

# WEEKLY REPORTS

Checklist  
3/22/2013

Elizabeth Miller/Aly Richards

- Agency of Commerce and Community Development – Lawrence Miller
- Department of Labor – Annie Noonan
- Department of Financial Regulation – Susan Donegan
- Agency of Education – Armando Vilaseca
- VT Commission on Lottery – Greg Smith

Louis Porter/Drusilla Roessle

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

Sue Allen/Leigh Appleby

- 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
- Department of Liquor Control

Other

- Irene Recovery Office

To: Governor Peter Shumlin  
From: Lawrence Miller, Secretary - Agency of Commerce and Community Development  
Date: March 22, 2013  
Re: Weekly Report

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**Affordable Housing Development:** Jen Participated in VHFA board meeting at which federal and state housing tax credits were allocated for eight affordable housing projects. The projects include new and preservation projects in Waterbury, Rutland, Benson, Vergennes, Brattleboro, Hardwick, Hinesburg, and Middlebury. The allocation for Ladd Hall in Waterbury puts the last major piece of funding for that project in place.

**Residential Energy Efficiency Improvements:** Jen Joined Lawrence, Chris Recchia and leaders of a wide range of lending, government, efficiency and housing agencies at a working meeting. Sponsored by the High Meadows Fund, the goal was to develop strategies for overcoming cost and consumer confidence barriers to energy efficiency home improvements.

Brooks House hit their 75% lease up requirement for bank financing.

Much appreciation to Sarah London for working on the legal issues with the wage liability piece of the labor bill. We got to a great solution that met DOL's needs, and creates no new liability for corporate officers but does make their existing liability clear and gives DOL and businesses a much clearer path to resolution. Thanks also to Louis and Annie.

Lawrence spoke to both AIV and Rutland Chamber groups for their Montpelier visits. Focused on the need to work together with the education system and to recruit workers into Vermont. Included remarks in both about the need to make sure we go forward with cultural awareness as when you control for age, educational attainment, and race Vermont's growth rate isn't all that different than the rest of the country, we just don't have a lot of people that are members of the groups that are growing. Diversity awareness will be important as we attract more people who are different than 96% of us.

Lawrence is going to see Jerry Tarrant Friday morning. They may have something ready on patent troll defense. Will coordinate with AG's office and Sarah London if so.

E911/Wireless Providers - the issue of costs to small wireless carriers came up this week and a meeting is scheduled w/ Jeb, Liz, Chris Recchia and Jim Porter to discuss this. At the root of the problem is a significant cost that wireless providers have to pay (per tower/per month) to a third party vendor for location data that supports E911. We want to be able to balance the need to provide accurate location data for public safety with our goal to encourage small carriers to invest in VT. I'd like to suggest that we also invite Commissioner Flynn and Chris Campbell to this discussion.

VTel/VTrans - Kiersten organized a very productive meeting between these two entities. It looks like VTrans will be able to assist on about 30 locations on state roads (not the interstates) where VTel wants to site towers. They will FW VTrans specific maps and prioritize which sites should be tackled first. VTel was very pleased.

HOME Funding Update from Sen. Leahy's office: "Don't want you to think I had forgotten about you. I had numerous calls in the HUD on this issue and finally just received confirmation that the information provided to us in December was accurate and that HUD will be respecting the \$3 million minimum allocation for states included in the HOME statute despite the cuts imposed by the sequester."

Memorandum

To: Honorable Governor Peter Shumlin  
From: Commissioner Annie Noonan  
Re: Weekly Report - Week Ending March 22, 2013

Issues of Critical Note: UI rate declined 5.1% to 4.7%. Another UI rate number will be coming out in about 2 weeks (possibly lower again). The successive numbers in just a few weeks happens each year due to federal reconciliation work. Reminder: sequestration will result in a 10.7% cut to Unemployment benefits impacting claimants' checks starting April 9<sup>th</sup>-11<sup>th</sup>. Met with SOA Spaulding and Commissioner Yacovone today on DCF's cut to VDOL Reach Up grant. DCF will be announcing the cuts and I will be working with DHR to begin the RIF process. VDOL lost a case at Vermont SCT on an ESB case, and I think the court was probably correct. Federal OSHA was here all morning - gave positive news to our inspectors regarding improving statistics.

Legislative issues: VDOL's bills: UI Tax Rate for Irene Impacted Business: testifying in Senate Finance (it appears they will mirror work being done in House Commerce. SEA is in Senate Finance. WC - Presumptive bill now in Commerce (facing opposition); Debit Card bill in Senate Finance; Wage and Hour: H280: passed (much help from Sarah London); issues resolved S.129: WC liens, discontinuance and attorney fees in court, with some changes from Senator Mullin is out of Senate Finance (insurers don't like it).

Unemployment Comp & Wage: Call Center Stats: For the week ending 03/16/13 we took 2,999 calls. This is an increase of 44 calls from the week ending 03/9/13. We processed 501 initial and 610 additional claims. This is an increase of 74 initial claims and a decrease of 69 additional claims from the week ending 03/09/13. 7 claimants exhausted all tiers of benefits with the week ending 03/16/13 compared to 12 claimants who exhausted all tiers of benefits during the week ending 03/9/13. We paid 9,083 claimants during the week ending 03/16/13 compared to 9,228 for the week ending 03/9/13. 147 mass Claims were processed for week ending 03/16/13. (Mountain Operations - 2; Sodexo - 145)

**Notes from NEK- From Cindy Robillard, Vermont Department of Labor Pathways to Prosperity Conference:**

This was a highly valuable learning experience. It offered strong nationally known speakers on the topic of Career Pathways, much opportunity for networking both with the Vermont team and with other attendees and very compelling data to support the need for workforce development reform. The Vermont group is meeting next Tuesday to compare our learning and ideas and discuss how what we learned can be introduced and implemented in VT. Some of my take-aways to share are:

All students need to be Career, College and Community ready when they transition out of high school.

The standard economic cycle is NOT going to resolve the current unemployment/workforce supply issues as it has in the past...especially with youth. Success measures need to change...instead of what degree will a student attain?...what skills will they attain and what job will they be prepared for? There is need to identify and promote the businesses that "get it" and understand that they play a key role in developing the workforce they need. Businesses need to reach down and "pull up" the workforce and ED/WD partners need to push the workforce up to meet them. National Governor's Board has a priority of Education and Workforce Training. What needs to be used to measure Career Ready...SCANS, ACT, NCRC and Industry Recognized Credentials. Credentials must be accessible, portable, relevant and lead to good paying jobs. Career Pathways is a "movement" that needs to catch on systemically in Education, Labor, Families and Communities. Finally, we need a sense of URGENCY around this topic...a "Sputnik" moment. After the meeting on Tuesday, I would love the opportunity to meet in person to share my thoughts on how VDOL can play a key role in this "movement". Let me know a time that might work. Just today, I have learned the names of four early sub-contractors on the Stateside Hotel project. They are Conrad Construction, JA McDonald, Northeast Framing and Spates Construction. I am making initial contacts with these employers to assess their training and recruitment needs.



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

**CONFIDENTIAL and PRIVILEGED**

To: Governor Peter Shumlin  
 From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
 Date: March 22, 2013  
 Re: Weekly Report

*Susan L. Donegan*

Legislative Issues/Contacts:

David Reynolds, Deputy Commissioner of the Health Care Administration, testified at the Senate Health and Welfare Committee on the DFR's telemedicine report and as a result, the committee changed S.88 rescinding the language that would have expanded the use of telemedicine. Currently it is permitted only between health care facilities, but the proposed bill would have allowed access from home or public computers. The DFR report recommended that pilot projects be created and tested before permitting the use of telemedicine in any venue. Those projects would be undertaken by DVHA and the Green Mountain Care Board and funded by the State Innovation Model grant.

He also proposed to the Senate Health and Welfare Committee that the moratorium on home health certificates of need be extended until 2017, which resulted in a change to S.73. The new language in the legislation also states that the Legislature could vote to change that date if, between now and 2017, the Green Mountain Care Board policies relating to home health services are modified.

Significant Events/Meetings:

The federal Consumer Financial Protection Bureau, newly created by the Dodd-Frank Act, has chosen Vermont as one of nine states to participate in the State Consumer Complaint Sharing Program. The goal of this pilot program is to design an electronic exchange of banking consumer complaints. Phase 1 will address how complaints received by the CFPB are shared with Vermont and the second phase will look at complaints received by Vermont and how they are shared with the CFPB. Vermont was chosen because of its small size and fewer complaints, which will make tallying test results easier.

Developments:

The National Flood Insurance Program, which is administered by FEMA, has released a report comparing insurance claims in states affected by Super Storm Sandy including the number of claims processed and the amount of money paid to consumers by companies providing flood insurance. The chart on the next page reflects information compiled for Vermont and a summary of all affected states between October 28, 2012, when Super Storm Sandy occurred, and March 20, 2013. Total claims numbered almost 142,550 and totaled more than \$6.2 billion whereas in Vermont only one claim was processed and no money paid out.



Banking  
802-828-3307

Insurance  
802-828-3301

Captive Insurance  
802-828-3304

Securities  
802-828-3420

## NFIP Claims Estimates

<b>FICO</b>	<b>300-North Carolina, 301-Virginia, 302-District of Columbia, 303-Maryland, 304-Delaware, 305-New Jersey, 306-New York, 307-Pennsylvania, 308-Connecticut, 309-Rhode Island, 310-Massachusetts, 311-New Hampshire, 312-Vermont, and 313-Maine</b>
<b>Event</b>	<b>Meteorological Event Sandy</b>
<b>Date of Loss</b>	<b>Oct 27, 2012 - Nov 06, 2012</b>
<b>Report Date</b>	<b>Wednesday, March 20, 2013</b>
<b>Report Frequency</b>	<b>Daily</b>

State	Total No. of Claims	No. of Claims Closed with Payment	No. of CWOPs	Total No. of Closed Claims	% Closed	Advanced/Partial Payments	Amounts Paid on Closed Claims	Total Amounts Paid on All Claims	Average Closed Claim with Payment
North Carolina	688	527	92	619	90%	\$689,274.00	\$8,329,431.07	\$8,593,559.76	\$15,805.37
Virginia	965	676	152	828	86%	\$1,043,380.32	\$10,385,535.15	\$11,005,298.39	\$15,363.22
District of Columbia	6	2	4	6	100%	\$0.00	\$3,153.84	\$3,153.84	\$1,576.92
Maryland	1,553	1,077	366	1,443	93%	\$2,398,265.14	\$14,378,891.62	\$15,781,591.86	\$13,350.87
Delaware	1,448	1,127	215	1,342	93%	\$2,184,844.36	\$12,809,900.58	\$14,299,849.00	\$11,366.37
New Jersey	73,738	60,872	6,297	67,169	91%	\$563,324,833.75	\$2,600,013,519.68	\$2,917,115,851.10	\$42,712.80
New York	56,645	48,129	2,755	50,884	90%	\$641,299,324.73	\$2,623,945,015.80	\$3,062,685,643.08	\$54,519.00
Pennsylvania	191	99	75	174	91%	\$147,856.29	\$1,184,504.05	\$1,241,408.05	\$11,964.69
Connecticut	6,106	4,964	534	5,498	90%	\$26,422,120.54	\$175,662,479.32	\$197,080,416.46	\$35,387.28
Rhode Island	1,042	712	194	906	87%	\$4,129,273.73	\$21,875,479.68	\$24,642,125.75	\$30,723.99
Massachusetts	160	89	48	137	86%	\$237,500.00	\$1,327,709.48	\$1,506,223.28	\$14,918.08
New Hampshire	0	0	0	0	0%	\$0.00	\$0.00	\$0.00	\$0.00
Vermont	3	3	1	3	100%	\$0.00	\$0.00	\$0.00	\$0.00
Maine	7	3	4	7	100%	\$10,000.00	\$44,387.17	\$54,387.17	\$14,795.72
<b>Total</b>	<b>142,550</b>	<b>118,277</b>	<b>10,737</b>	<b>129,014</b>	<b>91%</b>	<b>\$1,241,886,672.86</b>	<b>\$5,469,960,007.44</b>	<b>\$6,254,009,507.74</b>	<b>\$46,247.03</b>



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**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: March 22, 2013

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**CCSSO Legislative Conference:** This conference covered an update on sequestration/federal appropriations, the policy and politics of ESEA waivers, maximizing flexibility in the administration of federal grants, and an update on teacher preparation policy. There was also discussion with Senator Alexander, Senator Harkin and Congressional staff. There were not many details shared on sequestration, but attached is a handout that highlights some of the cuts and affects.

**US ED:** I and other state chiefs met with Secretary Duncan and we discussed the plans around the lack of reauthorization of ESEA and how this impacts states without waivers, since the law expires 2014. We also continued to push for more flexibility on student accountability systems that get away from a single measure and allow for multiple measures. I also met with Senator Sanders about the ESEA waiver, accountability and concerns around sequestration. Our federal funding will be impacted by 3½-5% due to sequestration and this is particularly an issue for AOE because so many of our positions are federally funded. Most of our School Improvement work is at risk and this will dramatically impact our support for schools.

**SBAC:** At the meeting of chiefs and state leads, we prepared items to be voted on at the chiefs meeting. We also discussed the status of the pilot program, the fourth quarter financial report and the preliminary quality review. At the open meeting of all SBAC chiefs, we approved the sustainability plan, initial achievement level descriptors, and college content-readiness policy. Currently, the cost of assessment should decrease by \$10-12 per student with this new system.

**Flexible Pathways Initiative:** I am happy to see that this is progressing. Yesterday I met with our education partner organizations around us all speaking with one voice on Flexible Pathways. Unfortunately, Joel Cook, VT-NEA, continues to be an obstructionist on this and other issues, but especially around Personal Learning Plans as he feels as this is more work for teachers. We are meeting again to attempt to iron out our differences, particularly around PLPs.

**School Bus Safety:** On Friday, staff and I met with Patrick McManamon, Transportation Program Specialist, DMV, to discuss the negative impacts bullying can have on our schools and communities

and how to better prepare Vermont school bus drivers for dealing with these issues, perhaps by incorporating enhanced training on this topic into the School Bus Clinic Curriculum.

**Nellie Mae Education Foundation (NMEF):** In the next few weeks you might be hearing from either NMEF or Tim Donovan with a request for a meeting with you to include Nick Donahue and Charlie Toulmin, NMEF; Tim Donovan, VSC Chancellor; David Wolk, NMEF Board Member and CSC President; Deputy Fischer and myself. The purpose of the meeting is to broadly share NMEF's agenda and vision with you and for you to share your ideas on education reform. Their vision connects well with your interest in Personal Learning Plans, dual enrollment, and how to best prepare all of Vermont's youth for success in college, career, and life. NMEF has provided Vermont schools with more than \$3 million over the last three years to help us in the work we are doing to restructure our secondary schools. I hope that you will consider meeting with this group.

**Multi-State Collaborative:** Vermont has joined Maine and Hawaii in a multi-state collaborative so that schools can purchase computers, laptops and iPads at a reduced price due to the combined purchasing power of this three-state collaborative. This is catching on nationally and there are up to twelve states that want to join us as they see us as forward-thinking and innovative in our approach to making technology affordable at the school level. This is an opportunity for schools, not a requirement.

**SBE:** We look forward to hearing from you at the SBE meeting on Tuesday. Much of the meeting's agenda will be focused on aspects of the revisions to State Board Rule 2100 – School Quality Standards. This work includes ensuring students participate in rigorous math experiences prior to graduation, in concert with the Common Core State Standards, and is also a reflection of your priorities for Flexible Pathways, Personalized Learning Plans, and College and Career Readiness. We hope you will join the Agency in encouraging the Board to adopt these new standards by June.



## Congress Must Prevent Sequestration From Setting Back School Reform

### The Facts

- Legislation to extend the Fiscal Year 2013 Continuing Resolution will lock in cuts that took effect when Congress did not enact an alternative to sequestration before the February 2013 deadline.
- Under the full-year Continuing Resolution that has passed the House, and the one now under consideration in the Senate, all Department of Education discretionary programs except Pell Grants will be cut by approximately 5 percent compared to the FY 2012 levels.
- For Department of Education programs, this will mean a loss of some \$2.35 billion that supports the education of disadvantaged students (such as those attending high-poverty schools, students with disabilities, and English language learners) and efforts to turn around low-performing schools.
- The major programs that are the cornerstones of the federal effort to improve K-12 education will be particularly affected. Title I funding for high-poverty schools will be cut by some \$720 million and IDEA grants for the education of students with disabilities will lose some \$579 million compared to their FY 2012 funding levels.
- Sequestration will set back statewide efforts to fix failing schools. Under ESEA allocation rules, a portion of Title I funding is reserved to support statewide systems of support for low-performing schools. This reservation will be limited if the sequestration cuts go through unless the Congress takes action to ensure that the set-aside for statewide school improvement is still available.

### What the Congress Must Do

- Spare education programs – especially the major education programs like Title I and IDEA that are essential to accomplish national goals – from the sequestration.
- If the sequestration is allowed to take effect for Title I, approve appropriations or ESEA reauthorization language that supports targeted statewide school improvement efforts.
- In the fiscal year 2014 appropriation, recoup funds lost because of the sequestration in FY 2013.

For further information, please contact Peter Zamora, Director of Federal Relations,  
[PeterZ@CCSSO.org](mailto:PeterZ@CCSSO.org).

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Mar 22, 2013**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

Additional progress on cost control for shipping and labor.

**Legislative Issues/Contacts:**

House Approp contact about their interest in trimming our FY14 budget – mostly focused on labor (due to changes in staff, not positions) and marketing.

**Press Issues/Releases/Contacts:**

We are in the midst of a large Powerball jackpot so we expect to have some media contact related to that.

**Significant Events/Meetings:**

n/a

**Evolving Issues:**

n/a

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**Summary of Key Agency Department Activity:**

This matter has been delayed further due to a not guilty plea. Hearing scheduled for April 2. A 13 year employee that was just promoted to field sales rep got a DUI and will likely lose his license for 90-180 days. HR is assisting, and his criminal hearing is set for 3/14. He is still out on relief from work until hearing dates – should occur within next 3 weeks.

At VLCommission meeting on Wed the commission authorized the Tri-State commissioner to vote favorably for offering an instant ticket game through the TS Lottery. We had input from the AAG to satisfy the commissioner's questions. When the vote occurs in TS we will update you.

Lottery sales throughout New England have been down since mid-January. We all relate it in some way to the 2% FICA increase back to normal levels, and some to the winter weather that hit the lower states harder than the northern states.

We had some good interviews for our web marketing position and will start the 2<sup>nd</sup> round in about a week.

**Executive Director's Commentary:**

I am preparing the RFP for our instant ticket vendor contract that expires in Jan 2014.

OFFICE OF THE SECRETARY

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Fax: (802) 828-3522

**Executive Privilege**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Brian R. Searles  
**DATE:** Friday, March 22, 2013  
**SUBJECT:** VTrans - Confidential Report to the Governor

**On to the Senate**

The Transportation Revenue Package moves to the Senate and Sen. Mazza has indicated that he wants to deal with the entire T-Bill in a relatively short period of time and that he will only "tweak" the House version. Issues that are on the table include the Indexing feature, some kind of fee for non-gas powered vehicles, a possible diesel tax component and "ironclad" language prohibiting the use of these revenues for any purpose other than transportation.

We will be providing some language to the committee on at least the first and last items on that list. I suspect that the committee will look unfavorably on a Corcoran provision to buy a piece of property on the southern leg of the Bennington Bypass since we have budgeted no money for this project and have no intention of building it.

**Affirmative Action Plan**

The Executive Staff at VTrans attended a meeting with FHWA Regional Civil Rights staff yesterday concerning the update of our AA Plan. This will be a tough negotiation due to our poor performance in attracting women to our Operations (Maintenance) Division. It is a serious workplace matter and potentially a serious financial matter as the flow of federal funds can be held up based on Agency effort and results.

In 1998 there were similar issues and the Agency undertook some extraordinary measures, such as mandatory interviews for women and minorities, in order to boost the numbers in Maintenance. The situation improved as the number of women increased from 15 in 1998 to 24 in 2004. However, we have steadily lost ground since 2004 and now stand at 12 women in Maintenance.

Although possibly just coincidental, we have learned that at least some of the extraordinary measures put in place in the Dean administration were discontinued in the Douglas administration. This may have happened inadvertently when the human resources functions, previously handled in-house, were consolidated and centralized

under DHR. We have been granted time to assemble a new plan and will have the cooperation of federal agencies in this effort. We are also discussing with DHR more access to raw applicant data to better understand and respond to our minority recruitment problems in Operations.

#### **Danville, Route 2**

This week marked a pre-construction meeting for the last phase of this project, the landscaping and work on the town green. As a reminder, this was a project in partnership with the Vermont Council on the Arts and included significant aesthetic components. Project completion is anticipated for this summer, at long last.

#### **Richmond Rockfall, I-89 Southbound MM 74**

Geologist inspection and some mitigation have occurred but danger still exists. Highway Safety and Design has programmed a scaling project that will begin as soon as possible under an existing contract. We are keeping an eye on this and asking the public to report any fallen rock that they observe within the travel lanes.

#### **Public Outreach**

Deputy Minter and I are continuing to do a series of open meetings in various parts of the state to hear people's concerns about transportation issues. Originally scheduled to support the revenue initiative, these have been more general discussions as we are not sensing a great deal of opposition to the gas tax unless it is siphoned off for other government purposes.

Last night I was in Woodstock, where the emphasis was on such things as lack of public transportation and inter-city bus. Meetings have also been held in St. Albans and Rutland and are scheduled for St. Johnsbury, Manchester and Brattleboro.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** March 22, 2013

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**Vermont Department of Health (VDH)**

- **County Health Rankings:** The 2013 County Health Rankings published on March 20<sup>th</sup> by the University of Wisconsin Population Health Institute and the Robert Wood Johnson Foundation revealed that income and education, diet and exercise, tobacco and alcohol use, and access to quality healthcare continue to be strong predictors of health in Vermont. Chittenden County was rated as the state's healthiest and Essex County the least healthy. Behaviors that cause early death such as adult smoking (12 percent to 30 percent), physical inactivity (15 percent to 25 percent), children living in poverty, and the unemployment rates revealed broad disparities between the two counties. Although routinely rated the nation's healthiest state, the report shows that areas such as the Northeast Kingdom are below the national benchmark standard for health while Chittenden County is among the nation's best.
  
- **Organ and Tissue Donation:** Through the positive efforts of the Organ and Tissue Donation Workgroup and the Department of Motor Vehicles (DMV), the number of Vermonters who have become registered organ donors is increasing rapidly. In January, the DMV implemented a new system for photographing automobile licensees that asks applicants if they would like to become registered organ donors. Because applicants must answer yes or no in order to proceed with being photographed, the system reaches prospective donors who would otherwise have to register on the Donate Life website. Historically, Vermont has had one of the lowest organ donation rates in the country. The increase in donors from 18,648 on January 7<sup>th</sup> to 31,958 on March 11<sup>th</sup> is promising evidence that Vermont's organ donation rate will continue to increase.

**Department of Mental Health (DMH)**

- Brattleboro Retreat received a Centers for Medicare and Medicaid Services (CMS) survey with deficiencies. This does not affect funding and the Plan of Correction is underway. Retreat will release to VT Digger on Monday. DMH has received the report and has requested that all psychiatric units submit their reports as they occur. The Vermont Association of Hospitals and Health Systems (VAHHS) agrees and is helping to facilitate.

- Press this week for DMH: WCAX-emergency room waits; humane transportation for mental health patients; Brattleboro Reformer and Rutland Herald-Brattleboro Retreat/CMS issues; Valley News-Act 79 report on mental health system.
- Department of Justice (DOJ) grant completed for law enforcement/mobile crisis training.
- Mobile crisis/law enforcement train-the-trainers model will blanket the state in May. Training will include peers, advocates and family members. This new interdisciplinary team is dubbed: *Team Two*.
- Secure Residential construction completion date moved to mid-April. Opening date now pushed toward end of May. Rules for licensing this facility are nearing completion by DAIL.
- Berlin Hospital and DMH Request for Proposal (RFP) for psychiatry and medical services at the new psychiatric hospital has been drafted and will be posted for bidders within 3 weeks.
- Meeting this week with Fletcher Allen (FAHC) and Central VT Medical Center (CVMC) to examine interest in the new psychiatric state hospital as partners in service. FAHC indicates interest in bidding on RFP, but CVMC is not able to extend a partnership through ancillary services due to the State Hospital's history. CEO Judy Tarr will re-examine her position if there is strong leadership within the hospital and a licensed hospital administrator.
- House Human Services supports a process that will allow the new psychiatric hospital to open with 16 beds and transition up to 25, as needed. DMH worked this week to determine the number of positions for 16-bed to 25-bed hospital, as well as maintenance of the secure residential. These position numbers have been given to HR, House Appropriations, House Corrections and Institutions, and House Human Services. Budget proposal in House Appropriations will, therefore, support final FY '14 quarter of secure residential operation, as well as 16-bed psychiatric hospital staffing in last quarter of FY '14. House Human Services requests that key legislative and administrative parties meet in November '13 with DMH to hear assessment of mental health system and bed need projections. This will outline the transition process to 25 beds and staffing /appropriation needed to meet that accommodation.
- New Commissioner search for DMH is underway; a majority of the applicants are from out-of-state. Interview committee to screen for recommendations to the Governor.

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

### On-going Issue:

- There was a day-long retreat on March 20<sup>th</sup> to reconfigure The Division of Disability and Aging Services (DDAS) into two units. One desired outcome will be a heightened profile for developmental services and greater accountability. Barring any unforeseen barriers, we would hope to implement the change no later than May 1, 2013. Community response should be positive or neutral. The two units merged approximately 5 years ago and neither integration nor greater efficiencies were realized.

## Department of Corrections (DOC)

### Press Issues/Releases/Contacts:

- Death of Department of Corrections (DOC) Director in Colorado: MONUMENT, Colo. — The Executive Director of the Colorado DOC, Tom Clements, was shot and killed when he answered the front door of his house. Police are searching for the gunman and trying to figure out if the attack had anything to do with his position. Commissioner Pallito and his family have been shaken by this murder.

### Significant Events/Meetings:

- Senate Judiciary: Senate Judiciary is taking testimony on a proposal to establish a detention unit within the DOC. The DOC would provide 24/7 monitoring of individuals placed on home detention. At issue are staffing and costs and expectations with violations. This is not a DOC proposal, we will provide a bill review, should a bill be drafted.

### Population:

- The overall incarcerated population has remained steady around 2,040; this is despite the continued high detention numbers which remain near the 400. The department has achieved these low numbers by maintaining a reduced sentenced population. The sentenced male population has reached below 1,900 and the sentenced female population is in the low 80's.

## Department for Children and Families (DCF)

### Evolving Issues:

- Vermont Child Care Financial Assistance Rates Falling Further Behind 2012 Child Care Market Rates: As part of the Child Care and Development Fund block grant awarded to states, the US Department of Health and Human Services recommends that states

establish child care financial assistance rates that allow assisted families access to at least 75% of the child care market. States are required to conduct a market rate survey every two years and reference state rates to the 75th percentile of market rates.

Survey results indicate that the Vermont Child Care Financial Assistance Program (CCFAP) rates are falling far behind the child care market in the state resulting in unsustainable co-payments for subsidized families.

The full report will be released to the legislature on March 25<sup>th</sup>, distributed to a list serve of community stakeholders and posted on the Child Development Division (CDD) website.

### Department of Vermont Health Access (DVHA)

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

- Provider Tax appeals: DVHA has been informed by the hospitals that appealed their provider tax assessments that the hospitals plan to file a case in superior court contesting their provider tax.

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

- Money Chairs: Commissioner Larson and Robin Lunge met with the four money chairs on March 20<sup>th</sup> to review the cost projections for the Exchange and summary of exchange funded position while the exchange is funded by the federal grants and after the positions need to be state funded. The staffing plan represents staffing peak of 66 positions during the design/development phase ramping down to 29 during the operation phases. The Administration's exchange cost estimate reflects these 29 positions. Also presented was information about some of the factors influencing the costs of contracts for hosting and call center services.

Important comments made during the conversation:

- (1) Janet Ancel suggested that the Legislature fund the Exchange at less than the projected cost because she feels the estimate is too high and to raise addition revenues later if needed.
- (2) Janet also commented that she did not feel that the exchange being successful in October would be a problem for Vermont's overall health care reform efforts. Martha Heath differed with this assessment.

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

- Administrative Rule: Over the past few months, DVHA staff have been developing small employer and employee health coverage administrative rules related to the Exchange. Throughout the development process, DVHA staff has hosted stakeholder input sessions

to gain as much feedback as possible from Vermont's employers and employees. At the end of this month (March 2013), DVHA staff will formally file the rule for review and approval with the Secretary of State's office. This formal filing will involve a public comment period, which will be advertised on VermontHealthConnect.gov. On March 18<sup>th</sup> HealthCare Payer News wrote about this process in their online publication.

- Contingency Plan: In order to receive full approval to operate a State-based exchange, CMS requires Vermont to develop a contingency plan to address potential risks that could prevent the successful development and operation of the Exchange. On March 15<sup>th</sup>, Exchange staff held a call with CMS staff to review the draft contingency plan. The conversation focused on four high risk areas: the ACCESS interface, the customer support center, premium processing, and Qualified Health Plan (QHP) contracts. CMS expressed its satisfaction with our progress to date for our conditional approval, and provided input for continued refinement of our planning for these and other lower risk areas. We still have significant work to do on contingency planning and reassessing scope for an October 1<sup>st</sup> go-live. This will happen over the next couple of weeks, and we will continue to keep senior staff updated on progress and decisions.
- IBM: Commissioner Larson attended a meeting with IBM representatives on March 21<sup>st</sup> about IBM's concern with the proposed increase in the claims assessment. We reviewed the current claims assessment and the value that it represents to IBM. We also reviewed the Governor's proposals in the DVHA budget about exchange funding, the cost shift proposal and premium and cost sharing assistance. Specifically, we discussed how the impact of the cost shift proposal would compare with the impact of the claims assessment proposal. We agreed that we would continue to work with IBM to assess the specific impact of the cost shift proposal. IBM was also interested in the State's efforts to lower overall health care costs. A brief overview of the State Innovation Model (SIM) grant was discussed.

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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: March 22, 2013

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**Secretary's Top Issues:**

Last week VAAFV & ANR had an agricultural working group meeting with dairy farmers & others. The group was able to create a document describing a livestock exclusion policy proposal for the legislature. The group was not able to get through a small farm certification program policy recommendation; the group will meet on 3/28 to finish that discussion. Basically farmers are ready & willing to implement a few new regulations, however their biggest concern is the current lack of enforcement staff capability at the Agency for small farms & the reputation it gives agriculture & a concern that more regulations without additional staff will only exacerbate the issue.

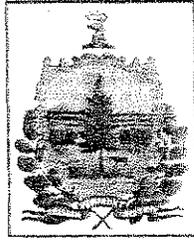
A quarterly meeting of the Livestock Care Standards Advisory Council was held on March 20<sup>th</sup>. Agenda items included a comprehensive discussion of proactive ways in which the Council can improve the welfare of livestock being transported on VT roads, to slaughter & for feeding, by licensed dealers/haulers. There is a need to make improvements in these areas, especially when transporting veal calves, in order to ensure that animals are treated humanely & that the economic value of individual animals is not compromised during transport.

The Animal Health Section is continuing its outreach to the livestock community on the new federal Animal Disease Traceability (ADT) rule by scheduling meetings with livestock dealers. A letter to dealers was sent out on Monday explaining the requirements of the rule. The USDA is still in it education & outreach role & the area office in Sutton MA will be sending out communication materials next week. Also relating to the new ADT rule, the AH Section is participating in USDA led partner conference calls to discuss animal movement throughout New England, NY, & PA & how the rule may or may not affect all of the different types of movement.

On February 26, individuals from Plant Industry, VT Forests, Parks & Recreation, & USDA APHIS PPQ met with foresters & managers from the McNeill electric generation station in Burlington. Our purpose was to discuss the Federal quarantine on emerald ash borer & the implications for woody biomass procurement as the regulated areas expand east & northward into the areas where McNeill has traditionally obtained their materials. Discussions included where & how the material is obtained & delivered to the facility, their on-site storage practices, & how they can best prepare for new regulations as EAB moves into northern NY & VT. Options under the Federal rule include heat treatment or kiln drying, removal of bark & sapwood of ash trees, or chipping to a specified standard. The best solution appears to be chipping material within the regulated areas to the 1-inch standard, under compliance agreement, overseen by USDA with AAFV cooperation.

A provision in a spending bill passed by the US Senate would avoid furloughs of U.S. meat inspectors as part of budget cuts. The spending bill was approved 73-26 today & now goes to the House. Earlier, in a voice vote, senators amended the measure to let the USDA shift funds among programs to avoid pulling inspectors from meat packing plants that require federal oversight to operate. It is still unknown the effect that will be seen on the federal funding of state meat inspection programs.

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Status of Governor's Priorities:

Jobs in Agriculture

Press

Dr. Haas is working with WCAX reporters, in association with the Vermont Veterinary Medical Association, on a story that WCAX has agreed to run on the state funded large animal vet loan repayment program. The program granted approximately \$28,000 to Vermont veterinarians during the first award cycle of the program in January of this year. The second award cycle will hopefully result in the same amount of funding being awarded to VT veterinarians willing to provide services to food animal-owning clientele in Vermont's underserved areas. The application deadline for the current award cycle is April 15<sup>th</sup>.

Henry Marcres, Chief of Consumer Protection, was interviewed on Monday by Jack Thurston of New England Cable News (and Channel 5) on the effects of the snow storm on maple syrup production.

Henry Marcres, Chief of Consumer Protection, was interviewed on Thursday by Corin Hirsch of Seven Days on a variety of maple issues.

Legislative Issues

S. 55 (introduced by Senator Pollina, a bill to create a financing and lending efficiency task force to examine the feasibility of one statewide entity for the purpose of state finance and lending): Deputy Sec LaClair testified before Senate Finance to reflect on the value/impact of this task force on state agency lead grant-making, specifically Working Lands Enterprise Initiative. LaClair stressed that 'one size doesn't fit all' and the critical need for expertise in sector development (ag, forest products) to effectively provide technical assistance as well as grant funds to businesses/organizations which are project-ready. Senate Finance voted the bill out 6-0-1 and sent to Senate Approps since the Task Force requires funding. State Treasurer Beth Pearce provided a list of suggested changes; Jo Bradley, VEDA CEO, stated that task forces can be useful by asking the right q's and examining data, however she cautioned that financial institutions must be well-capitalized and this is a very complex issue.

House Institutions requested clarification about the Fair Grants section in the Capital bill - the reasoning behind the Agency's initial request of \$180k each year for 2014/2015 - info provided Thursday pm.

Significant Events/Meetings:

A quarterly meeting of the Livestock Care Standards Advisory Council was held on March 20<sup>th</sup>. Agenda items included a comprehensive discussion of proactive ways in which the Council can improve the welfare of livestock being transported on VT roads, to slaughter and for feeding, by licensed dealers/haulers. There is a need to make improvements in these areas, especially when transporting veal calves, in order to ensure that

animals are treated humanely and that the economic value of individual animals is not compromised during transport. Materials will be collected by Council members over the next two months and a plan of action for distributing materials will be developed during the May 2013 meeting.

A quarterly meeting of the Food Safety & Consumer Protection Division was held on March 20<sup>th</sup>. Attendance was excellent and a wide range of topics was covered. The Division's strategic plan was reviewed in order to begin to update the list of challenges that had been documented by Division employees in November 2011 that impair the Division's ability to complete required duties in a timely manner. It was rewarding to see that some of those challenges have been eliminated or improved since 2011, and others still need attention from Division management. Thanks to Division employees for attending the meeting.

Animal Health is continuing to work with the Fair Association on the new horse pull drug testing protocol that should help the Agency recoup the costs associated with this program and decrease the babysitting it has required in the past. Jim Cameron attended the Fair Association meeting Wednesday night to provide the list of veterinarians willing to draw blood on the horses and to answer any questions. Although it is the fairs' responsibility to procure the services of a veterinarian, the AH Section agreed to poll VT veterinarians and compile a list of willing participants for the fairs.

### Evolving Issues:

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A dairy farmer in Franklin County had their contract with their milk handler terminated. The milk handler provided the dairy section a copy of the termination letter along with the quality records and reasons for the termination. Handlers are obligated to give 90 days of notice unless there are "violations of the sanitary regulations or standards applicable to the market in which the dairy product is sold or marketed" (VSA 6 §2752). If the farmer asks, Agency is obligated to hold an "informal" hearing and we need to stay the termination until the hearing. At the hearing, the handler will need to prove that the termination was "reasonable" and the farmer also is allowed to present evidence.

The Animal Health Section is continuing its outreach to the livestock community on the new federal Animal Disease Traceability (ADT) rule by scheduling meetings with livestock dealers. A letter to dealers was sent out on Monday explaining the requirements of the rule. The USDA is still in its education and outreach role and the area office in Sutton MA will be sending out communication materials next week. Also relating to the new ADT rule, the AH Section is participating in USDA led partner conference calls to discuss animal movement throughout New England, New York, and PA and how the rule may or may not affect all of the different types of movement. It is important to have our field staff and Stephanie Park on the calls as they have intimate knowledge how animals move into and out of the state and through livestock facilities.

### Woody biomass and biomass energy generation

On February 26, individuals from Plant Industry, VT Forests, Parks and Recreation, and USDA APHIS PPQ met with foresters and managers from the McNeill electric generation station in Burlington. Our purpose was to discuss the Federal quarantine on emerald ash borer and the implications for woody biomass procurement as the regulated areas expand east and northward into the areas where McNeill has traditionally obtained their materials. Discussions included where and how the material is obtained and delivered to the facility, their on-site storage practices, and how they can best prepare for new regulations as EAB moves into northern NY and Vermont. Options under the Federal rule include heat treatment or kiln drying, removal of bark and sapwood of ash trees, or chipping to a specified standard. The best solution appears to be chipping material within the regulated areas to the 1-inch standard, under compliance agreement, overseen by USDA with AAFM cooperation.

On a related matter, Plant Industry testified before the Public Service Board on the matter of the North Springfield biomass electrical generation facility on Friday, March 15. Questions from the board were limited to language associated with the settlement agreement we signed back in February, specifying how wood was to

be processed prior to importation to Vermont and how these materials are to be handled upon arrival in Vermont. No questions came from the petitioner or other parties at the hearing.

### Summary of Key Agency Department Activity:

#### Administration

In re: Goldberg/Highland Crossing 97-7-12 Vtec Legal counsel and co-counsel filed a motion to dismiss in an effort to narrow the scope of trial and finalized and filed the Agency's responses to written discovery requests, including 80+ pages of document production. This is a de novo appeal to Superior Court from an Act 250 permit denial based on failure to comply with criterion 9(B).

In re: Gervais Family Farm, Inc. PSB#7312 Legal counsel met with ARM engineering and water quality enforcement staff to review records and formulate draft comments for filing on the farm's request for amendment to its existing PSB.

In re: VT Gas, PSB#7970 Legal counsel secured the consent of VT Gas' counsel to meet and negotiate directly with representatives of VT Gas on best management practices for the installation, operation, and maintenance of the buried pipeline on farmland. Coordination with ANR will be pursued. The Agency co-holds with Vermont Land Trust and the Vermont Housing and Conservation Board a handful of conservation easements on farms in the path of the proposed pipeline. The proposed route also impacts many non-conserved farm operation in Chittenden and Addison counties. A meeting between the co-holders and VT Gas is tentatively scheduled for early April.

In re: Holden Cattle Company, LLC and Fillmore Farms, LLC, AAFM#2012-12-02 MF. The Hearing Officer issued a written recommendation to the Secretary after considering the evidence presented on the allegations in a Notice of Violation. The recommendation is to impose a \$5000 penalty for the farms' failure to maintain freeboard in the manure lagoon as required by the MFO General Permit, with the penalty reduced to \$2500.00 if the farms draw down the pit to the required level within 15 days. The Secretary will consider the recommendation after giving the farm an opportunity to submit objections or argument, as required by law.

#### Agricultural Development

Eastern States Exposition: Agency of Ag met with Dpt of Tourism and Mktg Commissioner Megan Smith, Deputy Commissioner Steve Cook and State Chief Marketing Officer Kathy Murphy to discuss enhancing the state of Vermont's presence at Big E 2013 in Springfield Mass. The Agency's are examining the addition of sales opportunities for state hunting, fishing licenses and parks passes through Dpts of Forest, Parks and Rec, and Fish & Wildlife, as well as additional sponsorships and vendor opportunities including the state ski areas, VAST and others. The state-owned and operated building faces upgrades and repairs of \$700k over the next 3 years – efforts to raise some of these funds through additional annual revenue opportunities continue.

Working Lands Enterprise staff attended the sold-out Vermont Nonprofit Conference held at the Lake Morey Inn, Fairlee, VT on March 21. The theme of the conference was "The Data Driven Nonprofit: Tracking Results, Telling Our Story, and Improving Vermont." The Working Lands Enterprise Initiative is participating in the Joint Fiscal Office's pilot model for Program Based Budgeting to report on Activities, Indicators, Outputs and Outcomes. Some key highlights from the conference include:

- Overview of Results Based Accountability – Planning starts with the results in mind first [ends], then determining how you're going to get there [means] and finally how you're going to measure it.
- Examples for "turning the curve" on Program Accountability.
- How to use data to drive programs/organizations and changing the way of doing business to produce better results.
- Data insights that paint a picture of their sector and its impact on the well being of Vermonters.

## Food Safety and Animal Health and Consumer Protection

Dr. Mehlenbacher and AHS Darryl Kuehne and Zach Bartlett met with the Lucy McKenzie Animal Shelter to introduce the shelter to Zach and to talk about how we interact on animal welfare investigations. The shelter does receive animal welfare complaints relating to livestock and should feel comfortable utilizing the AH field staff for consultation regarding acceptable agricultural practices. This was a successful meeting that served to put faces to a name and build a good working relationship between the shelter and the Agency. If anyone is looking for a cat, there were a number of adorable ones just waiting for someone to take him/her home.

Animal Health completed a quarterly disease testing for a National Poultry Improvement Plan Participant to complete their program requirements for Pullorum and Avian Influenza testing. The Section also completed program testing at another farm for Mycoplasma species to allow the farm to maintain its export status for hatching eggs.

AH completed dairy surveys in Corinth and Brookfield areas.

### Meat Inspection

A provision in a spending bill passed by the US Senate would avoid furloughs of U.S. meat inspectors as part of budget cuts. The spending bill was approved 73-26 today and now goes to the House. Earlier, in a voice vote, senators amended the measure to let the U.S. Department of Agriculture shift funds among programs to avoid pulling inspectors from meat packing plants that require federal oversight to operate. It is still unknown the effect that will be seen on the federal funding of state meat inspection programs.

### Agricultural Resource Management

Water Quality Section is making headway on cross training the MFO and LFO inspectors on these programs. Section has drafted new inspection, annual report and other required documents so that they all look more professional and similar so farms will be familiar with the form as they transition from a MFO to LFO and so planners can have a more streamlined workflow.

VAAFM and ANR filmed an Across the Fence episode on agricultural water quality today that is docked to air April 1st. It went really well.

Last week VAAFM and ANR had an agricultural working group meeting that also went well. We were able to create a document describing a livestock exclusion policy proposal for the legislature. We were not able to get through a small farm certification program policy recommendation; we meet on March 28th to finish that discussion. Basically farmers are ready and willing to implement a few new regulations, however their biggest concern is the current lack of enforcement staff capability at the Agency for small farms and the reputation it gives agriculture and a concern that more regulations without additional staff will only exacerbate the issue.

Annual requests for assistance from dairy operations concerning European Starlings continue to increase in Vermont. Most concerns involve feed consumption, feed contamination and disease threats to livestock. Over the past few years, VTAAFM and Wildlife Services (WS) has responded to most requests for assistance by providing technical assistance and recommending non-lethal methods for alleviating damage (i.e. exclusion, harassment). However, non-lethal methods alone were not always effective at alleviating starling problems at dairies. As a result of increased requests for assistance and ineffectiveness of non-lethal attempts to minimize damage, Wildlife Services worked with the Vermont Agency of Agriculture to obtain permit number BC 2013-1. This permit allowed WS to apply DRC-1339 Concentrate, EPA Registration number 56228-10 and 56228-28, from December 1, 2012 until April 1, 2013 under specific conditions. During that time, VTAAFM was contacted by 15 dairy operations and determined 12 sites to be conducive for application of DRC-1339. Below is a summary of the bird control activities for the 2013/2013 Winter season.

Location	Date Of application	Amount of pesticide used (grams)	Number of birds Removed (est.)
Mandy Hulett Deer Flats Farm 1290 RTE 30	12/10/2012	19.2g	660

Pawlet, VT 05761			
<b>Miles Tudhope</b> Cher-MI Farm 224 North Orwell Road Orwell, VT 05760	12/14/2012	13.4g	578
<b>Eric Clifford</b> Clifford Farm 6279 VT RTE 116 Starksboro, VT 05487	1/8/2013	15.3g	765
<b>Richard Hall</b> Fairmont Farm 96 Lyle Young Road East Monpelier, VT 05651	1/9/2013	2.5g	251
<b>Keith Sprague</b> Sprague Farm 6907 VT Rte. 14 Brookfield, VT	1/10/2013	17.3g	1878
<b>Robert Hunt</b> Bonaspecta Holsteins 1133 Jersey Street Addison, VT	1/16/2013	23.0g	1785
<b>Chris Wagner</b> Green Dream Farm 149 Bliss Road Franklin, VT 05457	1/23/2013	23.0g	1468
<b>Paul Knox</b> Knoxland Farm 501 Pratt Road Bradford, VT 05033	1/24/2013	23.0g	1788
<b>Bernie Dam</b> Westport View Farm 796 Webster Road Vergennes, VT 05491	1/24/2013	19.2	1207
<b>Reg Chaput</b> Chaput Family Farms 2473 Route 105 East North Troy, VT	2/7/2013	19.2g	257
<b>Richard Nelson</b> Nelson Farms, Inc. P.O. Box  Derby Line, VT 05830	2/13/2013	5.8g	275
<b>Tony Pouliot</b> Pouliot Farm 1478 VT RTE 128 Westford, VT05494	3/13/2013	17.3g	922

Agency of Ag Lab: The Agency of Ag and Dpt of Environmental Conservation will meet w/the Agency of Administration next week to discuss a feasibility study for the future of these state labs, currently housed at UVM through July 2015. The Agency of Ag is preparing an outline to assess cost-benefits, change in customer needs and program demands over the past 2 decades, additional testing potential, new governance model, workforce planning and ultimately a new business model. This information is needed to set the stage for a site analysis.

#### Water Quality Program

- A small horse farm in Bennington has been offered an opportunity for a hearing in connection with the issuance of a cease and desist order for continuing to stack manure in a wetland. The farm received a

corrective action letter in 2009 for the same violation. They removed the manure from the area in response to the CAL, but are now stacking in the wetland again.

- A large farm received a notice of violation for applying manure to a field not in their nutrient management plan, for not keeping the required records for their manure applications, and for applying within the required setback to surface water.
- A medium farm received a corrective action for applying manure within the required setback to surface water.
- A small farm received a corrective action letter for applying manure during the manure spreading ban.
- The 2012 Annual Water Quality Enforcement Report has been finalized. The report covers all inspections and technical assistance visits made to small, medium and large farms, and the enforcement actions taken against SFOs, MFOs, and LFOs in 2012. This report is prepared annually to meet the Agency's obligation under our Memorandum of Understanding with the Agency of Natural Resources regarding the administration of the Agricultural Nonpoint Source Pollution Reduction Program.

### Zoning

The Agency has received a request from the Montpelier High School to install a hoop house for the growing of vegetables. The hoop house will be located in the flood hazard area, so project review will be coordinated with the Floodplain Management Section of VT DEC to ensure that the hoop house is constructed and installed in compliance with National Flood Insurance Program (NFIP) Standards.

### Secretary's Comments

Secretary Ross discussed his time at the Agency of Agriculture with the Senate Agriculture Committee in the process of confirmation. The Senate Agriculture Committee voted in favor of Secretary Ross continuing for another two year term.

Secretary Ross visited the VT Youth Conservation Corps to discuss their future agricultural plans.

Secretary Ross completed a series of Agricultural Listening Session with a session in Randolph on 3/20 and a session in Springfield on 3/22. These 5 sessions have been well attended and the agricultural topics discussed included milk prices, land use, Irene Recovery, Raw Milk, on-farm slaughter, transition of farmland and getting young people into farming. Secretary will be scheduling a shorter series of listening session in the fall in the Northern Tier of Franklin, Grand Isle and Orleans Counties.

Secretary Ross met with Legislators to review the first half of the legislative session – met with Representative Stevens and Partridge and Senator Starr.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont**  
**Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** March 22, 2013  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Regional Greenhouse Gas Initiative Auction results:** The RGGI Auction was held on March 14 and all 37 million allowances were sold in this auction number 19. The clearing price was \$2.80 that resulted in the sale of 288,224 for a total to Vermont of \$807,027. According to present legislation all of the funds from RGGI go to VEIC for fossil fuel efficiency. At the last Auction not all of the allowances were sold and the clearing price was \$1.86. The increase in price was most likely due to the announcement that the RGGI states will be reducing the number of allowances in future years by 45%.

**Jay Peak West Bowl:** Jay Peak has announced a change to construction plans for the "West Bowl." Jay Peak has decided not to pursue permitting of new ski trails or buildings in the West Bowl this year. Jay Peak now believes it cannot start construction until 2015 at the earliest, so it is not going to pursue permitting this summer as originally planned. The developer has indicated an interest in constructing a road to the area that is proposed to be developed which would not be consistent with our requirements so there may be a conflict regarding this issue.

**Emerald Ash Borer Quarantine Expanded:** Massachusetts and New York are expanding a quarantine that regulates firewood and ash wood products to combat the spread of emerald ash borer (EAB). EAB is a non-native insect. It has never been seen in Vermont, but has killed tens of millions of ash trees in the eighteen states and two Canadian provinces where it has become established. Managing the costs for removal, disposal, and replacement of dead, dying, and hazardous trees is a challenge to communities and private citizens in infested areas. Beginning March 1, 2013, the new Massachusetts quarantine regulates hardwood firewood of all species, as

well as ash nursery stock or untreated ash lumber, originating from Berkshire County, MA. The emerald ash borer was found on a purple trap last summer, within 20 miles of the Vermont border in Dalton, MA. Infested trees have since been found near that site. Read more: <http://www.mass.gov/dcr/news/2013/feb21PR.pdf>.

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## **EVERYTHING ELSE:**

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

**Joint Resolution:** Commissioner Michael Snyder and ANR Lands Administration Director Mike Fraysier provided testimony to Senate Institutions on a proposed Joint Resolution for a land exchange with Markowski Excavation in Plymouth and transfer of a portion of Grand Isle State Park to the Town of Grand Isle for use as a local recreation park.

**H.131, S.100:** Commissioner Snyder participated in a committee discussion with Senate Natural Resources on forestry bills H.131 and S.100.

**Shorelands Bill:** DEC continues to provide testimony and support in favor of the shorelands protection bill currently being considered by the House Fish, Wildlife and Water Resources Committee.

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

**Brattleboro Wastewater Treatment Facility Ribbon Cutting Ceremony:** The Town of Brattleboro is nearing substantial completion of the Brattleboro Wastewater Treatment Facility (WWTF) Upgrade. The ribbon cutting ceremony will be held Fri, March 22, at noon at the Brattleboro Wastewater Treatment Plant. The Town's WWTF was upgraded to address equipment and infrastructure that had reached the end of its useful life and had caused increased operational and maintenance difficulties in recent years. The new plant will contribute to improved water quality and uses energy efficient technology to reduce energy costs and air pollution. The solids treatment will generate heat and electricity at the WWTF.

**Confined Animal Feedlot Operation Clean Water Permit:** An article on a new draft general permit appeared in VTDigger on March 13, 2013. The article was primarily factual. <http://vtdigger.org/2013/03/12/new-permit-program-targets-mid-sized-farms-with-pollution-issues/>. The animal feedlot general permit is on public notice through April 29, 2013.

**Moretown Landfill Recertification Denied:** The denial generated widespread news reports. The coverage was neutral or favorable. The denial applies to the recertification of just one of the "cells" used to dispose waste. We may receive an application to open additional cells. The company has indicated that it will appeal the decision. Information about the decision can be found at [http://www.anr.state.vt.us/dec/wastediv/solid/Moretown\\_Landfill.htm](http://www.anr.state.vt.us/dec/wastediv/solid/Moretown_Landfill.htm).

**Deer Hearings set for end of March:** The Fish & Wildlife Department will host the first three of five annual deer management public hearings beginning on March 25. The hearings will cover last year's harvest results and the prospects for the 2013 season. Two more hearings will be held in the northeast and southwest regions of the state in May.

**Governor's Youth Turkey Event:** In an effort to promote youth hunting in Vermont, Governor Shumlin is hosting a Governor's Youth Turkey Hunt this spring. The governor is scheduled to attend a luncheon on Sunday, April 21, at the Waterbury Fish & Game Club, where he plans to lead a discussion on the importance of the hunting tradition in Vermont.

**Natural Resources Training Session Offered for Development Professionals:** Real estate professionals, engineers and site technicians will shape future development in Vermont. Now they have the opportunity to learn more about how to incorporate natural resource planning into their work at a half-day training session offered through the Vermont Fish & Wildlife Department and the Vermont Natural Resources Council. "A New Way of Seeing the Landscape: Tools for Helping Real Estate Agents, Engineers & Site Technicians Plan and Develop with Natural Resources in Mind," will run from 11:00 a.m.-4:00 pm on March 23, 2013 at Green Mountain Club Visitor's Center in Waterbury Center.

**It's Time to Remove Bird Feeders to Avoid Tempting Bears:** The Vermont Fish & Wildlife Department is urging people to take down their bird feeders to avoid attracting bears that are emerging from their winter dens and looking for food. "It is best to remove food sources before hungry bears locate them," said Fish & Wildlife's Col. David LeCours. "We highly recommend taking down bird feeders and not feeding birds until December 1."

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## SUMMARY OF KEY DEPARTMENT ACTIVITY

### Environmental Conservation

**IBM stack testing:** IBM requested an extension of their boiler stack emission compliance testing. The air division currently has an application in-house to incorporate many changes and new requirements into their permit – including new requirements for boiler maintenance and testing stemming from a new federal regulation just finalized this year. As part of this permit amendment, a reevaluation of the testing requirements for their boilers and the extension will provide us time to develop a new testing program that meets our requirements and the new federal requirements. A one year extension of the testing requirement was granted and should provide us time to amend the permit with the new requirements before the extension expires.

**Bennington College:** A draft permit was issued to Bennington College increasing the wood fuel limit for the wood fired boiler while simultaneously offsetting much of the emissions with a decrease in the No. 4 fuel oil limit. This permit application was a requirement of a notice of violation for exceeding their permitted wood fuel limit.

**Beebe Plain Public Drinking Water System:** Drinking Water & Groundwater Staff met with representatives of the Beebe Plain Public Drinking Water System in Stanstead, Quebec to discuss their plans to reduce the arsenic level in this public water system. Beebe Plain is a village located at the Quebec border within the Town of Derby, VT. The system is one of the highest ranked systems in Vermont on the EPA enforcement priority list, due to the repeated arsenic running annual average exceeding the EPA maximum contaminant level of 10 micrograms per liter. The arsenic is naturally occurring in the bedrock well located in Beebe, Quebec which serves customers in the villages of Beebe, Quebec and Beebe Plain, VT. The System will provide their proposed detailed compliance schedule to the Division by April 1, 2013 along with a completed Operating Permit Application.

**Springfield Biomass Project:** A meeting has been scheduled with the project's consultant to discuss the company's Underground Injection Control (UIC) permit application.

**Source Water Protection Workshops:** DW&GW co-hosted a workshop on source water protection with EPA and Vermont Rural Water Association. The workshop was well attended by water system owners and system operators. The workshop identified ways source water protection can be leveraged with the aid of different interests ranging from basin planning, farming and agricultural practices, forest management, land trusts, and the role of town health officers. We also presented on the value and benefits of groundwater reclassification to Class II Groundwater when the groundwater is suited for public community drinking water source (including existing and potential community water sources).

**DEC Scanning Project:** The DEC information coordinator has developed the listing of hardware and software needed to support the scanning project that will be funded out of the carry forward monies dedicated to this project. IT will develop the purchase order. Staff met with three programs to review the basics of the SharePoint Foundations system. These programs will provide specific metadata to be used in configuring the new system.

**Unsafe Dam Revolving Loan Fund Rule:** Facilities Engineering Division made further revisions to the rule establishing a revolving loan fund to assist in the repair of unsafe dams and have submitted for legal review. Representative David Deen has asked to see the draft rule, so we will forward a draft once we are satisfied with the language. Some of the key provisions include establishment of applicant eligibility; funding priorities and incentives.

**Solar Array on Closed Rutland City Landfill:** Waste Management Division participated in a site meeting at the former Rutland City Landfill, attended by representatives of Green Mountain Power and the City of Rutland. The participants reviewed preliminary plans for a solar farm on the closed landfill.

**Coventry Landfill:** An inspection of the NEWSVT (Casella) landfill in Coventry again found a lack of daily cover on the waste. Lack of daily cover was also cited in a December 2012 notice of violation. Casella believes they have corrected the problem through new operational controls

and personnel changes. An unannounced re-inspection will be scheduled. No other significant compliance issues were found during the inspection.

**Lake Champlain Water Quality Plan (TMDL):** Watershed Management Division is working with EPA to determine how to analyze the wastewater treatment facility scenarios that will be used in EPA's models. Watershed-specific wastewater policies may also be considered at some point. The outcome of this work may have significant impacts on municipalities in terms of driving towards greater phosphorous controls.

**Waterbury Dam:** DEC and Fish & Wildlife staff met with Green Mountain Power and its consultants to discuss details of changes to the hydropower infrastructure at Waterbury Dam. The company is considering changes that appear to address the current limitations on providing conservation flows and regulating outflow from the project. We will be evaluating the proposed changes in more detail as we move forward with the water quality certification process.

### Fish and Wildlife

**Hunter Education / Let's Go Fishing Volunteer Banquet:** Approximately 150 instructors attended the annual Hunter Education/Let's Go Fishing Volunteer Recognition Program and the evaluations suggested that it was the best ever. This was in large part due to the dynamic survival seminar presented by internationally-known survival expert Peter Kummerfeldt. Peter Kummerfeldt also conducted an in-service training on March 15 for 30 Department employees and members of Stowe Mountain Rescue. Again, the evaluations were fantastic.

**Radio Collar Replacement:** Staff coordinated doing den work in a remote area of Stamford to replace a satellite collar on an adult female bear. Unfortunately, the bear had moved den sites due to disturbance from snow machine traffic. The new bear den site turned out to be in a huge yellow birch tree where the entrance was a small opening twenty feet off the ground which prevented staff from being able to reach her. Her collar will have to be replaced once she is out of the den in the spring.

**Turner Hill WMA:** Staff closed on the third and final acquisition as part of our Recovery Land Acquisition Grant at the newly created Turner Hill WMA in Athens and Grafton. The VELCO property is the largest of the 3 parcels and contains the former Turner Homestead. This project was 4 years in the making and is very exciting. A celebration will be planned in partnership with TNC and VELCO for this spring.

**Vermont Yankee Environmental Advisory Committee:** Staff attended meetings of the Vermont Yankee Environmental Advisory Committee (EAC) at Keene, NH. EAC discussions focused on reviews of Entergy's latest proposed study plans pertaining to hydrothermal modeling of their heated water discharge to the Connecticut River and assessing up and downstream migrations of adult and juvenile American shad. The group identified alternate study approaches which will be communicated to Entergy within the very near future.

**IJC Lake Champlain Meetings:** Staff attended two evening public meetings with the IJC Lake Champlain-Richelieu River Workgroup to hear comments on the draft flood mitigation Plan of Study. The first meeting on March 11 was jointly held in Burlington and Plattsburgh, with the two sites connected via a Webex teleconference. The second meeting on March 12 was held in St. Jean-sur-Richelieu, Quebec. The meetings were well-attended, and the Workgroup then held a conference call on March 15 to discuss several constructive comments received at the meetings.

**Fugitive Sexual assault offender in Ludlow:** Wardens assisted the US Marshalls in locating and arresting a sexual assault offender who had been hiding by living for the past 6 months in a tent on federal land. The accused was located and arrested without incident.

**Search & Rescue in Stowe:** Four wardens assisted Stowe Mountain Rescue and the Vermont State Police in a search for a lost hiker on Mt. Mansfield, near white-out conditions existed on the mountain during the search. The hiker eventually exited the woods at midnight in Cambridge and was uninjured.

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

**Ski Areas:** The Department received a public records request from the Stowe Reporter, requesting copies of the ski area lease fee calculations for the last three years from each of the seven ski areas that lease state land. These lease fee calculations are used to document each annual lease fee payment and are a requirement of the ski leases. We are pulling the requested information together and are looking into whether any of this information is confidential and possibly exempt from disclosure. We continue to work closely with the State Auditor, who has expressed an interest in the Department's ski area leases. We will be meeting with Bromley Ski Area this week to review ski area operation and related ski lease matters.

**Parks Featured in Video:** Craig Whipple, Director of State Parks, was interviewed by respected travel writer Richard Bang. The piece was part of a video called "Vermont Deficit Disorder" that was featured prominently on Huffington Post, Orbitz and many other online travel websites. The video can be viewed at this link: [http://www.huffingtonpost.com/richard-bangs/vermont-deficit-disorder-travel-video\\_b\\_2853880.html](http://www.huffingtonpost.com/richard-bangs/vermont-deficit-disorder-travel-video_b_2853880.html)

**Parks Newsletter:** The bi-monthly parks e-newsletter went out to 22,000 people. An article about the new Perry Merrill cottage at Ricker Pond State Park triggered quite a few calls and new reservations. The newsletter also prompted quite a few emails - mostly compliments and inquiries, both from park visitors and performers wishing to work with parks. It's great to see the tangible, track-able, immediate impact of this e-publication.

**Seasonal Staff Hiring:** Managers are busy interviewing and hiring seasonal park staff: rangers, assistant rangers, attendants, lifeguards, maintenance techs, trail crew and park interpreters.

**Social Media Numbers:** Vermont State Parks now has 18,000 Facebook fans and 5,850 Twitter followers.

**New Pages on Parks Website:** The web pages for “Camping Tips and Tricks” have been completed and are in testing phase. These pages and videos were created internally, and these and other resources will be rolled out later this spring to encourage first-time campers to give it a try. The pages aren’t linked to any navigation yet, but can be viewed at the following link: <http://www.vtstateparks.com/howto/>

**Park Opening:** On April 26, Jamaica State Park will be the first seasonal park to open.

**Annual Forest Health Meeting:** The annual Forest Health meeting, known affectionately as the “Function in the Junction”, will be held next Tuesday in White River Junction at Tupelo Music Hall. This all-day event attracts foresters from both sides of the Connecticut River to discuss the latest news on forest insects and diseases affecting our area. Topics will include: Emerald Ash Borer, pollinator insects and pear thrips.

**Conservation Education Program:** Planning is underway for State Park Interpreter training. Hiring is now in progress for the vacant seasonal interpreter positions; there are approximately six open positions this year in parks around the state. An advanced Project Learning Tree workshop based on national Common Core and new Science Standards is being planned for pre-service education students at Castleton State College, who have already participated in a six-hour Project Learning Tree workshop. Conservation Education staff are providing assistance to the park management team with presentations for State Park Ranger Training.

### Information Technology

Bob Hammerl started a regional **application developers’ discussion group** in an effort to keep select members of ANR’s Application Development team up to speed with industry trends, issues, and options. The first meeting went very well. State staff and private industry participants will benefit from these events.

  
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*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Jeb Spaulding**  
**DATE: March 22, 2013**  
**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

**Status of Governor's Priorities:**

- The Governor's budget proposal is undergoing scrutiny in HCIC as the committee marks-up the Capital bill. At this point, no major changes or damage have occurred. The HCIC hopes to report the bill out by mid week of next week with Appropriations committee review and floor debate the first week in April.

**Legislative Issues/Contacts:**

- Testified to HCIC regarding S.144, the 20 Houghton Street, St. Albans authorization to sell bill.
- BGS proposed amendment which would authorize the SOV to issue a warranty deed for the Building 617 transaction.

**Significant Events/Meetings:**

- Met with members of the Hunger Mountain Child Care Center regarding their offer for 121 and 123 Main Street. We are working with the group to finalize a Purchase and Sale agreement.

## FINANCE AND MANAGEMENT

### Issue Updates:

ERP Project: Extended Cabinet Meeting: The ERP Extended Cabinet Meeting on Monday, March 18<sup>th</sup>, was well attended and successful. Opening comments by the Governor set “the tone from the top” - supporting the importance of a successful project Go-Live. Presenters included the Secretary of Administration Spaulding, Deputy Secretary Clasen, Commissioner Kate Duffy, Deputy Commissioner Zeller and HRIS Director Nicole Wilson.

Federal Sequestration: Commissioner Reardon, Deputy Zeller and Budget Director Riven met with Joint Fiscal Office staff today to review a draft consensus federal sequestration impact document. The final document will be available early next week

## HEALTH CARE REFORM

### Status of Governor’s Priorities:

Budget items: It isn’t clear what is happening with the health care reform budget items, which were sent to Ways & Means as a separate bill. Robin heard the spending items will be pulled into the budget, however, appropriations has not gone through the language. Commissioner Larson is following up with Rep. Heath.

ERISA: We have not yet gotten a call with US Asst Sec Borzi. Sander’s staff is also reaching out to assist us in getting a meeting. Robin had a follow up meeting on ERISA with Deb Ritcher, Ellen Oxfeld, and Lori Kearns (a staff person from Senator Sander’s office). They remain worried about seeking flexibility to exempt certain employers from a tax, because they believe it creates a slippery slope. Robin indicated that she understands their concerns, but thinks that it is otherwise potentially very difficult to political address the situation. We are finalizing draft language to shop around to other states and employers. Robin has a call on the calendar with the HI governor’s health staffer to discuss and Aly is helping find the right people in OR, WA, and CA. Lawrence suggests we hold off shopping the idea to employers until after we form the Governor’s business financing council, so that we can run the idea past them first and get feedback.

Exchange IT project: We’ve gotten a heads up that the Exchange team will be coming with priorities for the IT build due for October 1<sup>st</sup>.

### Legislative Issues/Contacts:

3/15 – HHC update – discussed various issues relating to H.107 with the committee.

3/19 – HHC amendments to H.107

3/20 – Money Chairs Meeting on the Exchange – Commissioner Larson and Robin Lunge met with the money chairs to discuss the cost of the Exchange. Commissioner Larson reviewed the positions over time, including the reduction after initial build out of the Exchange. Also, he reviewed a more detailed budget with an updated status re: contracts. Rep. Ancel remains concerned that \$18M is too expensive and suggested underfunding the revenue source. We explained this would result in an additional time of federal oversight/conditional approval for the

Exchange in all likelihood. Other members want to ensure the Exchange is successful and while they aren't yet 100% comfortable with the cost, seem to be coming around.

### Significant Events/Meetings:

- Governor Healthcare Reform Meeting/Follow up from NGA – Meeting arranged by Aly Richards with Oregon to discuss state collaboration around Medicaid & payment reform.
- Gartner Initial Program Healthcheck Interview - evaluation of project management structure.

## HUMAN RESOURCES

### Legislative Issues/Contacts:

- Commissioner Duffy met with representatives from House Institutions to discuss the following issues: (1) positions required by DMF for new Berlin facility; (2) the use of temporary positions; (3) positions requested by Corrections as part of the Big Bill; (4) positions requested by BGS in the Capital Bill.
- Commissioner Duffy and Molly Paulger met with Representative Mitzi Johnson and Steve Klein from JFO to discuss the Administration's requests for positions and whether positions already distributed from the pool could be reassigned. Representative Johnson agreed that the redistribution is not appropriate given the current status of the positions.
- Commissioner Duffy testified on S. 123, a bill that requires a protocol for safe patient handling and eliminates the use of mandatory overtime. VSEA employees from the Vets Home testified, and made several misstatements about the procedures and events at the Vets Home. The Committee did not pass the bill out of committee, but did send a letter to Dr. Wehry asking her to work on scheduling mediation with the parties and report back to the Legislature on the status of issues at the Vet's Home.
- Senator Campbell and Lieutenant Governor Scott are seeking to have a state employee testify about the fair share bill, after an incident that occurred as part of the double pay grievance. The employee, Marcia Guyette, will be a witness for the state in the grievance. She apparently discussed the case with the employees she supervises who are grievants, so they would know about her involvement in advance. VSEA filed an unfair labor practice claim, alleging she was coercive and the discussion was inappropriate. Ms. Guyette is a member of VSEA and feels it is not representing her interests. The state will defend the claim, but Senator Campbell apparently intends to represent Ms. Guyette individually.

## INFORMATION AND INNOVATION

### Status of Governor's Priorities:

Healthcare: The latest status reports from the business leads of HBE and IE have indicated both projects are "at risk". The HBE project has not been raised to red status (no solution for issues has been found), but the business lead characterizes the project as a higher risk than yellow (issues exist that could affect project success if not addressed). She is calling it Orange. The IE project is in a yellow

status. The Executive committee, the Ops Steering committee and the PMO (Project Management Office) are working to mitigate these issues, but it is likely that some trade-offs may be needed to have operational services by the required dates.

### Press/Media Notes:

- Richard spoke with Anne Galloway who had a follow-up question to his testimony from a few weeks back regarding cost metrics for IT. Richard will be sending her a report from the state of Michigan that talks in more detail about these metrics along with the report submitted by F&M, Treasurers Office and DII that referenced the Michigan report.

## LIBRARIES

### Significant Meetings/Events/Project Updates:

Sovernet Contract Signed: VTLIB and DII have signed a contract with Sovernet for services to the core circuit for the VTLIB WAN (wide area network) that will allow us to provide aggregated internet service to the 43 public libraries in the Vermont FiberConnect broadband project. The WAN will be housed at National Life and will be managed by DII. Service will begin at the rate of 100mbps with the option to increase speed, if needed.

Vermont Digital Economy Project Update: Project partners (under the leadership of VCRD/Vermont Council for Rural Development) had our first meeting with new grant-project staff. Project Director is Sharon Combes-Farr, who most recently worked at VTel.

Asst. State Librarian Christine Friese, is the VTLIB representative on this project. We will continue our work with Community College of Vermont to expand the "Internet Intern" program which began with the e-Vermont project and which is currently funded with a \$10,000 grant from the VT Community Foundation. We now have interns in 4 libraries around the state, providing one-on-one assistance to citizens who need help learning/using computers. CCV developed the iConnect training curriculum to train state employees (e.g. AHS) and also these CCV interns. The Internet Intern program is only part of what VTLIB will be working on in this project, but this is the current focus of our work to expand digital literacy programs for citizens.

## TAXES

### Legislation:

Revenue Proposals: Ways & Means is still circling around various revenue proposals to total \$20M, with some internal committee debate over whether strategically they should raise various taxes, or stick to a couple big moneymakers. They have removed some items from their list, and at this hour (late Thursday) seem to be coalescing around capping deductions at 2 1/2x the standard deduction (raises \$18M). Senate Finance has had on their schedule an idea for a 3% AGI flat alternate minimum tax, as well as testimony on the mortgage interest deduction. Rumor is that Rep. Ancel and Sen. Ashe also are having behind the scenes discussion about moving to AGI. Given where Rep. Ancel went with this two years ago, the top rates may be chilling.

There seems to be some general sentiment that if they are going to get beat up on the gas tax anyways, they might as well do some other revenue raising this year, to address this year's budget and next. Privately the Speaker volunteered to me that if the EITC came back from the Senate with some funding through a cap on deductions, it might be considered – but that Rep. Ancel takes personal affront since she championed the increase in the EITC back when. (In any event, it appears she will be championing a cap on deductions for House priorities.)

Another undercurrent is frustration at revenue estimates - the speed and quality of work being produced from Deb Brighton and Sara Teachout is being questioned (at the Department, the near term is going to get worse since we are losing our statistician who assists Deb to DII). And just perennial Legislative mud season dissatisfaction that the Administration is not taking enough leadership (may be more a matter of taste).

Miscellaneous Technical Tax Bill: The Tax Department has asked Senate Finance to add four provisions: a clarification on a net operating loss provision (to satisfy practitioners), a notice to replace certifications that have been removed from property transfer returns (to satisfy DEC and the Natural Resources Board), exemption from good standing certification for securities dealers (requested by DFR), and codification of the session law on qualified dividends (to address the tax instruction error).

On the latter, Michael Costa testified to Finance and they did not seem exercised over the issue. Our preliminary data review suggests that the erroneous instruction appears to have caused errors on no more than 1% - 2% of the filings made while it was extant (a powerful testament to the limited utility of our instructions in the paperless age). Based on that, the Department has decided against any further outreach at this time (we have notified software vendors, preparers and have a blurb on our website). If someone incorrectly claimed qualified dividends, and is audited, they would only owe the additional tax – in the meantime, it does not seem prudent to risk confusion to 99% of our filers.

Current Use: Bill Johnson of PVR has presented scenarios for wringing money out of the current use program at the request of the Deputy Secretary of ANR.

Estate Tax: The Commissioner agreed to a meeting arranged by Andy Maclean to meet with Ernie Pomerleau and others. Since we know one of the issues is the confusing structure of our tax, the Department is researching some other state alternatives – although it is not clear that this would be the year to tackle a complex change that could cause revenue dislocation. As previously explained, of the states that have retained a strict estate tax, roughly 11 have the convoluted structure harkening to old federal law like VT, and 6 have designed a tax with a state defined estate base.

### Operations:

Tax Season/Data Warehouse: As of last week, the Department had processed 147,762 income tax returns. 90% were submitted electronically. In addition we received 59,827 Homestead Declarations. 91% of these were submitted electronically. Additionally, electronic filing of W-2s and business process overhaul (including webinars and outreach) has greatly improved the processing of VEGI claims. The VEGI filing deadline is April 30<sup>th</sup>, however we received our first claim last week, which was almost completely correct - the incentive should go out in a few days.

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**CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN**

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**From:** Susan Spaulding  
**Date:** March 22, 2013  
**RE:** Boards and Commissions Update

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**Public Service Board:** We've had 107 requests for applications and currently have 8 completed applications on file.

**Phil Scott called** and asked if there was a board you could appoint Dick Paquette ( Shadow Cross Farm in Colchester ) to. He lost (1366 – 1325) his reelection campaign for selectboard, he was Chair and served since 1992. I told Phil that I would be happy to work with Mr. Paquette on exploring which boards he was interested in and what was available. Phil said he would talk with Dick Mazza and someone would get back to me.

**Byways Advisory Council:** Spoke with Megan Smith. She is fine with not doing a reappointment for George Schiavone and just letting him continue to serve. The Council is probably going to stop functioning in about a year because the federal funding runs out July 1<sup>st</sup>.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin  
From: Michael J. Hogan, Commissioner of Liquor Control  
Date: March 22, 2013  
Re: Weekly Report

Status of Governor's Priorities: Break open tickets- Continuing to work with Secretary Spaulding as we talk with all the interested parties. I am sure he is keeping you in the loop as we explore some alternative approaches.

Legislative Issues/Contacts:

S.61 which is working its way out of the Senate to the House is a combination of many bills. This "omnibus" bill is fine with one exception that has been changed. The Finance Committee has amended a section that makes the department issue prorated licenses for alcohol. Example: Currently, the licensing year is from May 1-April 30. If you wanted a license today, you would have to pay for the whole year and then renew it on May 1 for the next year. If we start prorating these licenses, then we will lose money and so will the towns and cities as they receive a portion. The licensing process is time consuming and the fees don't come close to the costs of staff resources. I am going to work with the House to see if this can be changed. I will keep your staff up to date.

Press Issues/Releases/Contacts: Had some inquiries from VPR as to the volume of business that WhistlePig Whiskey is doing here in Vermont. They are the folks in Shoreham who bottle rye whiskey from Canada. They want to grow their own rye here and then eventually distill the product. The owner Raj Bhakta is in an Act 250 situation saying he is a farm rather than a manufacturer to get some exemptions.

Significant Events/Meetings:

- Nothing Significant.

Evolving Issues:

Other than the Miss Tax bill and the break open tickets, most of the other issues have to do with manufacturing changes for in-state alcohol producers, the fee bill, and some other miss issues.

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Summary of Key Department Activity:

The Department and Board just went through a re-branding exercise to freshen up our look around the state as part of our marketing efforts. Here is part of a press release we are issuing.

## 802

## Spirits

### **802 Spirits Promotes Vermont's Liquor Agency Retail Locations with an Integrated Statewide Marketing Effort**

MONTPELIER, VT (March 22, 2013)—The debut issue of the newly relaunched magazine and retail pricing guide, 802 Spirits, reflects an extensive brand revitalization for Vermont's Department of Liquor Control. "802 Spirits represents an integrated approach to our marketing and publicity efforts. It evokes the strong spirit of community that both Vermonters and visitors experience when in the Green Mountain State," says Michael J. Hogan, Commissioner of Liquor Control.

The February/March/April edition replaces Spirits Quarterly with a fresh look and new departments including "Behind the Bar" which features a restaurant and the hot talent behind its bar in every issue. "Cool Products Hot Picks" highlights newly released spirits and buzz-worthy local products, gadgets, and goods. The "802 Spirits" brand extends across multiple platforms and creates a strong and consistent identity for the Vermont State Liquor Commission. In addition to the magazine, the retail website, [802spirits.com](http://802spirits.com); phone number, 802spirits (802-774-7487); logo; and registered trade name will reflect a unified retail identity. In-store 802 Spirits-branded promotions will include window clings, posters, hanging signs, and magazine displays. To connect with even more visitors, 802 Spirits has an increased distribution to 60 key hotels, inns, and stores in the greater Burlington, Stowe and Killington/Rutland regions. For more information, visit: [802spirits.com](http://802spirits.com).

**Miss Info:** Article below shows the growth of the craft beer industry. I am a big proponent of business growth in this state and have worked very hard to make changes to help our start up manufacturers in Vermont. Many of them are winning awards across the nation for their innovative approach. The large beer companies are getting nervous as they begin to take away market share.

### **Craft Beer Output Could Eclipse Anheuser-Busch & MillerCoors Before 2050 If Trends Continue**

Source: The Huffington Post  
By Joe Satran  
03/19/2013

In many ways, life is worse in 2013 than it was in, say, 1963: There's more terrorism, American income is distributed less equally, and the planet's climate is hotter. So it's important to occasionally take a moment to remember the few things that have improved in the last 50 years. We live in the golden age of television, board games and craft beer, for instance.

But one big thing sets craft beer apart from these other two vital art forms. It's not just critically-acclaimed, like "Enlightened" or "Agricola." It's popular.

Sales of craft beer have grown tremendously over the past five years, while sales of beer made by major brewing conglomerates Anheuser-Busch and MillerCoors stayed flat or fell. Recently-released data on the craft beer industry show that 2012 was an even better year for craft brewers than 2011, 2010 or 2009, all of which were strong. Last year, sales of craft beer grew 15 percent by volume, to 13,235,917 barrels, and 17 percent by value, to \$10.2 billion.

Craft beer is still a relatively small part of the industry. Beer made by the country's 2750-plus craft brewers represents just 6.5 percent of the total -- insignificant compared to the blockbusters produced by the "Big Two," which together control 74 percent of the market by volume.

Yet last year's annual reports for Anheuser-Busch and MillerCoors show that these two companies sold 6 percent less beer, by volume, in 2012 than they did in 2009. Basic geometry tells us that, if these trends continue, craft beer and the big two are on a collision course. At some point soon, in other words, craft brewers could produce more beer than the Big Two. But when?

I found that if craft beer sales were to keep growing as fast as they did in 2012, they would pass Big Two beer sales by value as soon as 2020, and by volume as soon as 2033. The more conservative estimate put the intersection at 2031 by value and 2041 by volume.

**Commissioner's Commentary:** Appreciate your leadership and vocal support you give to all of us.

**Irene Recovery Situation Report**  
**3/22/2013**

**IRENE RECOVERY OFFICE**

**WSOC-VSH**

- All Improved Project requests have been submitted to FEMA, and though EHP approvals for asbestos abatement and demolition have not yet been received, we continue to be assured that they will be forthcoming within days. We have lined up abatement contractors to begin the first week of April based on FEMA's assurances of approval.
- An Alternate Project request that would transfer funding eligibility from the Ag Lab to restoration of the Historic Core will be submitted next week, and we are expecting a fast approval turnaround on this too. Though an Alternate Project (which differs from an Improved Project in that the function of the old building will not be transferred to the new one) carries a 10% reduction of federal funding, we are hopeful that provisions of the recently enacted Sandy legislation will allow for no funding reduction.

**FEMA PA**

- We've just received FEMA's decision on the 2<sup>nd</sup> appeal of the Townshend culvert PW, which was our lead case in challenging FEMA's refusal to fund upgrades mandated by Vermont's Stream Alteration Standards. In short, FEMA Headquarters has determined on second appeal that the box culvert on Townshend's Dam Road should be eligible for Public Assistance funding as 406 Hazard Mitigation. This decision is a win, although not on the grounds we argued, and it appears that it will enable many other Vermont towns to get funding for stream crossing structures for which FEMA has previously withheld public assistance—a \$6 million gap.
- 3,301 project worksheets (PWs) have been written and entered into EMMIE by FEMA of which 3,186 (97%) have been obligated (up 1 from last week).
- Federal funds obligated to date (based on 90% federal share) remain at \$142.7M; PWs related to Vermont State Hospital and Waterbury State Office Complex are expected to eventually result in additional obligations of \$60-80M.
- Focus is shifting to close-outs.
- Debris PWs for Bennington, Woodford, and Rockingham were expected from FEMA last week, but have been delayed in legal review.
- Latest estimate of projected municipal funding gap is down to \$15M (\$6M for codes and standards + \$9M for other issues including debris). We continue working to minimize funding gaps on case-by-case basis.

### Individual Recovery

- As of 3/22/2013, the total number of DCMP individual recovery cases opened remains the same at 671, total open cases at this time are 248, indicating that twenty-five cases have been closed in the previous two weeks.
- A survey of all existing individual recovery cases, conducted by DCMP Case Managers confirm that of the existing open cases:
  - 47 cases have not been assessed by either an independent contractor or construction coordinator;
  - 67 cases need construction coordination for repair or rebuild projects;
  - 42 of the cases may seek funding through the CDBG-DR program;
  - 93 cases may seek funding through the Vermont Disaster Relief Fund

### HMGP

- Current Status of Buyout Properties:

HMGP Approved	90
HMGP Pending	21
Appealing/RFI HMGP Determination	6
HMGP Ineligible	4
Round 4 (Potential)	5
CDBG-DR Only	5
Grand Total	131

**Link to Map:** <http://www.trorc.org/buyouts.html>



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: March 22, 2013

Subject: Weekly Report

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**Governor Level Issues:**

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

- **Coordinated Procurement:** We are working to advance the Governor's directive regarding coordinated procurement among the NE States. Through the NE States Committee on Electricity (NESCOE), we had been working on a process for renewables with all states with the goal of issuing an RFP in early April for wind and hydro. In February the NESCOE process was put on hold until June because Connecticut stated that it could not move ahead with the process until it had completed legislation on a revised RFP. Massachusetts is obligated by statute to issue an RFP for renewable power in the near term, and has been continuing its RFP process and intends to issue an RFP in early April. Things changed recently, and CT is now anxious to move forward. After some mis-steps by CT last week (they held a press conference indicating "they asked VT and MA to join them.") we are coordinating better, and we'll see if VT and CT can join the MA April procurement. This would only be for wind projects capable of meeting the PTC deadline of Dec. 31<sup>st</sup>. I expressed concern that while dealing with the legislature on S.30, we did not need a regional procurement that encouraged half-baked wind projects

to come forward from Vermont in an attempt to compete in an RFP; In reality, they must be pretty shovel ready projects to meet the objectives and I suspect MA has one or two projects in mind. We also want to keep the options open for transmission projects that bring existing wind in from NY and Canada. It is likely a second round in the summer/fall would encourage large-scale Hydro responses, and possibly additional transmission options to bring stranded power into the region.

- **VY:** We completed an incident report on the blow-out panel this week, and issued a letter to the NRC asking for them to provide information about whether and how these systems were considered in the relicensing process. We have been fielding press calls on this and as a result of the NRC request for more information regarding the financial situation at VY and the plant value.
- **VTel Petition for Unconditional ETC Designation:** After extensive negotiations, the Department and VTel Wireless were unable to reach an agreement on the terms of a regulatory stipulation, as VTel was unwilling to commit to a condition requiring that it abide by the requirements applicable to a Commercial Mobile Radio Services (“CMRS”) provider. The Department notified the Board on March 20<sup>th</sup> that the parties will propose a litigation schedule, which will be filed with the Board next week.
- **Energy Generation Policy Siting Commission:** We are nearing the final drafting stage of recommendations from the Siting Commission. The trend is to build capacity in regional planning and improve the role of the RPC’s in energy facility siting. The commission is likely to recommend tiers of projects that have different processes – larger projects undergoing more community assessment.
- **ERP Training** – We have only 7 more staff to do the timesheet/ER training in order to have 100% of our staff complete the training. We hope to be the first Department to claim such an accomplishment!

#### Legislature:

- **FY14 Budget:** The House Appropriations committee approved PSD’s two new positions, including the CAPI Director as an exempt position. As far as I can tell, they reduced the CEDF funding considerably and funded LIHEAP at \$6M. House Ways and Means did not advance funding options that are viable however – except they are proposing to eliminate the \$10,000 annual exemption from the fuel gross receipts tax – something the VFDA is supporting and which is estimated to bring in perhaps a million dollars annually.
- **Senate Appropriations:** I’ll be meeting with Rich Westman on Thursday to discuss FY14 budget – including carry-forward. Warning – he’s looking for money. Reardon knows.

- **Senate Finance: Smart Meter/Grid Complaints:** We compiled complaint data regarding smart meters in an effort to head off S.62. This will be sent to Senator Ashe early next week. The data show only 202 smart meter complaints out of 6017 complaints logged last year. Most resolved through CAPI. Had my confirmation hearing this week.
- **Bills affecting the PSD:** With the passage of **S.25** and apparent decision by Senator Ashe not to offer his amendment for an Oversight Committee onto S.30, it appears all actions in the Senate to torture the PSD have ceased for the moment. After meeting with Rep. Ralston, and more importantly Botsow, I anticipate discussion but no action on any other bills in the House, including **H.414**. I am not even sure Botsow will want to move S.25. **Our housekeeping bill, H.297** now has a GRT in it for funding prepaid wireless USF, which is not desirable. I also suspect this bill will be a vehicle for mischief and so should be pulled if it creates any difficulties, or as a preemptive measure to avoid same.

#### **Bills:**

- **H.395 VT Clean Energy Loan Fund:** Passed House 3/22; now in Senate
- **H.520 (the unfunded section of former H.216 – Thermal Efficiency):** A shell of its former self, this bill passed the house 3/22; and is now in the Senate.
- **H.297 (PSD Housekeeping bill):** Shap and Campbell agreed to let it cross-over after deadline (it's still in W&M), but we need to watch this as a vehicle for bad things and be prepared to ask it be killed.
- **H.405 Manure Mgt and Anaerobic Digestors:** We've worked hard and closely with AAFM on this bill, which has now passed the House. We will need to fix language in the Senate.
- **S.30 – Update on week-long saga.** Bill on Senate Calendar for Tues 3/26 upon return of Lt Gov and presence of Sen Sears and Sen Campbell to vote
- **Ways and Means bill H.519 – Funding parts of old H.216):** Request for comments for possible inclusion of language re solar tax extension.

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

- **Mary Powell 3-19:** I met with Mary Powell to discuss a variety of issues, including their exogenous circumstances claims, the IBM smartgrid initiative, and other issues. GMP and PSD staff will meet shortly to hear GMP out on the synchronous condenser and curtailment issues.

- **Thermal Energy Efficiency Public Effectiveness Meeting:** Gaye Symington sponsored this meeting at Noble hall at Vermont College to discuss on Thursday to discuss how to get beyond perceptions that savings are not a great as people hope for or to reassure people that savings will be achieved through guarantees.
- **VT-QC Green Mountain Corridor:** We had a meeting at GMP on Friday to discuss progress on both sides of the boarder. Much progress is being made, and we are anticipating a joint Governor/Premier meeting sometime late Summer or early Fall to announce it.
- **Next week significant events/meetings:**
  - **Mon Mar 25** – Darren Springer’s 1<sup>st</sup> day; VT Gas Line Mtg and IBM Prep Mtg
  - **Tues Mar 26** – Speak at VT Fuel Dealers mtg at Capitol Plaza; E911/small cell carriers mtg
  - **Weds Mar 27** – Energy Scenario Modeling Mtg; Clean Energy Summit Mtg
  - **Fri Mar 29** – VT Delegation visits TJ Watson Research Ctr at IBM Yorktown, NY

## Everything Else:

### Summary of Key Department Activity, By Division

#### Public Advocacy and Consumer Affairs:

Entergy CPG Renewal – Docket 7862 – On March 15 Entergy filed rebuttal testimony from ten witnesses, including very brief testimony former PSB chair and PSD commissioner Louise McCarren. PSD is reviewing the filing, and has discussed preliminary reactions with other parties to the case. First discovery on the rebuttal filing is due March 27. PSD counsel is also considering possible objections to the testimony. On a related note, PSD is seeking to increase the amount of our contract with outside counsel Wilmer Hale from \$3.45 million to \$6.25 million (of which \$1.75 million is for expert witnesses). The increase is needed because of Entergy’s scorched-earth litigation tactics.

Georgia Mountain Community Wind – Docket 7508 – GMCW has agreed to produce summaries of the results of each quarterly monitoring session prior to producing a comprehensive report at year’s end. GMCW argues that its Board-approved noise monitoring protocol does not require quarterly reports, though the protocol is not entirely clear on the issue.

Sheffield Wind – Docket 7156 – The Board has requested comments on neighbor Paul Brouha’s request for monitoring at his home pursuant to the First Wind Noise Protocol that arguably (due to poor drafting in the document) requires monitoring at properties within 1.5 miles of the facility at First Wind’s expense. First Wind has argued that the intent of the language in question is not consistent with Brouha’s request. The Department intends to stay neutral on the question and seek Board guidance on the proper interpretation of the language.

Also related to this project, PSD's Consumer Affairs has been advised that Steve Therrien is seeking Social Security disability payments. The Consumer Affairs specialist who takes wind complaints received a request for information from the Social Security Administration. PSD counsel will contact SSA to explain that info we have consists entirely of the Therriens' complaints (the Therriens have consented to release of their complaint information).

Smartgrid – Docket 7307 – Department staff attended a workshop with other New England regulators discussing cybersecurity, particularly in the context of Smartgrid rollout.

Kingdom Community Wind – Docket 7628 – Several parties sought PSB review of five permits issued for the Project by ANR, relating to stormwater and a Section 401 Water Quality Certification. Appeals of two permits were dismissed by stipulation. On 3/20 the PSB issued an order affirming the issuance of the remaining three permits. PSD did not take an active role in these appeals.

GMP Synchronous Condenser and Associated Upgrades in Jay – Docket 7987 – The Petitioner filed the Memorandum of Understanding (among the petitioner, the Department and ANR) with the Board. The Board has scheduled the technical hearing for March 28<sup>th</sup>.

Clarke Solar in Rutland, LLC Project – Docket 7957 – PSB scheduled the technical hearing for March 28<sup>th</sup>.

North Springfield Biomass - Docket 7833 - The first two days of hearings concluded on 3/15. Hearings will resume on 4/1 and will predominantly focus on witnesses from NSSEP and ANR on matters pertaining to the Forest Harvest Policy. We understand negotiations toward an MOU between ANR and NSSEP are ongoing. PSD will be cross examining NSSEP briefly on a Decommissioning Plan during the second round of hearings next month.

FairPoint Wire Center Reclassification - Docket 7958 - PSD consultants provided feedback on a projected testimony filing deadline of 6/14 for PSD and this was shared with the parties and filed with the Board on 3/20 as required by the PSB scheduling Order. Next week parties will confer to see if they can agree on a schedule for the remainder of the docket, and must file results of that consultation on 3/29. PSD expects prefiled testimony from CANNE on 3/22 and must file discovery on that testimony by 3/29.

Small-Scale Renewable Energy Incentive Program – No Docket – After the Program re-opened on March 13, an ambiguity was brought to the CEDF's attention regarding the length of time a specific project should be considered to fall within a Reserving Partner's cap. Staff drafted and issued an interpretation letter to resolve the ambiguity. EVT called with concerns about the changes and we'll be discussing them further.

Suncommon Compliance with Renewable Energy Incentive Program Rules – No Docket – PSD staff met with Suncommon to resolve issues related to Suncommon's lack of compliance with program rules. PSD staff is revising a draft MOU and hopes to execute it no later than next week. The resolution requires Suncommon to install a \$25K (retail) system at a school at no cost over the next year.

VTC Agricultural Methane Generator Section 248(j) Proceeding – Docket No. 7965 – Last week, the Board issued a memo seeking an assessment of the greenhouse gas emissions that are likely to result from trucking off-farm substrate to the farm to use in VTC's digester. VTC responses due March 21 and were submitted. President Phil Conroy called Chris to ask for help moving the project along.

VGS Addison Expansion—Docket 7970— The first of two currently scheduled public hearings is taking place this week in Hinesburg; opponents of the Project are staging a protest in advance of the hearing and the Board has arranged for security to be present. Remaining issues with ANR over wetlands around Monkton swamp, among other areas, continue to exist; ANR has requested additional information from VGS. The Department and its consultants continue their initial reviews of the filing. The Conservation Law Foundation, Vermont Land Trust and the Vermont Housing & Conservation Board each filed motions to intervene this week.

Vermont Gas Phase VI Looping Project— Docket 7929- Following positive meetings with the towns of Georgia and St. Albans, the engineering division filed testimony supportive of the Project. Having filed supportive testimony, the Department will not be a party to the MOU between VGS and ANR, which was finalized and filed this week. ANR's issue regarding the treatment of sedge (a rare plant species on site) during construction was ultimately resolved. It is anticipated that a joint Proposal for Decision will be submitted by all three parties at the time of the yet-to-be-scheduled technical hearing.

Omya LNG Facility—Docket 7869—Omya satisfactorily revised its design plans consistent with discussions with the Department's consultant and filed them with the Board. The Department notified the Board of its approval.

Gervais Family Farm - amend CPG for Methane Digester—Docket 7312—A CPG was issued for this project in 2007. The Petitioner is currently seeking an amendment to allow for the use of certain off-farm substrates in the digester. The Board issued a series of questions to the Petitioner, and the Petitioner filed responses this week. PSD is reviewing the petition and the responses and is due to file comments with the Board by April 15. The Electric Department of Enosburg, with which Gervais interconnects, has notified the Board that it has no objection to the requested amendment. The Department continues to work with AAFM and ANR in drafting legislation to deal with this and other outstanding digester issues, including possible ramifications to the Standard Offer pricing structure. The Board has also become involved in the drafting process.

VGS Integrated Resource Plan -Docket 7828—A public hearing was held last week and no members of the public attended. One day in advance of the deadline, VEIC filed a motion to intervene in the docket; responses by both the Department and VGS are under consideration. VGS is revising the Plan based on conversations with the Department and a MOU is due to be filed on April 12. VGS has formally requested that Docket 7459, which was opened to investigate the 2008 IRP (which was never finalized), be closed as this docket has essentially replaced it.

VGS Rate Design Study—Docket 8009—As required by the terms of its Alt. Reg. Plan, VGS filed a rate design study in January. The Board has opened a docket to investigate the proposed changes and scheduled a prehearing conference for March 28. The consultant retained by the Department to assist in managing/reviewing VGS's performance under the Plan has terminated his contract and the Department is seeking to replace him as soon as possible.

VTel Wireless Petition for Unconditional ETC Designation – Docket 7966 – After extensive negotiations, the Department and VTel Wireless were unable to reach an agreement on the terms of a regulatory stipulation, as VTel was unwilling to commit to a condition requiring that it abide by the requirements applicable to a Commercial Mobile Radio Services ("CMRS") provider. VTel has not decided on the technology it will employ in meeting its ETC obligations, but it has presented no information suggesting

it will not be providing CMRS. The Department notified the Board on March 20<sup>th</sup> that the parties will be working together on a proposal for a litigation schedule, which will be filed with the Board next week.

Comcast/Waitsfield Interconnection Agreement Arbitration – Docket 7884 – On March 20<sup>th</sup>, the Department filed a letter with the Board indicating that the executed interconnection agreement satisfies the requirements imposed by the Board's Order, and recommending that the Board approve the agreement.

Amicus Brief in Support of SOV v. MyInfoGuard, LLC (Washington Superior Court) – no docket – The Department is working with the Attorney General's office in providing responses to defendants' discovery requests, which include interrogatories regarding consumer complaints that may have been fielded by CAPI.

Benjamin Farm Methane CPG – Docket 7886 – A CPG was issued for this facility in September 2012, including a condition requiring notice to the PSB before construction began. Nonetheless, the Benjamins began construction without giving the required notice, due their counsel's oversight acknowledged in a request for waiver of the notice condition. All other conditions were complied with. The PSB sought comments on the violation; ANR had no issue with the request for waiver, while PSD remained neutral. On 3/18 the Board issued an order stating it would impose a penalty of \$250, but allowing the Benjamins to request a hearing. The Board pointedly noted that it did not have jurisdiction over any claims the Benjamins may have against their attorney.

Montpelier v. Berlin Water Co. – Docket 8000 – In January the City of Montpelier filed a complaint alleging that the operator of the Berlin Water Company, Deane Hedges, had made an unauthorized connection to the City's water system and taken City water. Hedges is one of the worst operators regulated by the PSB/PSD; his CPG for the Crystal Springs Water Company was nearly revoked some time ago. PSD will participate in this docket and may seek revocation of Hedges CPG for this system. A prehearing conference is scheduled for 3/28.

### **Consumer Affairs:**

Consumer complaints for the week March 10 – March 16: CAPI received 125 contacts from consumers and opened 95 new complaints this week. Below are some cases from the week:

#### **GMP South**

Consumer called CAPI after receiving what he considered an unusually high bill. A smart meter was installed recently and in February the bill said they had used over three times as many kilowatts as their average usage. The consumer said he spoke to GMP and GMP said the meter was misreading. The consumer has been working with a supervisor who is looking further in to the matter. CAPI contacted GMP who said they had sent the meter to be tested and were awaiting the results. Bills have been recalculated for consumer. CAPI awaits meter test results and reason for incorrect data transmission.

Another GMP South complaint- A consumer called regarding a smart meter that was installed on the consumer's house without notice. Consumer went outside to see what was going on and she spoke to the tech who was installing it, and he said it could not be taken down. The consumer called GMP and they said they could replace it within two weeks. The consumer wanted it removed ASAP as she is a

cancer survivor and said she does not want to be exposed to RF waves. CAPI contacted GMP South and within two hours the tech was back to remove the smart meter. Consumer was happy with outcome.

#### **Burlington Electric Department**

CAPI received a call from a consumer who was in danger of a disconnection by Burlington Electric Department (BED). Consumer's past due amount is around \$4600.00. Consumer stated that she was offered \$50.00 by Economic Services but because it would not stop the disconnection Economic Services could not make that payment. Consumer stated that BED is looking for ½ of the past due amount in order to avoid disconnection. CAPI contacted BED and after discussion, BED has agreed to stop the disconnection if the consumer pays \$400.00 and then agrees to pay \$250.00 a month on her past due amount, plus her current amount due. Consumer would be entered into a payment arrangement for almost a two year period.

#### **Comcast**

A consumer who lives part-time in VT had problems with his cable television service after Comcast's digital conversion last summer, which the consumer didn't realize had occurred. There was a problem in scheduling a tech visit while the consumer was in Vermont. In October the consumer received a digital converter box from Comcast but didn't install it until he returned to Vermont in January. The consumer requested credit for the months he didn't have service; Comcast said they were only allowed to credit \$30 after intervention from CAPI, the consumer and Comcast came to a mutually acceptable resolution of Comcast providing three months' worth of credits to the consumer's account.

#### **Post-CPG complaints**

Between March 14 and March 20, CAPI took in six complaints from four people regarding Lowell Wind, Georgia Mountain Community Wind, GMP's group net metered wind turbine in Vergennes, and Sheffield (First Wind). The complaints included noise, health effects, and a nervous horse (that the consumer feels needs to be moved away from the wind turbines), and that at least one turbine's blades extend onto a consumer's property. The latter complaint is with regards to Lowell Wind and GMP has scheduled a site visit to investigate the consumer's claim. CAPI met with Robert Dostis of GMP this week regarding post-CPG Lowell Wind complaints and the process GMP follows for investigating them.

#### **VEIC Meeting**

EVT meeting with Eric Rutz; to discuss EVT's SQRP metrics and reporting, as well as their complaint handling process and the surveys they conduct (related to "programs that bring savings"). We also discussed a trial program VEIC is undertaking regarding use of "Green Button," a national program that allows electric users to download their electric usage from their utility and share their data with companies that can provide consumers with products and services (such as smart phone apps and online tools) that enable consumers to save energy. Twenty former CVPS customers are participating in this trial. Another topic was VEIC's takeover of the phone line for Go VT (a car pool/ride share program) and creating an "efficiency utility" for transportation.

#### **Broadbandvt.org Discussion**

CAPI met with Kiersten Bourgeois, who has taken over for Karen Marshall as the Chief of Connect Vermont. Overview of the current process was discussed among the group, which also included DPS Telecom staff.

#### **Cramming request from the Attorney General's Office**

CAPI has received a request another request from the AGO regarding cramming complaints. This time, the request involves requests for information on 11 different vendors going back to 2003. This is a fairly labor intensive process and CAPI will strive to compile information by the first of the week for the AGO.

#### Upcoming Meetings:

- CAPI will be scheduling a PSB rules training with Washington Electric Cooperative
- CAPI will be meeting with Caro Thompson from the VTA next week to review collaborative efforts with the broadbandvt.org consumer contacts.

#### **Planning and Energy Resources:**

##### Legislative

- Attended hearings on, testified, and met with stakeholders and staff regarding H. 405
- Staff has been tracking the House floor calendar for amendments and readings on H. 405, H. 520, and H. 519.
- Attended various Senate committee hearings on S. 30. Floor discussion and vote was deferred from 3/20 to an undetermined date (possibly next Tuesday, 3/26). The significant committee amendment (to their amendment) requires conformance with Act 250 criteria and town/regional plans in the next year for projects > 2.2 MW, rather than 500 kW. PSD would still be required to do a detailed assessment prior to 11/15/13.

##### Act 250 Reviews

- WHITINGHAM: Construct 2 additions to existing school: a 15,600sf gym addition and a 6,000sf administration office, and renovations to existing building.
- RANDOLPH: Construction of a 4,800sf, 2-story addition on existing office building.

##### Residential and Commercial Building Energy Standards (RBES & CBES)

- Commercial Code:
  - Received 5 calls in the past 7 days from professionals regarding the code. Most inquiries have been around the completion of the Energy Certificate.
  - Received 8 planning letter from DFS for follow up in regards to energy code compliance.

##### Energy Efficiency Utility Activities

- Reviewed Program Implementation Procedure #57 concerning development and reporting of levelized costs of efficiency versus supply alternatives. Minor comments provided to EVT, comments were adopted and PIP was finalized.
- Began consideration of appropriate method to quantify avoided costs for efficiency measures that reduce usage of Compressed Natural Gas. A number of methodologies were suggested to EVT for their consideration.
- Staff developed a stakeholder engagement strategy for the DRP Value Stream Mapping initiative. In an effort to increase value for Vermont ratepayers Department staff, EEUs and other stakeholders will meet in at least two more day-long sessions to map the current state of the DRP and identify potential improvements. Also, staff worked with EVT on developing goal statement for DRPP which is being reviewed by stakeholder participants.
- Staff continued to work on revisions to EEU Process and Administration (P&A) document and strategy for completing revisions. A new proceeding will need to be opened to address and propose potential changes, timing to be determined.

- Staff communicated with BED to review plans for BED's budget and goal adjustments for the 2012-2014 period. Budget and goal adjustments include factors related to 2009-2012 EEC carryover for LED street lighting, TAG and Screening Tool modifications. Staff anticipate modifications to Quantifiable Performance Indicators (QPIs) including MWh, Total Resource Benefit and MW.

#### Evaluation

- Administrative Efficiency
  - Received draft list of EVT's key business process selections to be mapped and measured. Discussed with EVT possibility of interim/advanced schedule for some milestones.
  - Issue surrounding transfer of staff between VEIC and EVT for quarters 3 and 4 of 2012 in regards to calculating the staff to management ratio has been resolved. VEIC portion of billed hours has been zeroed out. Still one remaining issue surrounding intern's potential inclusion in ratio. Awaiting feedback from EVT.
  - Contract amendment drafted, awaiting response on schedule before sharing scope with the contractor.
- SQRP: Scheduled tentative timeline to collaborate with EVT on Residential Survey design.
- Benchmarking
  - Staff is drafting RFP for benchmarking electric EE programs for program year 2011. In addition to soliciting budget proposals for said year, RFP also solicits budget proposals for 2009-2011.
- Thermal Evaluation
  - Staff continued to finalize the VGS thermal impact evaluation report and plan to post on the PSD website next week.
  - Staff met with EVT and the evaluation contractor to review the revised HPwES thermal impact evaluation report. EVT will provide written comments by 3/26. Staff anticipate final edits and report production by the end of next week.
- Forward Capacity Market Evaluation
  - Held internal meeting with contractors to discuss status of projects under review.
  - Projects reports being sent to EVT for review and comment. No major issues identified to date.
  - Schedule of work has been finalized in order to keep the work throughput for both the FCM and Verification at optimal levels.
  - Working with Contractors to develop a framework for the evaluation of C&I stipulated lighting and the C&I portion of efficient products.
- Savings Verification –
  - Contract has been executed.
  - Snapshot of EVT database has been received, sampling strategy agreed upon between PSD and contractor, work underway to create sample.

#### Technical Advisory Group (TAG) review

- Snowmaking TAG issue is moving forward. PSD has agreed upon average water usage of each type of snowgun in general use. This agreement allows for better estimation of energy savings but other assumptions, such as the fuel type for the compressors driving the snow guns, still need be mountain specific and are unaffected by these default assumptions.

- Assumptions regarding door heater controls for commercial retail refrigeration. The PSD recommends that the hours of operation for these door heaters should be reduced 6.5% to 8191 hours to reflect the findings of the commercial market assessment study.

Vermont System Planning Committee: Set draft agenda and issued scheduling request for joint meeting of Forecasting and Geotargeting subcommittees of the VSPC.

#### ISO-NE

- Attended Planning Advisory Committee meeting (via phone), regarding draft Transmission Planning Technical Guide that documents ISO-NE's current planning process. Discussion points centered around the use of assumptions (that many believe are conservative) that aren't used in other states, such as the use of a 90/10 forecast and assuming two generators are out of service prior to the N-1-1 required criteria. These two assumptions in particular are not used in other ISO areas. The concern is twofold 1) the cumulative impact of conservative decisions compounds and overstates the need, 2) ISO-NE's stated goal of aligning planning and markets is not forwarded by using different assumptions in transmission planning and FCM market structure (example: 2 generator out assumption).

Integrated Resource Plans: Reviewed BED IRP. Issues to discuss with BED include specific treatment of societal cost of environmental externalities, future treatment of EE (whether continued in Demand Resource Plan proceeding or in IRP), consideration of alternative methodologies (if any), and detailed forecasting questions.

#### ARRA (SEP & EECBG)

- Worked with the Business office to resolve final accounting discrepancy of \$14,000 in expenses billed to ARRA-SEP. Still unresolved.
- Completed and executed contract amendment with VEIC to add \$37,000 to their PACE Interest Rate Buydown fund. This fully obligates all remaining EECBG funds except a small amount held back for administrative costs to complete the final reporting documents, including financials.
- ARRA Public Report: Met internally on remaining data and completed data preparation for input into Economic Model -
  - Added tags to indicate the underlying entity's industry sector
  - Communicated with VEIC on SSREI data to clarify industry sectors per incentive, then aggregated incentives by renewable technology and industry sector. Also obtained aggregate numbers on solar tracker incentives.
  - Completed first drafts of case studies. Continue to contact subrecipients to verify data and obtain photos.
  - Next steps – Finalize data; Create data cuts to compute GHG; Professional layout/editing

#### Sustainable Energy for Homes and Businesses (Sanders Earmark)

- Completed Final Report and work on finance report with PSD finance staff
- Final documentation prepared and will be submitted to DOE.

#### Clean Energy Finance Summit

- On behalf of planning team, the Office of Senator Sanders extended an invitation to Dr. David Danielson (Assistant Secretary for Energy Efficiency and Renewable Energy – DOE) to present a keynote at the event; waiting for reply from his office.

- Continued to coordinate with planning team to develop agenda.
- Convened meeting with PERD staff to discuss options for input materials to the summit; received and incorporated feedback
- Continued outreach calls to RE development leaders to gain input on design for event

#### Clean Energy Development Fund

- Compiled grant application materials for regional sun-shot grant, including market assessment report for PV installation costs for Burlington, VT

#### Renewable Energy Items

- Discussed May 6 Energy Storage Summit with GMP and DOE/Sandia. Working on a day-long schedule focused on invitees from the VSPC NTA study group, which we'll be contacting shortly about the 5/6 date and their desired outcomes from the day.

#### Standard Offer

- Reviewed PSB Order regarding standard offer. Among other issues, the Board determined that:
  - The project selection process and pricing process would change to a market based mechanism rather, improving from a lottery with an administratively set avoided cost. An RFP soliciting 5 MW of project capacity will be issued by the SPEED Facilitator on April 1 (4.5MW from developers, 0.5MW from utility providers). The bid price is capped at technology specific avoided costs.
  - Bids will be evaluated on price for 2013 (the PSD had advocated for value-based evaluation). This will be reconsidered for 2014.
  - The definition of 'sufficient benefits to the operation and management of the grid', to determine whether a project is excluded from the annual capacity cap, is limited to only those projects that have impact on a T&D constraint.
  - 'Reliability Plans' will be filed by utilities with VSPC input in order to determine areas where projects may provide sufficient benefits, and be excluded from the cap. No constraints will be targeted with standard offer projects in 2013.
- Utilities have filed a motion for reconsideration regarding some restrictions on the financial structure of the "provider block." PSD generally agrees with utility concerns; draft solutions to propose have been developed.

#### Transportation

- DEV Education and Outreach meeting – Answered survey questions related to revitalizing the group
- Met with ANR, VTrans, and DMV to clarify joint legislative strategy on EV license plates and the "ZEV fix."
- Upcoming meetings:
  - 3/21 REV + DEV table day at State House
  - 3/22 VT-QC "green corridor" meeting at GMP Colchester
  - 4/18 - 11am-3pm State House Demo Day for legislators
  - TBD: State House EVSE and PHEV unveiling

#### Heating Fuel

- Completed 3-18-13 fuel survey.
- Crude Oil - was trading at \$93.24 v. \$92.75 last week.

- The natural gas market this am is at \$3.976 v. \$3.717 last week.

#### Other Items

- **PureDocs** - Work Process Flow review and revision continues. Contract still in the negotiation phase. Meeting with representatives of New Dawn this week was productive in narrowing in on contract details.
- **Biennial** – Staff completed a rough draft of the complete Biennial report, which is being reviewed in PERD prior to submission to the Commissioner for edits and finalization.
- Provided, with VELCO permission and appropriate caveats, general map of where transmission constraints would benefit from generation in Vermont (and where generation would not help as much) to ANR for inclusion in the VT Energy Atlas.
- Attended Resilient Vermont Infrastructure Working Group meeting. The group decided not to include the “built environment” in this group (as it pertains to buildings) and to focus on infrastructure systems. Therefore it doesn’t seem like a good use of PERD staff time to continue to attend these working group meetings (DPS Engineer will continue to participate). PSD was asked to provide potential contacts in the TeleComm field to join the working group. Two more Infrastructure Working Group meetings will be held to draft recommendations, which will be presented at the full-day Resilient Vermont meeting in May.
- Visited the Charlie Ross natural resources practicum course at UVM to discuss the CEP and state energy policy, including thermal efficiency and transportation energy use.
- Testified in docket 7833 (N. Springfield biomass) re: the “need” criterion and consistency with the Electric Plan.
- Upcoming meetings/deadlines: 3/26 Meeting with utilities and PSB to discuss regional issues, including transmission cost containment, Non-Transmission Alternative cost allocation, reaction to ISO-NE initiatives and reports (FCM pay for performance, winter operations summary, etc.)

#### **Finance and Management:**

##### Electric:

GMP –filed a net metering tariff revision to bring it into compliance with Act 125 that included elimination of \$10 opt-out fee for smart power meters. Staff has reviewed the filing and provided a recommendation to PA recommending it be approved with revisions proposed by Planning.

GMP – GMP has requested a meeting with the PA staff to review options for smoothing rate volatility and minimizing near term rate increases. The meeting has yet to be scheduled.

VEC has indicated it has lost money in both January and February that totals over \$1.6 million due to filling open positions in its supply portfolio with very high priced market energy. It is preparing a filing to review with staff before filing with the Board.

Swanton – has filed for a 10.69% or \$702,996 increase in electric rates to take effect on a service rendered basis on April 16, 2013. The increase is needed to cover debt service principal and interest costs. Staff is reviewing the filing; a recommendation is due March 29, 2013.

WEC - Staff is reviewing proposed WEC Street & Area Lighting Rate Tariff they will be filing shortly.

Enosburg Falls has filed a 108 (Financing) petition for approval to borrow \$306,000 to buy a new bucket truck and to replace its dam bladder. Our recommendation is due by April 7.

2013 Avoided Energy Supply Component (AESC) Study Group. Staff is participating in the oversight of this project. First draft from Synapses of the gas forecast assumptions, electric capacity value assumptions, electric forecast assumptions and DRIPE (electric, capacity, natural gas) methodology assumptions are due April 1, 2013.

Stowe Electric had requested and the PSB had scheduled a status conference on March 21, 2013 concerning the use of "excess funds" and the penalty phase of a case that has been open since early 2011 (Docket 7579). On March 20 the Board issued a decision in the penalty case adopting the recommendation of the department. Consequently, Stowe requested status conference be cancelled.

EEU: VEIC- Staff is reviewing the invoices and cost report reporting forms and methodology and VEIC "Standards of Conduct".

PSB – the PSB provided notice that there was an \$800,000 (2%) error in the spreadsheet used to calculate the 2013 Energy Efficiency Charge ("EEC") rates and requested comments options to address this situation. Comments were due March 18<sup>th</sup>, 2013. Staff initially recommended that the rates be changed now as opposed to adding it to the 7% increase that is already scheduled for 2014. However, all of the utilities filed comments indicating a preference to begin collecting the 2% or \$800,000 annually beginning in 2014. Staff supports the preferences of the utilities since it does extend the collection period for one year.

Gas: VGS Quarterly PGA has been filed that will provide rate payers with a 2.1% or \$1,823,675 reduction in rates effective May 7, 2013. The rate reduction is due to a decrease in the wholesale price of natural gas. Staff is reviewing the filing and a recommendation is due to PA by April 15th.

VGS—Docket 8009 Rate Design: the Board has scheduled a prehearing conference for this case on March 29, 2013. Docket Nos. 7803-7843: requires Vermont Gas, after consultation with the Department, to submit a compliance filing addressing weather-normalized, by April 1, 2013. Staff is reviewing VGS proposed filing addressing this issue. No specific due date for the department response.

Information Systems: A two day project planning meeting was held with Sustain. The results were very successful and the second day of the meeting was cancelled. Sustain essentially has agreed to the contract changes we were requesting and it now looks feasible with some significant downside possibility that we will have a final draft contract by April 1. DII will be sending the next revision of the contract to Gartner for an independent review of its terms which may delay the May 1, 2013 kick-off to a June 2013 start. The Project Team has less time available to work on the project due to legislative and caseload demands.

#### Meetings This Week:

- Planning meetings were scheduled with Sustain.
- Status conference scheduled with the PSB and Stowe Electric on the use of excess funds.
- PURE DOCS team meeting March 14, 2013

#### Meetings Next Week:

- PSB Status Conference in Dockets 7458/7579: Petition of Town of Stowe Electric Department Pursuant to 30 V.S.A. § 108 for an Order Finding the Issuance of \$18.7 Million of Indebtedness and the Issuance of \$7 Million in General Obligation Bonds Consistent with the General Good of the

State (Docket 7458); and Investigation into Compliance of Town of Stowe Electric Department with Requirements for the Use of General Obligation Bond Proceeds (Docket 7579)

- VEIC: Staff is meeting with VEIC to review the February EVT invoice.
- Project Coordinating team March 26, 2013, this meeting may be change to a different date to accommodate Jaye Johnson from the AGO
- PURE DOCS team meeting March 28, 2013

### **Engineering:**

Vermont Yankee shutdown for refueling and major equipment replacement : On March 18, 2013, at about 0400, while conducting a ventilation lineup, Vermont Yankee experienced an improper operation of the ventilation system which resulted in increased pressure in the Reactor Building and a Blowout Panel dislodged on the west side of the building. The reactor building has 40 Blowout Panels that are about 5 feet by 10 feet in dimension and are made of primarily aluminum. The Panels are secured with a wire rope to prevent them from falling to the ground when they release. However, in this case the Panel that released fell onto the Turbine Building roof. There were no injuries from the Panel falling onto the Turbine Roof. The Panels are designed to release in the event of over pressure in the reactor building to protect the structure, systems and components in the event of a tornado. The Reactor Building serves as a secondary containment that is at negative pressure so all air in the building is vented up the plant stack. Vermont Yankee is currently in a refueling outage, and secondary containment was not required at the time the event occurred. Within approximately ½ hour, Vermont Yankee restarted reactor building ventilation to reestablish a negative pressure and exhaust up the plant stack. A replacement Panel was installed to the Reactor Building, and Vermont Yankee will conduct a test to verify that Technical Specification requirements are met before moving fuel. NRC Resident Inspectors have been briefed by Vermont Yankee on this event. This event has been entered into the Vermont Yankee corrective action process. Vermont Yankee will complete a root cause analysis within 30 days. There was no health or safety risk to the public.

NRC approves 'two-track approach' to BWR containment venting: On March 19, 2013, NRC approved a "two-track approach" to improve systems on Mark I and Mark II Boiling Water Power Reactors (BWR) for venting a reactor's containment during a severe accident. Vermont Yankee is a Mark I reactor. In the first track, the commission ordered NRC staff to provide it, within 60 days, a draft order requiring upgrades of those vent systems. In the second track, the commission instructed the staff to produce in one year a technical evaluation to support rulemaking on filtered venting. The rulemaking is to provide flexibility to install new filtering equipment or allowing a performance-based approach using existing systems to achieve a similar reduction in radioactive release during an accident.

Gas Pipeline Integrity Management Inspections of Propane Operators: The federal gas pipeline safety code, 49CFR192, requires operators of propane systems to implement integrity management programs. This rule specifies how operators must identify, prioritize, assess, evaluate, repair and validate the integrity of gas distribution pipeline systems that could affect public safety in the event of a leak or other failure. The Gas Engineer is currently reviewing the Haskins Gas Service program. This company currently operates 22 pipeline systems, in southern VT, which are subject to this regulation, and the Stratton Mountain Resort Pipeline System.

ISO-NE Testimony to US House Energy & Commerce Committee Subcommittee on Energy & Power: Gordon Van Welie, President & Ceo, ISO New England, testified to the following points:

1. In a little more than a decade, New England has seen a transformation in its generation mix, moving from a mix of oil, coal, nuclear, and natural gas generators, to a system with more than half of the electricity production coming from natural gas generation (52%). In addition, the region is seeing the retirement of coal and oil generators, and the introduction of a diverse set of renewable and demand resources.
2. Wholesale prices are driven by natural gas generation, but the wholesale electricity markets do not provide adequate incentives for these generators to make long-term arrangements for gas supply or transportation, or to invest in dual-fuel capability.
3. The region's reliance on generation with "just in time" interruptible fuel-delivery arrangements has created operational challenges that are escalating rapidly. The region experienced significant operational challenges in January and February when a significant number of generators were unavailable due to uncertain fuel supplies or storm-related outages. We are seeing this more frequently and it is unsustainable.
4. The market-based solution to this problem is to strengthen the economic incentives in the wholesale markets to cause generators to make adequate and reliable fuel arrangements, so that they are ready to respond to the ISO when needed.
5. New England is urgently working toward solutions that include market changes that provide the incentives necessary to provide greater fuel certainty.

Resilient Infrastructure and the Built Environment Working Group: Engineering attended a meeting of the Resilient Infrastructure and the Built Environment working group of "Resilient Vermont". This was treated as a kick-off meeting to start the process of developing recommendations for Vermont's infrastructure to be more resilient to natural disasters. This working group will meet twice more between now and May 20, when the larger Resilient Vermont group will meet at Sugarbush. In attendance were representatives from the Institute of Sustainable Communities (host), several regional planning commissions, ANR, AOT, GMP, Vermont Businesses for Social Responsibility, Resilientcommunities.org, and Vermont Rural Water. The working group is seeking someone from the telecom sector to join the group.

### **Regional Policy:**

Coordinated Procurement: For the past several months NESCOE had been working on a coordinated procurement process for renewables with all states with the goal of issuing an RFP in early April. In February the NESCOE process was put the process on hold until June because Connecticut stated that it could not move ahead with the process until it had completed legislation on a revised RFP. Massachusetts is obligated by statute to issue an RFP for renewable power in the near term, and has been continuing its RFP process and will be issuing an RFP in early April. Independent of the NESCOE process, MA and VT have been working on developing information regarding the potential for a coordinated procurement process for large-scale hydro.

On March 18, the Commissioner of the Connecticut Department of Energy and Environmental Protection, David Esty, announced at a news conference that under Connecticut's leadership, Vermont

and Massachusetts are participating in a joint solicitation for renewables. Esty said:

“Connecticut invited other New England states to participate in the joint solicitation, but only Vermont and Massachusetts said yes for the first round. Rhode Island and New Hampshire may participate in the second solicitation, Esty said, adding that it is not likely Maine will join in.”

*Three New England states plan joint solicitations for renewable energy, Platts, March 18, 2013.*

We were not amused. In addition to significantly inflating Connecticut’s role in the process, CT ignored the work that NESCOE had been conducting for several months, and on a subsequent phone call with staff from MA and VT, seemed only vaguely aware of the NESCOE process. CR returned an AP call from Steve Springer the next day and said that “Governors Malloy, Patrick and Shumlin are committed to working together to leverage procurement possibilities for renewable power, but that we were in early stages of discussions. We will attempt to work within each state’s statutory constraints and policy goals to do this, possibly in two rounds as soon as this spring and as late as this fall. We are also coordinating with NESCOE on work they’ve done in this area.” MA is exploring whether it is feasible to coordinate its procurement process with a NESCOE RFP issued in early April. CT has stated that if MA was not able to accommodate CT’s desire to collaborate on the RFP, it may move ahead on its own with an RFP and include deadlines that would essentially allow CT to enter into contracts with the most favorable projects. On March 21 NESCOE staff held a call with VT, MA, RI, and CT staff to discuss the possible next steps. NESCOE will determine whether there is sufficient interest in proceeding with the NESCOE RFP in early April; if only a small subset of states are interested, it may not be appropriate for NESCOE to expend the effort and money on the process. In addition, the states are interested in conducting a coordinated procurement for large-scale hydro in the fall, preferably through NESCOE.

Changes to Connecticut RPS impacting Vermont: CT is in the process of revising its renewable portfolio standard. The revisions include two impacts for Vermont: (1) the potential exclusion of VT projects from being eligible for CT Class I RECs, and (2) the potential need for transmission projects from Quebec to CT. A white paper prepared for CT DEEP raised the issue of whether it is appropriate for resources that are used to satisfy another state’s RPS or renewable goals to be considered a Class I resource. A draft RPS bill in the CT legislature includes the following language: “any renewable energy source described under this subparagraph used for compliance with renewable portfolio standards or renewable energy goals in another state shall not be considered a Class I renewable 26 energy source.” This restriction would begin January 1, 2014. It appears that the restrictions are targeted to the New York renewable program, but is drafted in such a way that the restrictions would apply to both NY and Vermont. Most VT resources would still be eligible for Massachusetts Class I RECs; however, the McNeil biomass plant would not be eligible for MA Class I RECs. Burlington Electric Department estimated that the restriction would result in \$1-1.5 million in lost revenues, based upon 2012 generation. The CT DEEP report recommends that the RPS be expanded to include a tier for large-scale hydro. Under the proposal, 7.5% of CT utilities’ portfolios would need to include large-scale hydro or renewables ineligible for RECs by 2025. To the extent that CT relies on Canadian hydro (and Dan Esty of CT DEEP stated that CT has been engaged in discussions with Hydro Quebec for some time) significant transmission upgrades would be needed, with one obvious transmission path being through Vermont.

**Telecommunications:**

Dispute between Vanu Coverage Co. and Topsham Telephone – Vanu Coverage Co. (“Vanu”) is a small company that holds a Vermont CPG to provide wholesale wireless telecommunications services. Topsham Telephone (“Topsham”) is a small independent Rural Local Exchange Carrier (“RLEC”) that due to its rural designation receives certain regulatory exemptions pursuant to 47 U.S.C. § 251. Vanu is seeking to have Topsham provide certain of its proposed facility installations with DSL service. To date Topsham has refused to provide DSL service to Vanu. As a result, Vanu, represented by Gravel and Shea, has filed a petition with the Board to have certain of Topsham’s 47 U.S.C. § 251 exemptions revoked. It should be noted that the Department believes that even if Vanu were granted the relief it seeks, it would not require Topsham to provide Vanu DSL service as DSL is an unregulated service.

VUSF Legislative Study – Phase II and III of the legislative study related to the VUSF have stalled somewhat due to the Incumbent Local Exchange Carriers objection to providing information about non-regulated revenues. The Department has taken the position that to properly make recommendations to the legislature regarding the activation of a high cost fund that the entire financial position of a given company be considered. Such an analysis is not possible without the inclusion of non-regulated revenues. A resolution to this issue is expected within the next week.

RF Health Study – The Department’s internal team has met and made a recommendation as to who to retain based upon a scoring mechanism. It is anticipated that the selection process will be complete within the next week. It is also anticipated that the chosen expert will not be well received by the groups who are opposed to smart meters.

Smart Grid Complaints – In response to a legislative request the Department did a calculation of complaints received by CAPI regarding smart meters. The total number of smart grid complaints was 202 out of a total of 6017 complaints.

Cyber-Security Workshop – Two telecom division staff attended a workshop about cyber-security in Concord, NH on 03/21/2013. The workshop was sponsored by NECPUC.