generation in the central VT area.

VELCO is going to start a project to update all of their easements to present day standards. The old Bennington substation de-commissioning project is nearly complete, and the design for a new cable under Lake Champlain and its routing is underway.

#### Weekly Summary of Underground Damage Prevention Activities

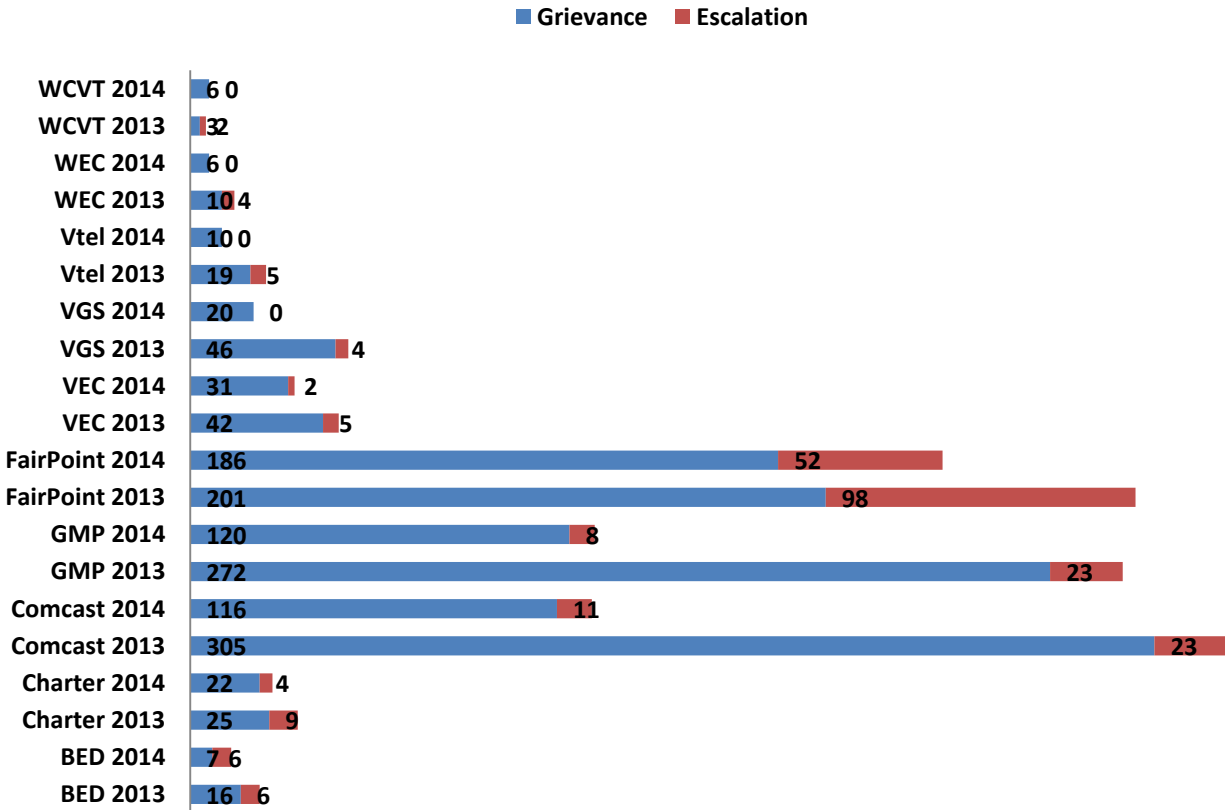
- \* Underground Facility Damage Reports (UFDR) received: 3
- \* Notice of Probable Violations (NOPV) issued: 5
- \* NOPV Agreed to by Violator and paid to PSB: 4
- \* NOPV Challenged by Violator and requesting a hearing: 2
- \* PSB Orders issued: 0

#### **CAPI**

*Unless otherwise noted, this report covers the two weeks from Sunday, June 22 to Saturday, July 5, 2014.*

#### **CALL DATA**

## Number of Complaints Investigated, by Company YTD 2013 and 2014



### DEFINITIONS:

Grievance: 1) An investigated complaint about a regulated service where PSD determined that the utility did not do anything wrong, 2) An investigated complaint about an unregulated service, whatever the outcome of the investigation (wrongdoing or not on the part of the company).

Escalation: A complaint about a regulated service that PSD investigates and finds wrongdoing on the part of the utility. This includes situations where a utility's resolution process failed to address a complaint and resolution was not reached until DPS became involved.

### *Public Advocacy*

GMP Rate Case and Alternative Regulation – Docket Nos. 8190 & 8191 – Technical hearings were held on June 19. GMP has developed a draft proposal for decision (PFD) with the input of other parties. GMP will be filing the unopposed PFD on July 9. All that remains at this point is briefing on the issue of whether GMP's heat pump program should be conducted under a tariff. There is no heat pump tariff at present.



Burlington Telecom – Docket 7044 – The Department filed testimony in support of the bridge financing arrangement and an assurance of discontinuance negotiated between the City and the Department. The Board issued 64 questions to the City examining the details of the proposed bridge financing. Answers to those questions are due July 12, 2014. The Board held a public hearing in Burlington, which was well attended. Most speakers were in support of the transaction but voiced a preference for some type of ultimate public ownership of the assets. A technical hearing in the docket has been scheduled for July 22, 2014.

Addison Expansion—Docket 7970—Vermont Gas, with the support of the Department, AAFM and one of the affected landowners, has proposed a schedule for the post-CPG process for the Board-ordered realignment on Old Stage Road in Monkton. Pursuant to this proposed schedule, VGS filed supplemental testimony on July 7. An affected Monkton landowner has filed a Motion to Delay Construction pending resolution of the VELCO penta-poles issue. Responses are due July 14. Given that the Department and other involved agencies have recommended a separate investigation on this issue, we plan to oppose the Motion and let the investigation proceed.

VGS advised the Board of the increase in capital costs over that which was budgeted. The Board has solicited comments on these overruns, due July 21.

Addison Expansion Phase 2—Docket 8180- The Department filed its direct testimony on June 13, together with the other non-petitioners, and discovery was served on that testimony on June 20. Responses are due July 18 and drafts are being circulated for review.

Charter Hill Solar Project – Docket 8212 – The Department has worked through most, if not all, outstanding issues with the Petitioner, and is reviewing the Petitioner’s draft MOU. The parties expect to file a completed MOU with the Board next week.

Charter Cable CPG Renewal – Docket 7820 - The Department is preparing its direct testimony, due on August 8<sup>th</sup>. The Department met with Charter on July 8<sup>th</sup> for initial settlement discussions, and the PSD shared a list of proposed conditions it plans to describe in its testimony. The parties will be engaging in follow-up discussions in the coming weeks.

Rutland Renewable Energy, LLC – City Solar Garden Project – Docket 8182 – PSD, GMP and the petitioner negotiated the contents of the additional proposed “economic benefit” findings that the petitioner submitted to the PSB. The PSD, GMP and ANR supported these findings and waived the right to review and comment on the hearing officer’s PFD provided that it is substantially similar to the one submitted by the petitioner.

NextSun Solar – Park Street – Docket 8194 – The Department will participate in the technical hearing on July 10th. The PSB clerk has advised the petitioner to be prepared for questions regarding its levelized 25- year PPA cost as described in its discovery responses.

NextSun Solar – Main Street – Docket 8195 – The Department will participate in the technical hearing on July 10th. The PSB clerk has advised the petitioner to be prepared for questions

regarding its levelized 25- year PPA cost as described in its discovery responses.

Champlain Valley Solar – Docket 8248 –No motions to intervene were received. The PSD is reviewing petitioner’s responses to PSD discovery.

Willoughby Water – Docket 8117 – Based on the DPS recommendation, the PSB closed this docket. In a related matter, the PSD is reaching out to customers regarding the owner’s request for a temporary rate.

Vermont Yankee Nuclear Power Corp. (VYNPC) Revenue Sharing Funds – No Docket – As a result of a settlement in Docket No. 6545 and the high energy prices from this past winter, Entergy owes VYNPC \$17.8 million in “VY Revenue Sharing Funds.” GMP is now the sole owner of VYNPC (having merged with CVPS and bought out the shares of the other utility owners). It is undisputed that GMP is entitled to 55 percent of these funds (representing the collective ownership share of GMP and CVPS at the time of the sale and present entitlement of GMP under the wholesale power contract), but entitlement to the remaining 45 percent (approx.. \$8 million) is unclear. As part of the settlement in the GMP rate/alt reg case, GMP will flow through \$5.96 million of these funds to ratepayers in the year beginning October 1, 2014, and has committed to flowing all VY Revenue Sharing Funds that GMP is or becomes entitled to (plus interest) to ratepayers no later than September 30, 2017. GMP and the Department are in discussions on this issue, and the Department is coming up to speed on the complex legal issues surrounding entitlement to these funds, potential legal challenges (and venues), and strategy going forward.

Kingdom Community Wind – Docket 7628 – PSD is seeking to develop a consensus around a continuous monitoring proposal for this wind project, by having PSD, GMP and opponents’ experts collaborate. The Lowell Mountain Group has no ability to hire an expert, so PSD is considering having that expert (Stephen Ambrose) sub-contract to PSD’s expert for the purpose of participating in this effort.

WEC Net Metering Tariff – Tariff No. 8505 – The Department learned from the clerk of the Board that the Board has approved WEC’s Net Metering proposal, which departs from the traditional net metering criteria, as authorized by 30 V.S.A. § 219a(o). The Board’s approval is over the objections of Renewable Energy Vermont. A letter is expected from the Board any day.

WEC Rate Case – Tariff No. 8507 – The Department’s finance team is continuing its review of WEC’s proposal to increase rates by 3.78 percent. At the same time, the Department’s CAPI team has raised some specific concerns regarding policies employed by WEC, as well as a more global concern that WEC does not currently have a Terms and Conditions Tariff on file with the Board. Instead, WEC’s “terms and conditions” are contained in its bylaws and assorted “policy bulletins.” The Department has reached out to WEC to understand the reason for this anomalous treatment of terms and conditions and conveyed its position that WEC should file a

tariff containing terms and conditions. WEC is due to report back shortly. A Department recommendation on whether the Board should open an investigation is due July 16.

Winooski One Rule 4.100 Proceeding – Docket No. 8010 – This proceeding remains in a state of regulatory limbo, with the parties all requesting that the Board take some action in response to briefing on the scope of the proceeding that was completed in the summer of 2013. In the interim, solar developers seeking to enter into a PURPA contract under Rule 4.100 are being rebuffed by VEPP Inc., which has taken the position that the absence of currently effective Rule 4.100 rates render it unable to enter into an avoided cost contract under Rule 4.100. Most recently, on July 2, VEPP Inc. provided such a response to a request by Field Days Solar Farm (a proposed 3 MW solar facility). VEPP Inc. noted that it is waiting for the Board to provide clarity on how it should proceed in the context of Docket 8010.

VTel/SBA Tower 248a – Docket 8162 – The Board held an evidentiary hearing to examine whether the project would conform to the town plan. The Town of Richmond argued that conformance with zoning regulations was also fair game in terms of answering the question of town plan conformance. The hearing officer seemed skeptical of such claims. Briefs are due July 29, 2014. The Department supports the project.

Stowe Business Process Review – Docket 8074 – The Department and Stowe reviewed all responses to the audit RFP, and have agreed on Lummis Consulting as the auditor. Lummis (f/k/a Shaw Group) conducted the audit of VEC with positive results. SED and the Department are working toward putting a contract in place with Lummis. The audit will likely begin in early August.

Sudbury Solar 2.0 MW Solar (Std Offer) - Docket 8225 – PSD along with Petitioner and ANR moved for an extension of the schedule to allow more time to determine if a stipulation on outstanding issues can be reached. PSD is evaluating aesthetics, and specifically mitigation, but is likely to support the project. New proposed stipulation deadline is 7/21, with proposed technical hearing on 8/26.

Bridport Solar 2.0 MW Solar (Std Offer) - Docket 8234 – PSD along with Petitioner and ANR filed a stipulated settlement in this matter on 7/8. Petitioner agreed to move the solar array slightly to the east and south in response to a request by PSD's aesthetics consultant. The parties also agreed to determine what if any landscape mitigation was required during a post construction site visit. PSD also supported Petitioner's request for a waiver of PSB Rule 3.500 regarding National Electrical Safety Code (NESC) compliance obligations, instead asserting that the project would comply with the National Electrical Code (NEC). Petitioners proposed an agricultural fixed knot style fence, which our aesthetics consultant preferred over chain link. PSD did not provide opinions on whether the proposed fence height and design complied with either electrical code, leaving the burden of proof of demonstrating compliance on the petitioner. (This approach follows the PSB precedent recently set in the Sudbury Ervin 500kw solar net metering project CPG NMP # 3754 Order of 6/25/14.)

Demand Resource Plan Proceeding - EEU 2013-01 – PSD is negotiating Quantitative Performance Indicators with BED and VEIC to determine if we can reach a consensus. Parties are making progress but cannot finalize proposals until the PSB issues a budget order, which is expected any day now.

Westminster Dukeshire Solar 500 kW Solar project– CPG NMP # 3663 — PSB issued a CPG for this project on 7/3. The Department had supported the project in comments filed with the PSB on 4/7. Our comment letter made clear that we were unaware of any comments filed by any citizen, adjoining landowner or municipal, regional or state agency. The CPG Order reflects the fact that on 4/4 comments were filed by two adjoining landowners. The Board neither forwarded those comments, which primarily dealt with aesthetics, to the Department, nor requested that the Department or the Petitioner respond to them. Instead, the Board addressed them in the order saying that neither letter had raised a significant issue with any substantive criteria. This underscores the importance of PSD explicitly noting whether it has received copies of public comment, as we do want to remain responsive in our role as public advocate.

GMP/VELCO Georgia Interconnection Project-Docket 8205— A brief technical hearing was held on June 30. Board staff had questions for the petitioners’ witnesses, but no party had questions for any other party as an MOU among the Petitioners, PSD and ANR (the only parties) was successfully negotiated and filed with the Board, together with a joint Proposal for Decision.

Vermont Gas Plouffe Condemnation—Docket 7819—Oral argument as requested by the landowners was held on July 9 in this case of first impression involving a preexisting utility line. The landowners objected to the Hearing Officer’s Proposal for Decision, which found that the condemnation was necessary. The P for D was supported by the Department and Vermont Gas.

## ***Finance and Economics***

### Electric

VPPSA 2014 IRP (Integrated Resource Plan) - Staff continues to participate in the ongoing review of preliminary load forecasts along with stress tests for key power supply variables. Going forward the Department will encourage VPPSA to include selected financial projections and financial analyses of a limited number of alternative options. The IRP is scheduled to be filed in the fall.

### Gas

VGS - Tariff 8506 Quarterly Rate Adjustment for the Under or Over Collection of Purchase Gas Costs. VGS filed its quarterly Purchase Gas Adjustment (PGA) on May 28, 2014 to be effective with bills rendered August 7, 2014. The PGA reflects a 4.08 percent increase in overall firm rates based on an 8.98% increase in gas rates. The increase reflects an under collection of revenues of \$542K for the prior quarter. Staff is reviewing the filing and will complete our

recommendation that is due July 22, 2104.

VGS 2014 Base Rate Filing – The Company filed its preliminary cost of service on June 30, 2014 (was due on June 27) for the October 1, through September 30, 2015 rate year. The filing is requesting an overall rate increase for its firm customers of 2.34% or \$2,007,874. The Department has begun a review of the filing. Our recommendation is due on September 26, 2104.

#### Energy Efficiency Utilities

BED - Staff received the May EEC general ledger and monthly report and completed its review finding no exceptions of note

VEIC - Staff received selected EEC information for review and found no exceptions of note.

Fiscal Agent - Staff worked with the FA concerning the missing information for EEC from GMP for November, 2012. The FA has reviewed their records and believes an error happened prior to 2009. Staff has reviewed information back to 2005 and has not found any indication of a possible doubling up of reported EEC revenues. Our inquiry continues.

BED - Staff is reviewing the company's monthly report.

VEIC has filed a request with the Board to review and override the Department's 6 month old recommendation that VEIC pay for the initial and any subsequent configuration costs for converting data into formats needed by Opower. VEIC would like the utilities to pay the full cost of the configuration. We are continuing to examine this issue in more detail before recommending solution.

#### EEC Invoices Authorized for Payment:

BED: May 2014 EEU invoice -	\$ 230,305.94
VEIC: May 2014 EEU invoice -	\$3,541,513.96
GMP: Dec 2013 EEF Payment -	\$ 8,019.71
GMP: Dec 2013 CEED Payment -	<u>\$ 646.01</u>
Total	\$3,780,485.62

#### ***Telecommunications***

FairPoint Anticipated Strike – As described above, CWA are voting this week whether to authorize a strike at FairPoint. It is generally believed that a strike will commence around August 2. It is rumored that if FairPoint is successful in lowering its financial obligations to the union that it will actively seek a purchaser for the company or will merge with another company. As Frontier recently purchased the RBOC property in Connecticut there is a thought that Frontier might be interested in purchasing the NNE FairPoint property.

Comcast Merger with Charter – Comcast and Charter Cable have filed a joint-petition seeking

approval for Charter to be acquired by Comcast. In New England Comcast will acquire the Charter properties and in the Mid-West Charter will acquire Comcast. This merger is subject to federal approval of the merger of Comcast and Time Warner. The joint petition was filed pursuant a section of the Cable Act which would require a Board decision within 180 days. The Board has yet to docket the case.

Comcast CPG Renewal – The Board has scheduled a prehearing conference in the Comcast CPG Renewal case for July 23, 3014.

FairPoint Successor Alt Reg Plan – The Department continues to work with FairPoint to agree to a successor alt reg plan. FairPoint would very much like to reach a settlement prior to the anticipated strike in August.

Broadband data request – In preparation for the request for broadband availability data for 6/30/14, PSD staff reviewed Act 190 to ensure that data gathered can be responsive to the reporting requirements for the new Connectivity Division.

Maps on PSD website – PSD staff is working with VCGI to develop a plan to implement an interactive mapping capability for the PSD website.

Telecommunications Plan – Staff completed drafts of two sections of the telecommunications Plan dealing with future requirements and trends of the last 10 years. Staff has also begun the process of determining layout and format for the Plan. The Plan will follow the statute and consist of the following reports:

1. Executive Summary (Draft Complete)
2. Future Requirements looking ten years ahead/past ten years (80% Complete)
3. Current assessment of telecom infrastructure, other state comparison (Almanac) (90% Complete)
4. Assessment State telecommunications needs (DII)
5. The Plan: Policies and Strategies.

Staff is in the process of setting hearing dates for the public comments requirement of 202d. Staff has communicated extensively with DII to have a state telecommunications needs section drafted. Staff, however, is concerned that without more commitment from DII, the Plan will not have a state telecommunications section that meets the requirements of Section 202d (4).

CPG and Tariff Filings – Staff commented on several CPG applications and CPG revocation requests. Staff also prepared comments for the last of the switched access tariffs.

248a Report –

A summary of Department comments on 248a applications filed in the past couple of weeks:

Comments filed	Applicant/Location/Type of App	Brief Synopsis and DPS recommendation
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6/27/2014	Verizon/Springfield at 900 Randall Hill Rd/ <i>de minimus</i>	collocate on 119' monopine; recommended approval once applicants reconcile equipment specifications and surface area calculations
6/27/2014	AT&T/New Haven/ <i>de minimus</i>	collocate on 80' silo; recommended approval
7/1/2014	Verizon/South Hero/ limited size and scope	collocate on 71' concrete silo; pursuant to DPS request applicant submitted supplemental filing; DPS recommended approval but wished for dimension lines verifying the no more than 20' width expansion
7/8/2014	AT&T/Barre - Auditorium Hill Rd/ limited size and scope	collocation on 41.5' municipal bldg., replace and add antennas; recommended approval once PSB receives coverage maps or otherwise deals with issue

New 248a issue: In three recent limited size and scope applications one WISP has not provided coverage maps that show signal propagation, because the WISP's focus in the projects is to enhance and improve coverage rather than to expand it. The DPS is meeting next week with the applicant to discuss the matter.

New 248a issue: A facility in the Old North End of Burlington that involves collocation of antennas atop two new buildings has evoked involvement from the City of Burlington over aesthetics and deference to municipal and regional plans. Before making recommendations to the PSB, the DPS has encouraged the City and the applicant to work together to ameliorate the City's concerns.

### ***Regional Policy***

#### Forward Capacity Market Performance Incentive Program

- ISO-NE has developed revised tariff language to comply with the Federal Energy Regulatory Commission's May 30 Order approving the Performance Incentive proposal. The revised language received zero support at NEPOOL's Market Committee due to the fact that ISO-NE read the May 30 Order narrowly and included a very limited exemption from penalties for those resources that cannot operate due to transmission constraints.

#### Governors' Infrastructure Initiative

- States had a call with NRG to discuss NRG's preliminary proposal that states provide an incentive for gas-fired generators to enter into contracts for gas pipeline capacity, with states paying some percentage of those costs. There was some skepticism from the states, but an agreement that states will continue to talk with NRG.
- VELCO has hired La Capra to do a study of the potential costs and benefits for Vermont ratepayers associated with importing Canadian power into New England. VELCO will be meeting with NESCOE staff to obtain information from NESCOE's consultant Black & Veatch about the energy market assumptions Black & Veatch used to estimate the costs and benefits of transmission and gas pipelines.



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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: July 11, 2014  
Subject: Weekly Report

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## **Vermont State Police**

### **A Troop**

25 Total arrests, 8 DUI

Williston Troopers handled 135 complaints

Suicide in Fairfax, 63 year old male suffering from COPD, Cancer, Diabetes, and alcoholism. Subject shot himself on his couch inside his home.

Two new assault on guard cases at CCCC

NUSI, L&L case involving 15 year old male uncle and 3 year old male nephew.  
WCSIU, sex assault involving 15 year old female at a party, unknown perpetrator

### **B Troop**

25 Total arrests, 7 DUI

10 vandalism cases over the weekend; 2 of the cases involved multiple vehicles having their windshields smashed out at St. J Auto & St. J Subaru.

Troopers responded to an assault in Westmore where two male partners (civil union) were assaulted by three males at the South Beach on Willoughby, cited for a hate related crime.

DUI resisting arrest, taser deployed

Homicide Investigation in Newport City. Male and female from Derby went to a residence of two other males in Newport city to confront them about nails being thrown



in their driveway in Derby. Male from Derby forced his way into the residence in Newport city and assaulted one of the male occupants by hitting him with a shovel. The other male resident and the male who was assaulted struggled with the Male from Derby outside on the lawn and the male from Derby was stabbed in the thigh and bled out on the lawn. Parties from Derby were identified as Kayla McCulloch and Isaac Hunt (Deceased). Parties from Newport City were Garrett Cornelius and Christian Cornelius. Christian Cornelius was identified as the person who stabbed Hunt. Based on the preliminary investigation and conversations with the Orleans County State's Attorney no charges have been filed yet. Follow up investigation continues this week. (Case officer is Sgt. Annis)

Several Correctional Center cases punched for drugs turned over / and two cases for smuggling drugs into correctional center

#### C Troop

15 Total arrests, 5 DUI

Fatal Lawn-mower crash on Bowlsville Road, Mt. Holly. Tpr. investigating. Alcohol involved and the deceased used the mower as transportation from a neighboring home to return to his house. He died on 7/4, and we were notified of his death on 7/6.

#### D Troop

21 Total arrests, 6 DUI

Responded to a report of a man relapsed on heroin and had a knife in Guilford; located the subject.

Noise complaint in Whitingham; turned out there had been a dispute between two males; one of the males shot the other male (victim received superficial wounds) and also the victim's vehicle was damaged; BCI responded and accused was charged with Aggravated Assault.

Reports there were significant traffic back-ups on I91 on Sunday (due to construction zone) (traffic was backed up for 5 miles) (Troopers assisted and monitored traffic)

Shooting in Whitingham, love triangle involving new boyfriend shooting at former boyfriend in vehicle.

Fire investigation in St. Albans. Construction worker sustained third degree burns on both legs. Flash fire occurred in the compartment the construction worker was working in when he attempted to cut some metal conduit.

Fire investigation in Winhall. Fire occurred at a commercial building. High dollar loss and majority of complex was destroyed. Exact cause still under investigation but believe to have been caused by fireworks. Winhall PD is continuing the investigation. Screened two fire calls, one in Rutland Town and the other in Poultney, both were suspected to be caused by an electrical issue.

## **Emergency Management/Homeland Security**

Issues/Updates:

Erica Bornemann will be Acting Director beginning Thursday and through the weekend.

Planning Section solicited information from the Rutland area on the storms from July 3rd and have handed that information to Recovery and Mitigation. All indication thus far is that reported damages are under \$500K and therefore do not rise to a sufficient level to warrant a FEMA Preliminary Damage Assessment request.

DEMHS drafted replies for review by the Governor's Office in response to constituent inquiries from Poultney regarding the July 3rd and from Dummerston regarding emergency planning (sirens and tone alert radios) in the EPZ after the VY shutdown.

The VT Police Academy ICS duties associated with the vacant position training coordinator position has been temporarily absorbed by DEMHS. Budget disbursements, instructor contracts and billing mechanisms are currently being deferred and restructured.

FEMA obligated an additional \$3,488,197 for three PWs from DR4163, including the big Vermont Electric Coop PW for \$3,424,491 (which had to clear the Congressional queue because it was in excess of one million dollars). These funds will be disbursed to VEC as soon as they submit final paperwork sent to them electronically on 07/09/14.

Legislative Contact:

Provided information to Director regarding a congressional inquiry from Senator Sanders office about the status of the Genser buy-out in Londonderry.

## **Fire Safety**

The Division received \$2.7 Million in new plan review construction valuation collecting \$16,000.00 in permit fee revenue.

Fleet Service working on vehicle order which includes two new trucks for the fire investigation unit.

Vermont Public Television contacted me yesterday and asked if I could participate in a new show regarding Hoarders. The concept was they want to air a story which depicts the impact Hoarders have on others. This specific request was to speak to the

challenges fire fighters face when dealing with the fire load. I advised VPT to contact one of the local fire departments to speak on this issue. We do not see much hoarding because we can regulate the storage in public buildings. I also told him not to hesitate to contact me any time to discuss fire safety issues. We have worked with VPT in the past.

Robert Gowen, Montpelier Fire Chief is likely to be voted in as Career Chief President. He will replace Ken Morton, Williston Fire Chief.

Richard King from the St. Albans area may be the new VSFA President. I have enjoyed working with Fran Buck not sure how he will be to work with.

I met with Matt Cota, Vermont Fuel Dealer, Joe Ross, President of the New England Propane Gas Association and representatives of the Heating and Ventilation Industry to discuss issues surrounding our Gas Certification Program. We will be making a rule change this year to address a curriculum change.

## **Criminal Justice Services**

### **Information Technology**

A contract has been signed and work will begin on Tuesday of next week on the development of plan for the replacement of the Spillman records management system with the focus being on moving to Valcour.

An RFP has been published seeking a document management system.

We are moving forward with the automated vehicle locator (AVL) project, with two demonstrations of AVL solutions on next Wednesday.

A new vendor has been selected to work on maintaining and enhancing the Vermont Crime Analysis and Mapping Portal (VCAMP). The original vendor, Fountain Spatial Inc., has decided not to offer support for the product. This creates an opportunity for DPS to explore new ways of enhancing this product. The new vendor, Bowne Management Systems, has worked extensively with the New York City PD and Nassau County New York Police Department on crime mapping solutions.

### **Vermont Crime Information Center**

The final report on the latest sex offender registry audit has been completed by the auditor's office. It does not show a favorable result for DPS/VCIC in the audit findings. However, the department has provided a written response to the report explaining many of the findings. The findings in the report do not have an adverse impact on public safety.

### **Crime Research Group (CRG) Inc.**

CRG is the replacement for the Vermont Center for Justice Research. We are still awaiting a contract to be approved between CRG and the State. The contract is at the Attorney General's office now seeking their approval.



**State of Vermont**  
**Agency of Administration**  
**Office of the Secretary**  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.adm.state.vt.us](http://www.adm.state.vt.us)

[phone] 802-828-3322  
[fax] 802-828-3320

*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**

**FROM: Secretary Jeb Spaulding**

**DATE: July 11, 2014**

**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

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

Land leases were signed this week with AllEarth Renewables to install solar trackers on site at the Southeast State Correctional Facility (Windsor), Northeast Regional Correctional Facility (St. Johnsbury), and Northern State Correctional Facility (St. Albans). The trackers installed through these leases will generate solar energy to power state buildings.

**Significant Events/Meetings:**

Public Safety: BGS and Public Safety met, in accordance with the Capital Bill, to develop an RFP for an independent consultant (or firm) to review/develop an operational governance and planning model proposal for the Criminal Justice and Fire Service Training Council in Pittsford. This evaluation, with recommendations, is due January 15, 2015 to the legislature.

AG/ANR Lab: BGS received 13 site proposal; a combination of development options or open land purchases. The project management team is currently evaluating all options and will report back by July 18<sup>th</sup> with recommendations.

PC Construction/WSOC: Met with Mike Stevens and Paul Rousseau to establish a system with accounting to review all “pay apps” and verify invoices and totals.

Vermont Veteran’s Home – Mold Remediation Project: Steve Howard, VSEA, contacted me with concerns that the State was not moving forward because of funding – based on rumors. I confirmed

with the Union that we are in the process of moving forward with the Phase II contract - bids received in June. Phase II is \$300K over estimate; we are evaluating options to address funding needs.

Heat Plant: BGS has established the proposed rate for energy. City of Montpelier and the project team continue to work on verifying numbers before the final rate is set. We have established a completion date of July 18<sup>th</sup>.

## FINANCE AND MANAGEMENT

### Financial Operations (FinOps) Division:

The RFP for requirements gathering for the VISION upgrade is scheduled to be issued next Tuesday, July 15<sup>th</sup>. If all proceeds according to plan, we hope to have a vendor selected by late September.

Year-end close is proceeding very well from a centralized perspective. We plan to close by the end of next week.

### Budget & Management (Budman) Division:

Commissioner Reardon is attending the Governmental Accounting Standards Advisory Council meeting this week in New York.

As of the afternoon of July 10, 2014, the food fight fund has received \$101,919.64 in donations from 982 individuals/organizations. This week, we received a \$53,000 donation from MoveOn.Org.

## HEALTH CARE REFORM

Nothing to report this week.

## HUMAN RESOURCES

Nothing to report this week.

## INFORMATION AND INNOVATION

### Status of Governor's Priorities:

#### Healthcare

- The Healthcare Optum assessment draft reports are back for initial review covering architecture, program management, etc. These reports appear to be mostly accurate and any discrepancies or misunderstanding will be resolved over the next week for final publication. There are very few things mentioned that the State was not already aware of.
- Vendor reviews continue for Integrated Eligibility(IE) project. Due to the limited duration given for review of each proposal, the review process is less detailed than we like to understand the technology details proposed. Hopefully there will be time to do so once we narrow the list to one or two vendors. The Enterprise Architects (EA) have asked Gartner to outline when the EA deep dive activities will be scheduled so details on alignment to Health



Service Enterprise Platform(HSEP), Tier 1 Infrastructure, Tier 2 Application M&O and overall solution architecture can be assessed. This will be critical in calculating Total Cost of Ownership (TCO) and sustainability of the HSEP.

- CGI continues to work on aligning resources toward security work in light of the suggested CMS letter but it appears to be too little too late.
- As of this update, late June CMS POAM report has not showed a reduction in High and Medium findings.

#### **Press/Media Notes:**

Peter Hirschfeld contacted us to get a picture of the State's mainframe for use in his HSE story. We provided an escort so a photographer could take a picture in our South Burlington data center.

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

- Richard will be on vacation next week, returning to the office on 7/23.

### **LIBRARIES**

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

##### **August 1-2: E21 Conference (Champlain College)**

VTLIB has partnered with SparkFun Electronic to sponsor the E21 conference at Champlain College. Registration is now open and slots are still available. Description from the conference website:

[www.e21con.org](http://www.e21con.org) "E21\* is an immersive two-day conference that will bring together librarians, educators, workforce development professionals, makers, and artists. Over the course of the conference, participants will explore emerging technology in support of a culture of creativity and innovation for the 21st century. Attendees will acquire a range of tools they can use in libraries, classrooms, and other public or private learning spaces, or for their personal creative or professional endeavors." Other sponsors include VT Digger, and VT Works for Women,

#### **Miscellaneous**

##### **7/1 – ReferenceUSA added to State Library collection of electronic resources**

This week we began a subscription to the searchable online database Reference USA. The database is for searching only in the State Library and is available to library staff and to visitors to the State Library in Montpelier. We purchased this in response to the demand for company and business information. In addition to use for answering questions from the public, we hope that state employees will find this useful. We will do some PR to state employees; state library staff will be available to do searches on behalf of state agencies, and we will assess the need for remote access for selected agencies (which, of course, raises the cost.)

*"ReferenceUSA is a database providing access to information on over 25 million businesses and more than 262 million consumers. Business listings include such data as company names, phone numbers, complete addresses, key executive names, SIC Codes, employee size, sales volume, geo-codes for mapping, contact details, franchise and brand information, news, liens, judgments and bankruptcies, and credit rating scores. Residential information comes from more than 5,200 White Page telephone directories, with each listing as it appears in the phone book. Information is available 8 to 12 weeks after the phone book, and the residential listings are processed through U.S. and Canadian National*

*change of address records monthly. U.S. residential listings also contain recent census information, including median household income, median home value, latitude/longitude, and percentage of owner-occupied housing. The database is continuously updated."*

**7/2 – Vermont Digital Economy Project (VT Council on Rural Development)** This federal Economic Development grant project will end this fall and will feature a conference on September 23: "Envisioning the Future of Vermont's Digital Economy" at the Statehouse. The Governor will address attendees in the morning and there will be a wide variety of programs and speakers throughout the day. I will participate as a facilitator/moderator at a session (yet to be named.) This month we will use grant funds to purchase computer equipment (laptops, tablets, digital cameras, etc.) for public libraries which have hosted digital literacy training (Internet Intern program.)

**Digital Literacy for Vermont Citizens** VTLIB will design and implement a "demonstration project" digital literacy program for citizens in selected Vermont public libraries in FY2015 using funds remaining from a Broadband Opportunities grant from the Bill & Melinda Gates Foundation (\$30,000). This program will build on what we have learned from the Internet Intern program of the Digital Economy Project. (CCV student "Internet interns" have provided one-on-one computer training to citizens at 24 public libraries.)

The Digital and Internet Skills Roundtable (formed in 2013 with members representing state government, non-profits and the education community) will complete an inventory of digital skills training programs in Vermont and create an online clearinghouse for citizens. The inventory survey was sent out on 7/9 to organizations across the state.

## **TAXES**

### **Legislative Update**

#### **Tax Reform**

Our POLA division has put together timelines of internal tasks to insure that we have sufficient data and policy analysis to inform decision points on the various tax reform ideas.

#### **Cloud**

We have finalized a draft regulation for public comment prior to initiating the formal rulemaking process (which we anticipate for late fall). We are posting the draft on our website, sending it to our advisory boards, and working with ACCD to circulate among industry types, and coordinate discussions.

#### **Online Travel Company Litigation**

The Department is responding to a FOIA request (more in the nature of a litigation discovery request) related to application of our rooms and meals statute to online travel companies. The documents released included some correspondence with Tom Torti and Sen. Ashe. In the meantime, the NH DOR has survived a motion to dismiss its suit against the OTCs. The NH DOR went straight to court against OTCs with claims to recover both rooms and car rental taxes, as well as claims based on the consumer protection act. The court found that DOR did not have to exhaust its administrative process since the OTCs did not file tax returns. The court then allowed the claims to proceed based on the tax and

Mike Stratton



thing FYI.

consumer protection statutes, but dismissed some other common law claims. It must be noted that the court did not appear terribly enthusiastic about the rooms tax claims, unfortunately citing a recent case from Tennessee where the claims survived dismissal but ultimately succumbed to summary judgment. The opinion was actually stronger for the DOR on the car rental tax (it should be noted that our car rental tax is administered by the DMV).

## **Operations**

### **VTax and Security Work**

Obviously, security of our IT systems is always of utmost concern in our line of work, and several matters have dovetailed of late. The IRS audits tax agencies every three years for its security around federal tax information, and we are still addressing some adverse findings from our 2011 audit that require new policies and procedures. Also, the VTax system will be less vulnerable (obviously given its more modern platform and elimination of multiple interfaces) however we still need to address issues such as who has access to what data. We have hired Berry Dunn as consultants to start writing policies, and then, as money permits, procedures to implement them. They were onsite for two days this week, mainly discussing the gap analysis, and we will have to prioritize a great deal. In the meantime, we have given security duties to both our Director of IT, and our administrative manager, and we are working on an RFR to reposition one of our IT positions as a full time security analyst.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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From: Susan Spaulding  
Date: July 11, 2014  
RE: Boards and Commissions Update

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**Appointments Made 7/1/2014**

Justice of the Peace, Barre Town:  
APPOINTED: Paul Malone

Selective Service System: to serve on Local Board 01 (Chittenden County)  
APPROVE APPOINTMENT: Aislinn, Doyle, Burlington  
APPROVED APPOINTMENT: Kathleen Berard, So. Burlington

Elevator Safety Review Board:  
REAPPOINTED: Leonard Bullinger, Colchester (Installs Elevators)

Aviation Advisory Council:  
REAPPOINTED: William Rozensky, Wells

Connecticut River Watershed Advisory Commission:  
APPOINTED: Jameson Doig, Newbury  
APPOINTED: Peter Blodgett, Thetford -  
REAPPOINTED: Tara Bamford, Thetford

Board of Nursing:  
APPOINTED: Kelly Sinclair, Danville (LNA)

Vermont Telecommunications Authority:  
REAPPOINTED: Pamela MacKenzie, So. Burlington (Chair)  
REAPPOINTED: Peter Meyer, Colchester (Vice Chair)  
REAPPOINTED: Stephan Morse, Newfane

Labor Relations Board:  
APPOINTED: Robert Greemore, Barre Town

Standing Committee for Developmental Services:  
REAPPOINTED: Julie Cunningham, Brattleboro (Professional)  
REAPPOINTED: Greg Mairs, Shoreham (Professional)  
REAPPOINTED: Barbara Prine, Burlington (Professional)  
REAPPOINTED: Edwin Place, Randolph (Recipient/Consumer)  
REAPPOINTED: Theresa Wood, Waterbury (Professional)

Interagency Coordinating Council for Families, Infants & Toddlers:

APPOINTED: Jennifer Hurley, Burlington (Educator)

Snowmobile Advisory Council:

REAPPOINTED: Timothy Mills, Bethel

REAPPOINTED: Starlene Poulin, Williston

REAPPOINTED: Norman Roark, Woodford

Governor's Council on Employment of People with Disabilities:

APPOINTED: Denise Bailey, Montpelier (Service Provider)

Tobacco Evaluation & Review Board:

APPOINTED: Scott Connolly, Burlington

Natural Gas and Oil Resources Board:

REAPPOINTED: Catherine Dimitruk, Fairfax

Vermont Center for Geographic Information:

REAPPOINTED: Richard Boes, Montpelier (CHAIR)

REAPPOINTED: Peter Fellows, Plymouth (Planning)

REAPPOINTED: Tom Hurd, Barre (AOT)

REAPPOINTED: Melissa Prindiville, Berlin (ACCD)

REAPPOINTED: Scott Roper, Lyndeborough, NH (Higher Ed)

REAPPOINTED: Bruce Urie, Craftsbury (VT Municipalities)

REAPPOINTED: Beverly Wemple, Burlington (Higher Ed)

REAPPOINTED: Aaron Worthley, Huntington (Private Environmental Firm)

Developmental Disabilities Council:

APPOINTED: Kay Stambler, So. Burlington (Fam Member of Ind with Dev. Disability)

APPROVED CHAIR: John Hall, Newport (Person with DD)

Vermont Pension Investment Committee:

REAPPOINTED: Vaughn Altemus, Williston

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin  
From: Michael J. Hogan, Commissioner of Liquor Control  
Date: July 11, 2014  
Re: Weekly Report

Status of Governor's Priorities: See Below

Legislative Issues/Contacts/Updates:

- S299: Working on the Powdered Alcohol Study included in this bill. I met with the Health Department folks and will work on the study this summer and fall.

Press Issues/Releases/Contacts: Nothing now.

Significant Events/Meetings: Next Board Meeting 09/03/2014 - Enforcement Hearings.

Evolving Issues:

- ERP/POS Project underway. New IT Manager started June 1.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Report hopefully in August.
- Planning an alcohol symposium for early December for policy makers, licensees, and industry partners.
- Working with VIC on break open ticket reporting process. Prototype has been developed.

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Summary of Key Department Activity:

- FY 2014 Sales were \$70,000,200. A new record in sales for the department. It was the hard work of all the warehouse and retail folks we have and our agents in the field. We have great customers and our Vermont products are known all over the world. Very proud of our folks.

Commissioner's Commentary: Have a great weekend.

**Legislative Prep Form**

**1) Issues/policy proposals that will most likely arise next year, either as unfinished issues from this year or new issues that are likely to be discussed**

- **Recreational Marijuana:** Sen. White sent out a note after the session stating that it will be brought to the table for discussion in Jan 2015. I have been following Washington and Colorado and have plenty of information and contacts. I would be glad to assist the administration in any way on their study that the legislature recently mandated.
- ***Washington State Liquor Control Board is opening its first retail stores July 8 and will be issuing 20 licenses for sale of recreational marijuana.***
- OLYMPIA, Wash. — As Washington state prepares to issue the first licenses for marijuana retail stores, Gov. Jay Inslee and other state leaders on Tuesday announced a coordinated

campaign to make sure pot stays out of the hands of minors once products start hitting store shelves next month.

- “Those who have led the effort to legalize this product understand that we’ve got to make sure those parents’ roles are respected and emphasized and that the health of our children is of our paramount concern,” Inslee said. Different state agencies are working together “to make sure the public has the information they need to make healthy decisions and the tools that they need to keep our kids safe,” he said.
- The Liquor Control Board will issue about 20 retail licenses on July 7, and the stores that are ready can open the next day. More stores will get licensed in the following days.
- **Agency of Controlled Substances:** Rep. Stevens has interest in an agency that oversees liquor, lottery, gambling, etc. Not enough information as to the goals. We don’t share that approach.
- **Moving DLC Enforcement to Public Safety:** Don’t think it’s a good idea. Not much gain by doing it as alcohol enforcement will be diminished with the needs of the overall agency competing for resources.
- **New Warehouse for DLC:** Department’s business is growing and the current warehouse is not large enough to handle that growth. Could be a build/lease situation. We will have a cost benefits analysis done as a foundation to going forward. Could be a recommendation out of the Auditor’s Performance Report.

## **2) Issues/Ideas that your agency/department would like to consider affirmatively putting forward:**

- **More flexibility in hiring and growing our business:** As a \$70+ million dollar business, we have very little flexibility as a governmental entity. I would like our department to be a pilot of what other states have done to grow their enterprise funds. My goal is to grow this business on all fronts and produce more revenue for the state. I will get you more details soon.
- **New Warehouse location mentioned above.**

## **3) Issues that will likely be discussed that may need a defensive strategy:**

- **Break Open Tickets:** We are in the process of automating the reporting of tickets from manufacturers and wholesalers. This was a change to our regulations suggested by the 2013 Legislative Session. This will give us a true accounting of what the “playing field” is. I still believe there is money to be made by regulating an industry that has no control at the present. If the non- profit organizations had more faith in the oversight of this process, I think more folks would come to the table and be involved. Tax has to move over the licensing and enforcement to DLC which was part of the initial legislation in Jan 2013. I will keep Jeb in the loop as to the reporting of these tickets.

Elizabeth H. Miller  
802-522-3090, cell  
elizabeth.miller@state.vt.us