

WEEKLY REPORTS

Checklist

1/3/2014

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 – Rebecca Holcombe
- ☒ VT Commission on Lottery – Greg Smith

Louis Porter

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- ☒ Boards and Commissions
- ☒ Department of Liquor Control

CONFIDENTIAL and PRIVILEGED—No Sharing

To: Governor Peter Shumlin

From: Lawrence Miller, Secretary - Agency of Commerce and Community Development

Date: January 3, 2014

Re: Weekly Report

SBE in Barre laid off half the staff (24) for the month of January. Going contract to contract, and trying to raise more equity. Bob Britt is the CFO and in good contact.

Revision did get the new helmet contract and is bringing people back to work in Newport soon.

CEDS: Received and reviewed 110-page Competitive Analysis from consulting team highlighting how Vermont compares with other states, our strengths and weaknesses and opportunities. Shared this as well as initiative summaries with Committee, Cabinet and agency members and RDC and RPC teams. Also included a reminder of two upcoming key events: a webinar to summarize data on January 21 at 2 pm and our day-long Strategic Planning session, Monday, January 27 to be held at the Sugarbush Inn.

AIV: Lisa met with Bill Driscoll of AIV. Proposed joint promotion of Manufacturing Day, Career Week and other initiatives to better highlight manufacturing opportunities and careers here in Vermont. Driscoll shared concern for rising energy costs as well as other agenda items.

Vermont Farmstead Cheese – Woodstock: This award-winning company is at a critical stage of their growth and is weighing new financing and marketing strategies to take the company to the next level. They have replaced their CEO with an operating committee of the board. They employ 7 full time and 7 part time. Sales are up 50% over last year to \$1.2M. The dairy herd is 60 cows. They see tremendous potential in exporting internationally, and GMEDC is coordinating a meeting with our international trade technical assistance resources.

Inspector General Audit of CDBG-DR: The HUD Office of the Inspector General has initiated an audit of our CDBG Disaster Recovery program. The entrance conference is scheduled for January 7th. We expect two auditors to be at DHCD for 6 to 8 weeks as they survey both CDBG-DR I and CDBG-DR II and determine whether to do a full audit. The Department was last audited by the OIG when it received a large amount of HUD funding through the Neighborhood Stabilization Program. The audit lasted three months and the Department came through with flying colors.

Hearing on Emergency Housing: In coordination with AHS, prepared for testimony before joint meeting on January 8 of the House Appropriations; General Housing and Military Affairs; and Human

Services Committees. The committees have asked AHS, DHCD, homeless persons and housing and service groups to explain the increasing demand for emergency housing assistance.

Sunset Farm Mobile Home Park: Next week, the Department of Environmental Conservation plans to request a court date to file an enforcement order to establish Shires Housing as a receiver for the failing park in Bennington. Shires will manage the park and help relocate residents prior to closure. Coordinated communication between our departments, the Town, Shires and the Mobile Home Program which is also supporting residents.

Hubbardton Battlefield: Letter of Inquiry to the National Historic Landmarks Program for Hubbardton Battlefield has been completed and is awaiting the return of Commissioner MacKay and Commissioner Berry of Fish and Wildlife for signatures. A memo outlining the process and steps taken thus far has been forwarded to Commissioner Berry and Secretary Markowitz.

Megan has continued follow up meetings with Vermont Mountain Bike Association (VMBA) Executive Director Tom Stusey, concerning the involvement of the major ski resorts in the organization. Due to the very positive response of the board members from the Vermont Ski Areas Association (VSAA), Tom and Megan have scheduled meetings with Killington, Sugarbush and Stowe to discuss how the organizations can best work together.

White River Junction: At the request of State Legislator Kevin Christie, Megan, Catherine and Christiane met by telephone with Kevin and Hotel Coolidge owner David Briggs to discuss strategies to attract visitors via rail, lodging specials, and cultural heritage tourism (including the African American Heritage Trail.) White River will contract with Vermont Rail for some special rail travel events and specials; VDTM will support by marketing through existing channels.

Civil War: new events and exhibits processed and posted on www.vermontcivilwar150.com. Experienced significant problems due to how the site was constructed. Thanks goes to IT for a solution.

Vermont Life Editorial: The spring issue is coming together, with a heavy emphasis on Vermont entrepreneurs who have capitalized on the Vermont lifestyle in very different ways.

New State Website Template: Heather and Nancy have begun discussions with DII about the next generation of the state website template. We have also started collecting examples of web designs for other public organizations (governments, nonprofits, colleges and universities). The goal is to have the new template ready to go by mid-2014.

Secretary of State Campaign Finance Website: Nancy met with the Secretary of State's office to discuss their big 2014 project: a new campaign finance website. The new site will allow lobbyists and candidates to file their reports electronically, and will be publicly searchable. Work is scheduled to begin in February, and the goal is to have the new site up and running before the first 2014 filing deadline in July. The SOS team is pleased with the back-end functionality of their vendor's solution, but wants to customize the look and feel of the front-end, so the CMO's office will work with the team to design that front-end look. This should dovetail well with the design of the new state website template.

State of Vermont
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For consumer assistance:
[All Insurance] 800-964-1784
[Securities] 877-550-3907
[Banking] 888-568-4547
www.dfr.vermont.gov

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To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: January 3, 2014
Re: Weekly Report

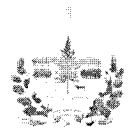
*Happy New Year!
Susan L. Donegan*

Insurance Division:

Government Personnel Mutual Life Insurance Company of San Antonio, Texas, indicated it would leave the Vermont Medicare Supplement insurance market unless it was allowed to increase its rates by at least a 20 percent. (In contrast, heavily scrutinized Medicare Supplement filings submitted by Blue Cross and United Healthcare for 2014, which cover credible portions of the Vermont market, resulted in average composite increases of less than 5 percent.) After an extensive review of the company's rate filings with actuarial analysis, DFR advised the company that a trend-level increase of 4.5 percent would be allowed but that the larger increases would not be approved. Given the rejection of the larger rate request, it appears that the company will likely exit the Vermont market. The Medicare Supplement products involved are "guaranteed renewable" therefore existing policyholders are contractually entitled to continuing coverage and the company has confirmed it will continue to service its existing Vermont business. DFR is always sorry to see a carrier pull out of Vermont but out-sized increases are clearly not warranted. The Medicare Supplement market in Vermont has capacity and as the boomer market goes into high gear, it is predicted that supplemental market products will grow over the next few years.

An investigation into claims practices by Nationwide Mutual Insurance Co. and its subsidiaries has resulted in a \$40,000 penalty payment to the department and more than \$48,000 in repayments to Vermonters. The reimbursements were in varying amounts to 37 consumers whose vehicle total loss claims were mishandled by the company. An additional, \$1,475 was paid in restitution to Vermont policyholders for claims not paid in a timely manner.

Two of our Vermont domestic insurance companies underwent significant leadership changes in the last quarter of 2013. Thomas Tierney has retired as CEO of Vermont Mutual Insurance Co. but will remain as chairman of the Board. William Catto, former president of the company, is now CEO and president and Daniel Bridge was named executive vice president. He was previously senior vice president.



Josh Fitzhugh retired as CEO of Union Mutual of Vermont but will serve as chairman of the board and Michael Nobles was named the new CEO and president. He was previously chief operating officer.

Captive Insurance Division:

Commissioner Susan Donegan signed seven new captive insurance company licenses last week and one more on New Year's Eve to bring the total for 2013 to a very respectable 29. Included in this year's new companies are 16 pure captives, five group captives, five Special Purpose Financial Insurers and three sponsored cell companies. Two companies (each with more than \$1 billion in assets) re-domesticated from Bermuda. Eight companies were involved in health care, four in construction, and three in transportation.

Banking Division:

The New Hampshire Banking Department and the New Hampshire Bureau of Securities Regulation have closed Upper Valley Commercial Corp of North Haverhill for engaging in unlawful banking activities. Principals David Patten and Alvin Fadden are accused of borrowing money from individuals with the promise of repaying it with interest without being licensed to do so. Of the almost \$11 million in assets, Vermonters hold approximately \$1.2 million in 15 accounts. The company has filed for bankruptcy protection. DFR is working with the New Hampshire regulators to monitor any developments in recovering money for Vermonters.

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Fiery Debate

Commissioners Back Leonardi Corporate Governance Idea, While Opponents Cite Flawed Process

By Thomas Harman

Commissioners watching the National Association of Insurance Commissioners' executive committee's controversial vote rejecting having a consultant examine the NAIC's corporate governance practices said they may still support the idea, while one who voted against it said he agreed with the motion in principle but differed on the process.

"[Cutting the speakers short was] an unfortunate public display that showed poor support for transparency. ... What are we afraid of?"

Thomas Leonardi
Insurance Commissioner
Connecticut



The panel's vote rejecting the idea followed a letter from the motion's sponsor, Connecticut Commissioner Thomas Leonardi, to individual commissioners that indicated NAIC was rife with corporate governance problems, cronyism among them. The Executive Committee then voted to allow review

by an ad hoc corporate governance committee, which has been at work examining corporate governance. Ad hoc Panel Chairman John Huff of Missouri said corporate gover-

■ **TRANSPARENCY, PAGE 2**

No FIO Surprises

Commissioners Unfazed by FIO Report, Say Work on Suggestions Already Underway

By Thomas Harman

State insurance commissioners showed little surprise and moderate concern over the Federal Insurance Office's new modernization report's call for near-term state and federal reforms to the industry. The FIO report called for a hybrid insurance system that included some limited federal involvement and said Congress should take action toward a federal

"I think it's a balanced report. I think the commissioners will use it as a road map."

Susan Donegan
Vermont Insurance Commissioner



system if more than two dozen reforms suggested did not occur, the report said. Interviews with commissioners at the National Association of Insurance Commissioners Fall National Meeting said many believe NAIC processes are handling many of the items the report wants states to address.

■ **FIO REPORT REACTION, PAGE 3**

Inside:

NAIC

NAIC Fall Meeting Full Coverage

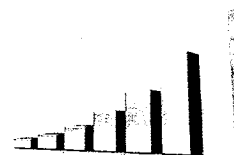
- PCI's Snyder: FIO Report Doesn't Justify Big Restructuring, **Page 5**
- Chaney Confident Flood Suit Will Be a Winner, **Page 6**
- Life Reserving Debate Rages on, **Page 8**
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- NAIC Panel Urged to Press for TRIA Reauthorization, **Page 11**

Webinar Replay

— Industry Roundtable Held Dec. 19: What Happened at the NAIC Fall Meeting and What's Ahead?
<http://www.ambest.com/webinars/naic13>

Related Video

— The Long-Awaited Federal Insurance Office Report
<http://www.ambest.com/v.asp?v=fio1213>



Stocks

Best's Regional Composite Indexes Week-to-Week:

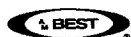
US (AMBUS)	▲1.61
Europe (AMBEUR)	▲4.25
Asia/Pacific (AMBAP)	▲1.64

Full listing of A.M. Best insurance stock indexes on **Page 24**.

As of Jan. 1, 2014, the indexes will no longer be published by A.M. Best Co.

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■ FIO REPORT REACTION FROM PAGE 1

Montana Commissioner Monica Lindeen, NAIC vice president, told *BestWeek Americas* the report produced no unexpected results. The FIO report, she said, addressed many things that NAIC is already working on. "There were no surprises," she said. NAIC top officials are expected to have more to say about the report on Wednesday following officer elections and a meeting this week with Treasury Secretary Jack Lew.

"I think it's a balanced report," said Vermont Insurance Commissioner Susan Donegan, who said it highlighted issues states and NAIC know they need to address. "I think the commissioners will use it as a road map," she said.

Donegan is the chair of NAIC's Corporate Governance Working Group that has been wrestling with the creation of a new model law. FIO's report said states "should develop corporate governance principles that impose character and fitness expectations on directors and officers appropriate to the size and complexity of the insurer." Donegan said she was pleased by the charge. "It looked like we were all going in the same direction," she said.

Arkansas Commissioner Jay Bradford said the report was not as onerous as he feared. "It seemed like it was pretty open to state regulation," he said. International issues, he said, appear somewhat open for federal management. He said various NAIC committees are in place to address the problems the report mentions.

The NAIC was cited in several of the state-based recommendations in the report, and Oregon Commissioner Laura Cali said the report gives states a guideline to work toward as much streamlining of regulation in various areas as possible.

New Mexico Commissioner John Franchini said the report "didn't show us anything we didn't know about. What we're working on was noticed. Maybe they would like us to do it faster." He said NAIC is driving many of the changes the report discusses and that states most likely can handle problems themselves without federal intervention. "We've done most of the work on a state basis very economically," he said.

Mississippi Commissioner Mike Chaney said the federal government must understand "in very clear terms the mission of state-based regulation." The system is superior to whatever the federal government can provide, except when dealing with international issues.

Chaney said there are many issues — even where FIO made recommendations for near-term federal involvement — which states can handle. One of FIO's recommendations calls for FIO to consult with Tribal leaders to identify alternatives to improve the accessibility and affordability of insurance on sovereign Native American and Tribal lands.

Chaney noted that NAIC recently formed a new panel designed to aid insurance industry participation of Native American and Alaskan Tribal groups through education. Overall, he said the federal government should let the states work with sovereign tribal nations.

The report called for changes in market regulation and Kentucky Commissioner Sharon Clark said the NAIC Market Regulation and Consumer Affairs Committee she chairs is working on them already.

Specifically that states should reform market conduct examination and oversight practices. States should require state regulators to perform market conduct examinations con-

■ FIO REPORT REACTION, PAGE 4

"I am worried about the continued growth of a new department in the federal government that is looking for problems to solve."



John Doak
Oklahoma Insurance
Commissioner

Best's Video and Audio

AMBESTV

FIO Report Reinigorates State vs. Federal Debate

Insurance industry executives say they're wary about the long-awaited FIO report's recommendation that the federal government should have a targeted role in regulation. (Dec. 18, 2013)

<http://www.ambest.com/v.asp?v=fio1213>

No Surprises in FIO Report, Says Deloitte Exec

Deloitte's Howard Mills discusses the long-awaited report from the FIO on U.S. insurance regulation, saying it doesn't contain anything that commissioners should view as a threat. (Dec. 16, 2013)

<http://www.ambest.com/v.asp?v=deloitte1213>

Mitigation Tactics Stemming the Tide of Sea Piracy

Insurance industry executives discuss how risk mitigation measures have reduced maritime piracy losses, particularly off the East African coastline, but warn against complacency. (Dec. 16, 2013)

<http://www.ambest.com/v.asp?v=piracy1213>

Lincoln Exec: Annuities Offer Income Stream

Brian Kroll, senior vice president at Lincoln Financial, talks about how consumers looking for a guaranteed income in retirement are helping boost sales of annuities. (Dec. 10, 2013)

<http://www.ambest.com/v.asp?v=kroll1213>

Lloyd's Ramps Up Build-Out with Capacity Expansion

As the Lloyd's market is set to embrace a flush of new capital in the coming year, executives involved with new syndicates or the expansion of existing ones discuss their plans. (Dec. 13, 2013)

<http://www.ambest.com/v.asp?v=lloyds1213>

BestDay Audio

Bullying Faces Coverage and Litigation Hurdles

Attorney Eric Harrison from the law firm, Methfessel & Werbel in Edison, N.J., discusses aspects related to bullying and insurance coverage and litigation. (12/18/2013)

<http://www.ambest.com/bestday/podcast/20131218.mp3>

Judicial Hellholes Are Devil of a Problem for Insurers

Lance Ewing, vice president at AIG, discusses the legal jurisdictions for civil cases, where judges systematically apply laws and court procedures questionably against defendants, and how that can be a problem for insurers. (12/17/2013)

<http://www.ambest.com/bestday/podcast/20131217.mp3>

■ TRANSPARENCY, FROM PAGE 2

surprise that not everyone who wanted to speak got a chance to do so. He said it was "an unfortunate public display that showed poor support for transparency." He said he was asking to find a consultant by having the same type of process that involved the hiring of Sen. Ben Nelson as chief executive officer. "What are we afraid of?" he asked, wondering out loud whether NAIC was so insecure that it was afraid of having a consultant look.

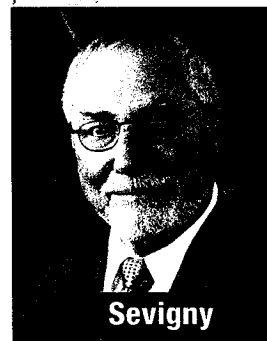
Leonardi's letter said it is clear that the biggest challenge NAIC faces is dysfunction within its organization. "If we cannot fix these governance issues, then others, including industry and the federal government, would be right to question whether we are up to the task of regulating the largest insurance market in the world," the letter said. Leonardi cited several examples of corporate governance problems. What Leonardi described as the most egregious example of poor governance was a unilateral move by last year's president to give the Federal Insurance Office a seat on the IAIS' Executive Committee.

"Informal discussions made it clear that not a single commissioner (other than the president at that time) and not one staff member agreed with giving FIO an Exco seat," he said. "Yet the president ultimately gave the seat to FIO anyway." Earlier at the current NAIC meeting, Leonardi told a panel that with transparency, IAIS has more. Also, the letter said there is a lack of understanding of the role and responsibilities of a fiduciary. "The culture of leadership in this organization is to first ask: 'Do I have the votes?,' not: 'What is the right decision and how do I get the votes to support the decision?'" the letter said. The letter said officers are brought into conference calls every Monday, although the officers lack the responsibility or authority to take such action or invoke such authority. NAIC elections, Leonardi wrote, closely resemble junior high school elections for offices.

He said many commissioners who choose not to run for office are viewed by staff, industry and consumer advocates as being among the most knowledgeable, articulate and respected of our membership."

■ FIO REPORT REACTION, FROM PAGE 3

tent with the NAIC's market regulation handbook; seek information from other regulators before issuing a request to an insurer; develop standards and protocols for contract market conduct examiners and develop a list of approved contract examiners based on objective qualification standards.



Sevigny

The FIO report points out strengths in state regulation and areas where states can improve, said New Hampshire Commissioner Roger Sevigny, adding that states should take all of the recommendations under consideration and make some decision regarding whether to use them. He said the report gave states some good feedback.

State-based regulation works and states and FIO need to be extremely careful about the possibility of over-regulation, said Oklahoma Commissioner John Doak. "I am worried about the continued growth of a new department in the federal government that is looking for problems to solve," said Doak, who last year wrote an editorial piece in which he said FIO's existence drives a wedge between parties in traditional insurance transactions.



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CONFIDENTIAL AND PRIVILEGED MEMORANDUM

TO: Governor Peter Shumlin
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: January 3, 2013

Thank you for giving me this extraordinary opportunity to serve you and the children of Vermont!

Legislative Issues/Contacts:

To support our work with the legislature, we are developing short (1-2 pages) cut sheets on major initiatives that summarize the impetus (e.g. research or a piece of legislation), work done by the AOE with results if available, and the next steps (e.g. hopes for related legislative action). (See attached draft on work related to Act 77.) These sheets serve several purposes:

- a) ensure consistency of messaging within and outside of the AOE
- b) provide concise information to interested stakeholders
- c) update the legislature on any actions taken in response to legislation
- d) lay the groundwork for future legislation
- e) ensure that I have a grasp on key issues I need to represent

Friday, 1/3:	AOE legislative preparation meeting at Secretary's Office
Tuesday, 1/7:	Brad James, Bill Talbott and others will testify to Senate Appropriations Committee on the Education Funding System
Tuesday, 1/7:	Donna Russo-Savage will review H.270, the PreK bill now in Senate Appropriations Committee
Wednesday, 1/8:	AOE to testify on H.270 to Senate Appropriations Committee
Thursday, 1/9:	Rebecca Holcombe to testify to House Education on goals, work accomplished, and priorities for legislation
Thursday, 1/9:	Confirmation

Press Issues/Releases/Contacts:

Today I was interviewed by Kathryn Flagg of Seven Days on North Bennington, private versus public schools. Talking points:

- Vermont academies have a long and admirable tradition of operating as private entities with a public mission.
- Communities have the right to make decisions about how to fulfill their civic obligations and educate their children.
- We have some concern that in making this decision, North Bennington may not have fully appreciated all the implications, nor anticipated all potential costs.
- Our job at AOE is to ensure that all children receive equitable opportunities to learn.

On Wednesday, 1/8, I am scheduled to visit Westshire Elementary's preschool and early childhood program (which offers education in the morning and full day care until 5:00 p.m. on site) with Alex Hanson of the Valley News. Talking points:

- Preschool on site takes advantage of existing space in a K-5, existing transportation service, existing food service and existing access to a school nurse, which addresses our goal of cost effective support for young children.
- Partnerships enable full-day care for families that need it, and thus enhance access.
- High quality educational programming is key.
- Early intervention and early education lead to better outcomes.

Significant Events/Meetings:

We have concluded interviews for a new General Counsel and plan to make an offer very soon. Our top candidate has stellar references and broad and deep experience as both an investigator and an attorney, which would put him on a strong footing in our legal office. He has leadership experience and experience testifying before legislators. In his work for the CT AG's office, he won recognition for the state for a series of Amicus Briefs he wrote for the US Supreme Court on behalf of coalitions of 20-30 states. In a blind review of sample briefs written by candidates, an attorney we consulted picked his as the strongest. If he does not accept our offer, our next candidate is an instate candidate and relative of Joey Donovan. He is also extremely bright, capable and mission driven, but less experienced than our first choice.



Evolving Issues:

Accountability model

We have begun work on developing a new accountability model for the state that will serve as a basis for future discussions with US ED regarding a waiver. In preparation, we met with experts from the Met Project, Harvard Graduate School of Education and the Center for Assessment. This model will:

1. capture and reflect school progress with respect to a range of VT priorities, including closing gaps in opportunity to learn (college access, early education, etc.),
2. be designed to support continuous improvement by all schools, rather than sanctioning a handful of schools,
3. will capture evidence related to the proficiency of our students with respect to a range of essential outcomes for Vermont children described in our new education quality standards, rather than the current practice of focusing solely on test scores in math and language arts,
4. provide some coherence and purpose to the work of the AOE, by clarifying how our disparate initiatives support a common set of goals.

We should have a draft plan for stakeholder feedback by February.

To support this work, we also have begun reaching out to our counterparts in other nonwaiver states, as well as state level stakeholders (VSA, VPA, VSBA, soon to the NEA). In addition, Deputy Fischer has been invited to partner with the Nellie Mae Education Foundation and KnowledgeWorks on an upcoming conference of policymakers from across the country who are currently supporting proficiency-based education in their states. The goal of this conference is to create a federal accountability and assessment framework that supports the paradigm shift to a proficiency-based environment. This event is scheduled for February 3-4 in Dallas, TX.

Testing

We are in the final stages of preparation for release of NECAP reading, writing and mathematics results. Beginning on January 27, embargoed data will be made available to school administrators for verification purposes. Results will be released to the public during the week of February 5. The specific date will be announced in the next week or two. With this release, the NECAP fall testing program officially comes to a close. The NECAP science assessment, administered in the spring, will continue through 2016.



We also will use the press conference to signal the transition to the new Smarter Balanced Assessment (SBAC). Beginning in mid-March, twenty-nine Vermont elementary, middle and high schools will participate in field-testing the Smarter Balanced Assessments of English Language Arts and Mathematics. The Smarter Balanced tests, which replace NECAP, will be administered statewide in the spring of 2015. Through the use of digital technologies, the new tests promise to provide more accurate results in less time, and include an array of accessibility tools intended to improve the assessment experience for students with special assessment needs. In the short run, the new test will also be less expensive than the current NECAP program owing to the economies of scale created through the consortium and a major investment of federal Race to the Top fiscal resources.

In preparation for the launch of the SBAC, the AOE will need to develop and carry out an extensive communication plan. More details on this will be forthcoming.

Rebecca





Act 77 Flexible Pathways

More jobs require post-secondary skills but fewer Vermont students are going on past high. The passage of Act 77 Flexible Pathways 2013 was a catalyst for significant redesign of the VT education opportunities and represents the State's commitment to equity and access to innovative learning experiences.

We know that VT graduates 87% of our students in high school, the second highest in the country. We also know that approximately 60% of these graduates go on to college within 16 months of high school completion.

Preceded by years of research and dialogue in Vermont, Act 77 represents the synthesis of many initiatives supported by partners throughout the State. High Schools on the Move (2002), the Next Generation Commission (2006) and the SBE Policy Commission (2009) provide the foundation for most of the key aspects of the Bill. These include the principles of student engagement, personalized learning, multiple and flexible pathways, real life experiences and early college opportunities.

Act 77 created a public policy initiative:

- (1) to encourage and support the creativity of school districts as they develop and expand high-quality educational experiences that are an integral part of secondary education in the evolving 21st Century classroom;
- (2) to promote opportunities for Vermont students to achieve postsecondary readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and
- (3) to increase the rates of secondary school completion and postsecondary continuation in Vermont.

This will be accomplished by providing opportunities for students to pursue graduation through flexible pathways that include applied or work-based learning opportunities, including career and technical education and internships; virtual learning and blended learning; dual enrollment opportunities; early college programs; the High School Completion Program; and the Adult Diploma Program and General Educational Development Program (GED).

Even before the passage of the bill, the Department/Agency of Education has pursued a number of these initiatives, preparing for the eventual Statewide policy. A summary of related implementation projects follows.

- The New England Secondary School Consortium (NESSC) has continued to pursue and support innovation in high schools with the Agency. The League of Innovative Schools had grown over the years across the 5 NE States; Vermont recently inducted 5 new high schools with a total of 18 current members. The Consortium was recently awarded a planning grant from the Gates foundation to create scalable models of personalized learning systems across the NE States. We are pursuing phase 2 funding from Gates later this month.
- In collaboration with CTE Co-op Coordinators and Navicate, the Agency developed the Gold Standards for Work Based Learning (WBL) and updated the WBL Manual.
- The Personal Learning Plan (PLP) working group convened as required by Act 77 and will complete their work this month. This group has developed "guiding principles and practical tools for the personalized learning plan process and for developing personalized learning plans".
- The Agency has issued competitive requests for proposals to LEA's to support:

1. capacity building for work-based learning,
 2. models for personal planning processes and development of planning documents aligned with the PLP working group tools
- The Agency developed the Early College Program (ECP) criteria and process for the Secretary's approval of new college programs. The Governor and Secretary announced these new ECP members in December. Burlington College Castleton State College, Johnson State College, Community College of VT, Lyndon State College will enroll high school students in their new ECP's in August 2014.
 - The Agency in collaboration with the VT State College Chancellor's Office expanded the dual enrollment program pursuant to Act 77. It is estimated that enrollments in this voucher program will rise X% this year to Z number of enrollments; increasing from Z enrollments last year.
 - The Agency sponsored and supported virtual initiatives for the 6th year with VT Virtual Learning Collaborative (VTVLC); including the development of a virtual STEM Academy this year.

During this period of implementation, we have identified a number of issues which need further discussion and/or consideration. The Secretary shall report to the House and Senate Committees on Education annually in January regarding the Dual Enrollment Program, including data relating to student demographics, levels of participation, marketing, and program success.

Per Act 77, the Agency will provide an analysis of the issues related to providing dual enrollment opportunities to publicly funded students in Vermont approved independent schools. The analysis will address the anticipated utilization of dual enrollment opportunities, the anticipated financial impact on sending school districts, the ways in which sending school districts will ensure student participation in a personalized learning planning process and inclusion of dual enrollment in the student's plan; and other financial and programmatic issues related to dual enrollment access by publicly funded students enrolled in approved independent schools. PLP's are required for public school students and publicly funded independent students when those students participate in dual enrollment.

On or before February 1, 2014, the Secretary shall report the results of the analysis to the House and Senate Committees on Education together with any recommendations for amendment to statutes or rules, including whether it would be advisable to amend or repeal Sec. 1, 16 V.S.A. § 944(b)(1)(A)(i)(III) (eligibility of publicly funded student enrolled in Vermont approved independent school).

Other issues for discussion and development:

Payment of 50% beginning in FY16:

- Independent schools, privately funded are not eligible for Ed Fund subsidized dual enrollment.
- Independent schools, publicly funded students, 50% will be paid by home district
- Home study students are eligible for State dual enrollment. Their home district will be responsible for the 50% payment. This is influenced by § 563 in statute related to the "Powers of school boards..." Section 24 "Shall adopt a policy...will integrate home study students into its schools through enrollment in courses, participation in co-curricular and extracurricular activities and use of facilities." Parents of home schooled students shall work with college officials to determine readiness as detailed in their plan.

Funding:

- Home school students dual enrollment costs (50%) will come out of the district's local funds despite the fact that many home schooled students will not appear on the census.
- How will the invoicing of the 50% payment occur between the district and participating dual enrollment colleges?

CONFIDENTIAL and PRIVILEGED

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

Status of Governor's Priorities: .

n/a

Legislative Issues/Contacts:

n/a

Press Issues/Releases/Contacts:

n/a

Significant Events/Meetings:

n/a

Evolving Issues:

n/a

Summary of Key Agency Department Activity:

Adding new staff members and training in new positions.

Executive Director's Commentary:

I encountered some administrative difficulties with changing instant ticket vendors, particularly related to contract overlap. Some technological requirements appear at this time to be delaying the date of printing the first ticket with the new vendor. This has caused us to submit an amendment to extend the end date of our current contract.

A long term, high volume lottery agent in Barre (M&M Beverage owned by Gilles Moreau) continues to struggle to pay us each week. There has been a history of almost monthly bouncing over 4 years. I spoke to him this week about ending our relationship with his store. We will be making a determination later next week.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, January 3, 2014

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Purchase of Montreal, Maine and Atlantic Railroad (MMA)

The MMA is the rail line that runs from St. Jean-Sur-Richelieu, Quebec to Searsport, Maine with a spur from Farnham, Quebec to Newport, Vermont through Richford. Because of the Lac Magantic disaster, the MMA has filed for bankruptcy and the court will sell the line at auction on January 21st (bids are due on 1/17). They are accepting bids on the totality of the line as well as smaller sections and we are interested in the spur to Newport because it services several NEK businesses, supporting more than 200 Vermont jobs. Since we are interested only in ensuring that it operates, not in actual ownership, we are partnering with Vermont Rail Systems (VRS) to see if we can facilitate their eventual ownership in this line. Dave Wulfson intends to put in a minimum bid of \$750,000 on the 17th to qualify for the auction on the 21st in Portland, Maine. We are going to do what we can, under the law, to be supportive of his efforts including finding a way to finance part of the transaction depending on what it costs. We will have to be fast and flexible during this process. (See below for further details).

Increased Wait Times at DMV Counters for Real I.D.

Wait times have doubled in the first day (Jan. 2) of Real I.D. licenses. This was anticipated and we expect it to be short term. However, we will monitor this closely to be sure that there is a staffing response should one seem necessary. The longest wait time today has been South Burlington at 85 minutes.

Winter Issues Continue

Our forces continue to deal with this very harsh winter season as a storm persists now (Thursday) and is expected to continue into Friday. There will be issues with the winter maintenance budget if this continues, as nearly 40% of the FY'14 winter maintenance estimate (\$26 million) will be gone with the current storm and it's only the 3rd of January.

On a lighter note, the feedback we have received on the work of our forces has been very good through social media and otherwise as people seem to be pleased with the effort. The only real problem we had was the Sunday evening after Christmas when several vehicles went off I-89 south of Bethel while snow was falling at a rate of 2" per hour. It was noted by our crews that every vehicle that went off the road was running either "all weather", summer or badly worn tires and most were headed to southern New England. We are brainstorming ways to communicate with skiers and other travelers that they should have snow tires to travel safely in snowstorms.

In My Absence

I will be away from January 7 through 21 and during that time Deputy Secretary Minter will be in charge. The legislative agenda is in order and plans are together, with our presence at the State House under the direction of Sue and Chris Cole. The Transportation Chairs have been notified of my absence and will not be scheduling me in committee under after the 21st.

NOTES FOR STAFF

Purchase of Montreal, Maine and Atlantic Railroad (MMA) (Continued)

We believe it would be imprudent not to engage in this process due to the potential loss of rail infrastructure sustaining commerce in the state and the potential loss of jobs in the NEK. Our decision to partner with VRS instead of placing a bid ourselves is based primarily on three factors:

- our desire to see state ownership of fewer, not more, railroads;
- the complexity of owning property outside of the United States, and;
- the timeline for this purchase which doesn't fit well with the potential need for any number of legislative approvals.

VRS has bank financing and approval to bid \$1.1 million for the piece of the line we are interested in preserving (St. Jean to Newport, plus the Newport Rail Yard). The salvage value alone is estimated at \$3 million but both the trustees of the bankruptcy process and the State of Vermont are interested in an operating freight line as there are a couple of large customers on the line (Kent Feeds (Blue Seal) and Poulin Grain) who have said that lack of access to rail will result in their pulling up stakes in the NEK and moving elsewhere, probably out of state. There are at least a couple hundred jobs in the mix here.

We are prepared to enter into an MOU with VRS that assures them of our investment in that line and/or the Connecticut River Line, which we own and Wulfson operates. The Conn River connects Newport to White River Junction and has seen a dramatic drop in freight since the Lac Magantic accident and the uncertainty over the future of the MMA. It may be necessary to help the bank be comfortable with as much as \$1.6 million in order for VRS to be successful. Our commitment to investment in the lines could be what gets us to that number.

There are risks, no matter what we do:

- The VRS bid may not succeed and the successful bidder may not want to serve local customers on the spur.
- The Genesee and Wyoming may bid on the line and then control all three rail access points to Canada creating a non-competitive situation.
- Even if successful, VRS may run into problems with the new owner of the main line of the MMA.
- VRS will also need trackage and hauling rights to the CN at St. Jean-Sur-Richelieu in order for this to work financially for them and the State.

VRS wants a support letter from VTrans to show the bank and the bankruptcy judge and we are preparing such a letter after review with our legal section. Our Rail Program staff will seek a similar letter from the MTQ but we are not certain that it will be successful as they may very well be bidding on the main line and have a partner themselves. We are also checking to see if we can be physically present at the auction in Portland, ME as an interested party only. (See Related Item Below)

Rail Accidents Involving Oil an Emerging Concern in the U.S.

In 2008 18,000 barrels of crude oil were moved by rail in the United States and by 2012 the number was up to 425,000 barrels. If preliminary estimates are correct for 2013, the number will come in at more than 550,000 barrels and with the growth in crude production in North Dakota skyrocketing and the reliance on crude from foreign sources dropping, this issue will be with us for a while.

Coupled with this growth is the increase in accidents. Four fiery derailments have occurred in the last year in North America including the Lac Magantic disaster which killed 47 and the recent North Dakota derailment that occurred on December 30 and required the evacuation of a nearby town and could have been disastrous if it had been a few miles down the line.

In Vermont, we are also seeing an increase in the transport of oil and oil products and specifically in crude oil coming from Canada. The continuing operation of the MMA will contribute to this increase and VRS tells us that there is more crude oil being shipped along the Green Mountain Railroad, which we own, from Rutland to Bellows Falls where it is transferred to the New England Central and transported to the port of New London, CT. Per federal requirements we are currently conducting rail bridge inspections for load ratings and discovering that many of our bridges – including those carrying petroleum – are in need of significant investment (that are not programmed in FY15).

As this trend continues we must have a plan to deal with our track conditions on State-owned rail lines. The liability will continue to increase with these increased haz-mat loads and we are not spending enough on the lines with the exception of the Western Corridor from Rutland to Burlington and the NECR throughout the state. A complicating factor is there is no federal funding program, other than TIGER grants, to pay for railroad infrastructure upgrades, and this would require state-only funds. Not sure what is likely to be recommended and when, but this should be the subject of a major national initiative

and, short of that, we will have to consider some increased spending which could require borrowing under the Transportation Infrastructure Bond program in FY16.

Legislative Prep

We have been preparing for Session by meeting with our Transportation Chairs, the Speaker (Pro Tem next week). In addition to our BAA presentation (which we expect will need to change substantially post 1/16), our Directors are prepped to present Agency accomplishments since the spring, and (post 1/15) our budget proposal. Unless we hear otherwise, our FY15 budget includes the proposal for 16 permanent positions.

Smart Growth America to Help with Vermont Design Standards Review

It has been more than 15 years since the Vermont Design Standards for Transportation Projects were adopted. This recognition by the Federal Highway Administration allowed some Vermont-sizing of projects so that they might integrate better with the needs of our citizens and communities. We have decided to review these standards with an eye toward current conditions in the environment, the economy, resilience and sustainability and our partnership with Smart Growth America will greatly assist in this evaluation.

Dispute with Village of Swanton on Water Line

The Town is designing a water line project that includes a section of the main line pipe in the Lamoille Valley Rail Trail right-of-way which is legally classified as “rail-banked” by the U.S. government. Federal standards for this classification require that the high-pressure water line within the ROW be encased in a steel sleeve. The Town was notified by our Rail Program of this requirement and was not happy; the response included the threat to “call the Governor”. Not sure if this will happen but I thought it was worth mentioning. The Village President is Ron Kilburn and the Village Manager is Reg Belliveau. We do plan to meet with them to further explain the requirement but we’re not sure it will do that much good.

Motor Vehicle Crash Facts

2013 Fatalities: **70 Total - 46** vehicle operators (1 snowmobile, 5 motorcycle, 3 ATV), **18** passengers (1 motorcycle & 1 ATV), and **6** pedestrians.

As of **December 31 in each calendar year:**

<u>Year</u>	<u>Fatalities (people)</u>	<u>Fatal Crashes</u>
2013	70	64
2012	77	70
2011	55	48

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: January 3, 2014

SSN Breach:

On December 27, 2013, a DCF employee sent an email containing a client name and social security number to a few specific people, but also inadvertently sent it to all AHS employees through an AHS-ALL-TEMP email list. We have since learned that the TEMP list had been created by DII in the immediate aftermath of TS Irene as a way to communicate with staff while the usual system was compromised. The list had not been disabled and at some point the required permissions restricting those authorized to use the list were removed, allowing this error to occur. After receiving the email, a number of other AHS employees used the “reply to all” function, which again redistributed the information to the same list. All employees have been advised to delete the emails, the individual staff who initially created the email and all those who used the “reply to all” function have or will be contacted directly, DCF will create a corrective action plan and AHS is reviewing options for renewed training for all employees on privacy and response when there is a breach. DII has restored restricted permissions for AHS-ALL email lists. A letter to the client notifying them of the breach is expected to go out today and also the required notification is being provided to the Attorney General. The AGO posts these notices on their website (there were 18 such notices in December 2013.) There was no private health information in the email, so this was a breach of SSN confidentiality requirements and not of HIPAA.

Vermont Department of Health (VDH)

Valley Vista:

The process of contract reconciliation for Valley Vista’s FY13 contract is underway. They are disputing the amount of funds they owe back to the state. Our AAG is reviewing their claims and drafting a response. We anticipate that they may contact the Governor’s Office or members of the House or Senate about our efforts to recoup these funds.

Medicaid Payments to ADAP Residential Providers:

As a result of changes to the prior authorization process for residential substance abuse treatment services, there have been payment delays for Valley Vista, Maple Leaf Farm and Serenity House. These problems are due to the way the technical processing occurs when HP pays claims. We have authorized funds to be advanced against claims due to Valley Vista and Maple Leaf Farm. HP is working to make technical edits to permanently correct the problems. There are temporary “fixes” in place until the permanent corrections are finished. Barbara Cimaglio, Deputy Commissioner for Alcohol and Drug Abuse Programs, has communicated both verbally

and via e-mail to the three providers. HP will work with ADAP staff to complete the permanent corrections no later than January 10th. No further payments will be held up for the providers while the changes are being made. This may result in recoupment later in the year if overpayments are made due to billing for unauthorized services.

Hepatitis A in Rutland Area:

The Infectious Disease Section and the Rutland District Office are responding to a case of hepatitis A virus in an employee at the Rutland-area Applebee's restaurant. The employee worked at the restaurant while infectious from December 18-28. In order to prevent additional cases, the VDH is working with Applebee's management to organize a vaccine clinic on Friday January 3, 2014 for Applebee's employees who worked during those dates. Post-exposure prophylaxis is not indicated for restaurant patrons.

Department of Mental Health (DMH)

DMH update to Rep. Lippert:

Deputy Commissioner Reed provided DMH updates to Rep. Lippert pertaining to involuntary and expedited treatment issues. Legislation is posted for introduction pertaining to an expedited involuntary treatment process and emergency involuntary treatment procedures. The genesis of the expected legislation is likely in response to LCAR's objection to the proposed DMH EIP Rule and suggestions for Chairs of the Committees of Jurisdiction to consider potential clarification of Act 79's intent regarding the rights and protections of patients identified in that statute.

New England Psychologist:

Deputy Commissioner Reed responded to inquiries from Pam Berard of the New England Psychologist regarding Vermont's increase in mental health funding to community services as part of a six state overview of funding priorities coming out sometime after January 13th. The information focused on the closure of the state hospital and deployment of resources to create more robust community services while constructing a new state hospital that will operate in tandem with designated hospital involuntary psychiatric inpatient units in Vermont.

VT Digger:

Deputy Commissioner Reed responded to Anne Galloway's inquiries regarding the recent Centers for Medicare and Medicaid Services (CMS) survey findings at the Green Mountain Psychiatric Care Center (GMPCC) and Plan of Correction in development that will respond to the citations identified in the report.

Vermont Psychiatric Care Hospital (VPCH) in Berlin:

Commissioner Dupre and others met with representatives of Fletcher Allen Health Care (FAHC) and Central Vermont Medical Center (CVMC) regarding service collaboration at the new VPCH. Among several topics discussed, the initial projected costs for an EHR partnership with FAHC have increased substantially and have triggered new discussions regarding an RFP process to validate the level of potential expenditures. Given the timing of this information and need for electronic pharmacy interface capabilities, contingency planning is underway. Deputy

Commissioner Reed and Jeff Rothenberg, CEO at GMPCC, met with Mel Patashnick, CEO at Copley, regarding maintaining its current pharmacy relationship and electronic health record interface while exploration of full electronic record capabilities work through an RFP process. Initial conversations were positive and Copley's CEO voiced his commitment in helping the new hospital succeed wherever possible. Psychiatry services contracting with FAHC remains on track, with FAHC and DMH working through final contract drafts. Other shared ancillary services with CVMC or through the FAHC Partners are still under discussion and should be in line with the planned opening of the new hospital.

Out-of-State Options:

DMH continues negotiations with a Massachusetts-based inpatient hospital system for overflow beds for individuals in the custody of the DMH Commissioner. Draft contracts have been vetted by attorneys on both sides and final drafting is in process. DMH staff members will plan visits to the potential facilities in January before executing final contracts. All potential placement facilities will be licensed and accredited hospitals. Once finalized, a more public discussion will likely unfold regarding whether or not DMH should utilize this capacity and how it will ensure that the same "rights and protections" for involuntary care patients will exist at out-of-state facilities.

Lengthy Stays:

Emergency wait times over the holiday period have decreased with only a small number of people waiting for Level I beds currently.

Department of Disabilities, Aging and Independent Living (DAIL)

CMS imposes significant fine on Starr Farm Nursing Home:

As the result of a complicated enforcement cycle, CMS informed Vermont's Division of Licensing and Protection on January 2nd that it was imposing \$103,480.00 in civil monetary penalties. Starr Farm has the right to an appeal; if they waive appeal rights, the fine will be reduced to \$83,232.50

No press interest this week but advocates remain critical of \$2.23M Developmental Services rescission:

DAIL received requests from two advocates this week demanding an explanation as to why "the Governor" is cutting the DS budget. Our message is essentially as follows: The 2013 Budget Bill passed by the Legislature included a \$2.5 million savings in target in Developmental Disabilities Services and directed DAIL to convene a summer work group made up of consumers, advocates, family members and providers to come up with ways to manage the service needs within the appropriation [Act 50 §E.333(b)(3)]. The group did not come up with any new ways to achieve the savings target in FY2014 leaving DAIL with the only option available in the System of Care plan, namely a rescission. Statewide, 524 consumer budgets were affected by the rescission. This represents less than 1/5 of consumers receiving Developmental Disabilities Home and Community Based Services (HCBS) (based on November 2013 census). A detailed report will be available next week.

Department of Corrections (DOC)

Food Shelf Donation:

The DOC Central Office collected 98 pounds of food for the Chittenden Emergency Food Shelf. This donation was dropped off on December 24th.

Population:

The department's incarcerated population averaged 2,065 for the previous week. The incarcerated male population averaged 1,912 with 351 being presentenced inmates. The female population averaged 153 with 43 being presentenced inmates.

Department for Children and Families (DCF)

General Assistance: Cold Weather Exceptions (CWE):

Through the end of December 2013, we've spent an estimated \$197,242 solely on CWE. That figure represents 3,338 nights at an average cost of \$59.09 /night. Harbor Place has capacity for up to 50 rooms, but is full on CWE nights. The Hostel is now open on CWE nights and houses an average of 7-10 people each night. There are more CWE nights this year and the usage rate is more than 3 times higher than the previous year. In Burlington, shelters are used first, then Harbor Place, then the Hostel for single women or women with up to 2 children under 13. Harbor Place and the Hostel can accommodate up to 61 GA applications.

In addition, the number of temporary housing applications seen in Burlington far exceeds the capacity of Harbor Place and the Hostel on CWE nights, so a fair number of motels are still needed. For example on December 16 and 17, even with the full capacity of Harbor Place (30-50 rooms) and the Hostel (averages 7-10 per night), on either of these nights there could be up to 50 temporary housing applications that would need to be placed in motels.

Mandatory Overtime:

Everyone in HAEU, BASU, HC AOPS, as well as our District offices have done a large amount of work putting in long hours to ensure we got Vermonters' Health Care applications processed. This truly has been a team effort in making sure we had all oars pulling in the same direction. The great news is we have accomplished what we set out to do. Our plan now is to make sure we stay current with our work while also ensuring that staff continues to get the training they need to become fully integrated Health Care Benefit Program Specialists. As of December 31st, 2013, mandatory overtime has been lifted. We will continue to have staff working extra hours as the workload is evaluated. Our partnership with DVHA is stronger than ever and we look forward to continuing this effort as 2014 rolls in.

Department of Vermont Health Access (DVHA)

Vermont Health Connect (VHC) - Customer Support Center:

VHC is working closely with Maximus to improve the customer support experience. Maximus is currently performing an aggressive recruitment effort to expand from its current staff of 89 to a

goal of 160. This will include up to 115 Customer Services Representatives (CSRs) located in Vermont, with the remainder located in an overflow center in Chicago. Chicago hiring is underway for an initial group of 40 CSRs. Chicago training is scheduled to begin on Tuesday, January 7th, with staff beginning to take calls on the following Monday, January 13th. Two Maximus Vermont trainers will be on-site on Monday, and one Maximus Vermont Supervisor will be on-site for first week of taking calls.

Privacy event:

A memo regarding the 12/22 privacy event was sent to legislative leaders. This event involved a VHC user receiving an envelope that contained another users notice along with their invoice.

Public records request:

DVHA continues to respond to a large quantity of public records requests related to VHC and the integrated eligibility procurement process.

Significant Events/Meetings:

- The Accountable Care Organization Shared Savings Program negotiations continue into January and are expected to conclude and result in signed contracts around the 20th.
- Annual updates in the payment systems for professional services and outpatient hospitals went into effect January 1, 2014.

To 116 STATE STREET
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 3, 2014

Secretary's Top Issues:

Current Use Advisory Board, Montpelier: Voted to approve Current Use values for agriculture and forest land uses for 2014. Discuss possibility that Current Use may be examined in great detail this year including the rationale for the formula and philosophical purpose given the concerns about Lister evaluations and the budgetary implications of Current Use. Made it clear to the Board that the Governor supports Current Use as a very important program and consequently is reluctant to support changes that are not well considered and have the support of the many Current Use stakeholders.

Peaceable Hill, a pheasant operation in southern Vermont, had a fire issue earlier this week and lost 100+ birds and their hatching facility, which could hatch 100,000 eggs/year. The owners are not sure if they are going to rebuild their operation. This was one of three Vermont participants in National Poultry Improvement Plan.

Lab Feasibility Study: The Agency of Agriculture and Department of Environmental Conservation, Lab Feasibility Study Leadership Team consisting of Jolinda LaClair, Jim Leland, Justin Johnson and Trey Martin, met with Deputy Secretary of Administration Michael Clasen to review the draft of the Lab Feasibility Study which is well underway. Clasen's breadth of questions will help the Agency's best format the presentation to the Legislature later in January. Additional conversation with Commissioner Obuchowski will occur before the draft is final. In addition, Secretary Ross spoke with Commissioner Chen regarding potential for colocation of state Labs.

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 3, 2014

Legislative Issues

Status of Governor's Priorities:

Press Issues/Releases/Contacts:

Randy Quenneville was interviewed by Angela Evancie for VPR about on-farm slaughter.

<http://digital.vpr.net/post/farm-slaughter-may-be-legal-its-complicated>

The Agency is preparing Farm Show outreach and compiling content for the January issue of Agriview.

Significant Events/Meetings:

Evolving Issues:

Summary of Key Agency Department Activity:

Administration

Lab Feasibility Study: The Agency of Agriculture and Department of Environmental Conservation, Lab Leadership Team consisting of Jolinda LaClair, Jim Leland, Justin Johnson and Trey Martin, met with Deputy Secretary of Administration Michael Clasen to review the draft of the Lab Feasibility Study. Clasen asked questions to help the Agency's best format the presentation to the Legislature later in January. Additional conversation with Commissioner Obuchowski will occur before the draft is final. *Note Secretary Ross' conversation with Commissioner Chen regarding potential for colocation of Labs under 'Secretary's comments'.

The Agency is editing the 2013 annual report, which will be distributed during the Secretary's presentation to the legislature the week of January 13th.

The Marketing and Promotions Administrator is preparing a presentation for the NOFA Direct Marketing conference called "Telling Your Story: A Guide for Farmers" which will help participants articulate their brand proposition and unique "story."

Agricultural Development

Eastern States/Big E: On 1/9, the Agency will meet with Dan Fulham, CEO of Long Trail, to discuss the strategy around alcohol permitting in the Vermont Building at The Eastern States Exposition for 2014.

Deputy Secretary LaClair and Working Lands Administrator Colleen Leonard convened a meeting with Economic Development Commissioner Lisa Gosselin to discuss the **CEDS (Comprehensive Economic Development Strategy)** and the inclusion of issues related to Working Lands and Tourism, Marketing and Food Systems, working to define both 'initiatives and projects' for the document. Tourism and Marketing Commissioner Megan Smith, CMO Nancy Driscoll and VSJF Ex Director Ellen Kahler joined for the strategy session.

Food Safety and Animal Health and Consumer Protection

Significant Events/Meetings:

- The USDA has released revised Program Standards for Chronic Wasting Disease (CWD) based on feedback from the cervid industry. They are soliciting comments until March 31, 2014. Vermont affected stakeholders will be notified of the comment period and the revised standards via email, information on the VAAFM website, and a possible media release.
- The quarantine for Vermont Milk and Cream was lifted on Tuesday December 31st based on negative cultures results for *Mycobacterium bovis*.
- Shelley Mehlenbacher and Abbey Willard met with Secretary Ross to discuss the Agency's FSMA related activities. The potential plan will be presented at the next Director's meeting.
- Animal Health Program Coordinator Jim Cameron and Assistant State Veterinarian Dr. Mehlenbacher met to evaluate the need for changes to the commodity line items the Agency's USDA Cooperative Agreements. The Sections plans to request more funds for avian related activities as the amount of testing and sick bird calls increased in 2013.

Evolving Issues:

- A Ferrisburg town official contacted the Animal Health Section regarding an ongoing complaint against a registered animal rescue located in the town as they are not sure how to proceed. According to the town official, dogs chronically escape from the rescue and he has about 15 letters of complaint from people who have found dogs on their property. The daycare located next door is worried about disease and bite wound risk from escaped rescue dogs. The Animal Health Section will inspect the facility based on statutory authority (records, sanitation, animal welfare rule standards) and recommended that the town follow up with the Health Department and the local Town Health Officer as bite wounds are a public health risk.
- Peaceable Hill, a pheasant operation in southern Vermont, had a fire issue earlier this week and lost 100+ birds and their hatching facility, which could hatch 100,000 eggs/year. The owners are not sure if they are going to rebuild their operation. This was one of three Vermont participants in National Poultry Improvement Plan.

Summary of Key Agency Activity:

Animal Health Field personnel:

- Animal Health Program Coordinator Darryl Kuehne attended the Addison County Commission Sales for ADT compliance and Market reporting.
- Checked on cattle sent to Champlain Beef for slaughter from TB Quarantined herd in West Haven. Obtained correct farm tag and official ID from slaughter plant. Confirmed animal was indeed slaughtered.
- Animal Health Program Coordinator Darryl Kuehne obtained samples from seven adult sheep for submission to check on scrapie disease. VT AGR and USDA APHIS cooperate to obtain samples for ongoing scrapie surveillance. Thanks to Maple Ridge Meats in Benson for saving sheep heads.
- Animal Health tested poultry for Maple Meadow Farm in Salisbury VT. Avian Influenza testing allows poultry producer to sell 8000 cull layers to a New York live bird market. This market gets the producer more for their spent poultry.
- AH field staff responded to a technical assistance request from a beef producer in the Randolph area regarding housing for his cattle. This producer sells cattle to Pineland Farms and Whole Foods and is regarded for human certification.
- AHS Zach Bartlett went with the Animal Control Officer in Thetford on an animal welfare complaint regarding a group of horses and possible lack of shelter. Investigators found the horses to have adequate shelter. It is difficult to see the shelter from the road, hence the reported concerns. AHS Zach Bartlett provided the owner a few suggestions to help prevent future complaints.

Agricultural Resource Management

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

- Staff is processing Farm Agronomic Practices (FAP) grant program payments to wrap up FY2014 grants through December 31, 2013.
- Staff are drafting reports and memos related to field inspections and winter spreading ban exemption requests.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments. Permits are being drafted for MFOs that intend on becoming LFOs.

Conservation Reserve Enhancement Program (CREP):

- General CREP related paperwork
- Preparation for annual report to FSA
- Desktop planning for CREP projects

Secretary's Comments

MEETINGS:

VAAFM Directors Meeting, Montpelier: met with Agency leadership to review and prepare for upcoming legislative session, focused on laboratory study.

Call with Commissioner Chen: reviewed need to discuss possible linkages and or coordination with health lab and VAAFM lab its likely collaboration with ANR lab needs.

Cabinet Land Use Meeting, State House: attended first meeting of the year of the land use group where wide range of topic were covered with particular focus on implication of TMDL.

Current Use Advisory Board, Montpelier: voted to approve Current Use values for agriculture and forest land uses for 2014. Discuss possibility that Current Use may be examined in great detail this year including the rationale for the formula and philosophical purpose given the concerns about Lister evaluations and the budgetary implications of Current Use. Made it clear to the Board that the Governor supports Current Use as a very important program and consequently is reluctant to support changes that are not well considered and have the support of the many Current Use stakeholders.

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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: January 3, 2014
Subject: ANR Weekly Report

Governor Level Issues:

JARD Superfund Listing Proposal: The Town of Bennington Selectboard voted unanimously to approve proceeding with the listing of the JARD site on the National Priorities List for Superfund. This site has significant groundwater contamination and federal funds are needed to support the cleanup. DEC will prepare a draft letter for approval and signature asking EPA to list the site on the National Priorities List.

Launch of DEC's Lean Initiative: Our Lean team and our contractor led a weeklong training for staff and managers to formally kick-off of our Lean program. We laid the groundwork for three Lean projects for the coming quarter. Those projects will include improvements to our wetlands program, our petroleum cleanup fund program, and one other project to be determined. We also developed the framework to deploy other Lean programs over the coming year. (We expect to do two or three projects each quarter.) Among the other highlights of the week were (A) the training of a group of "Lean" coordinators who will help lead this effort; (B) training of one-half of the department's staff; and (C) an informational session for staff and managers in other state agencies. David and Alyssa and will be committing significant time and effort to ensure that the Lean projects are successful.

West Mountain Partners Meeting: Michael and Patrick met with the Kingdom Heritage Lands Partners to talk about the progress on the West Mountain WMA and Public Access Plan. Patrick presented a new Road Access Proposal for the developing draft West Mountain plan. Patrick deserves tremendous credit for negotiating an agreement around a proposal that is acceptable to all parties. We would be happy to brief you if you would like more details.

Vermont Parks Forever – a foundation for the Vermont State Parks: Vermont Parks Forever is a nonprofit 501(c)(3) “friends” group that raises money to enhance the state parks in ways that goes beyond what state government can do. Christine Zachai (former Ed of the Women’s Fund and the Vermont Partnership) has been providing staff support. Over the past year VPF built a great board (Ellen Lovell, Shira Sternberg, Tim Briglin, Tom Bodett, Louise Linthilac, Emily Boedeker, Dan Dubonnet, Bob Millstone, Leslie Caldwell, Aly Kenney (Burton Snowboards) and Beth Montouri Rowles (Phish)) and received its first \$100,000 donation. VPF recently received a \$50,000 contribution from a trust associated with the Kunin family to support a possible donation of Edgar May’s property in Springfield to be developed as a new state park (the donation is being discussed directly with the Parks division) or for general use by VPF if the land donation is not feasible. I am happy to brief you about this further if that would be helpful.

In the coming year VPF will be reaching out to larger donors and will be doing its first project – possibly updating the nature center at the Groton park (which is one of the most visited nature centers in the state and BADLY in need of modernization) and/or creating a digital parks interpretation application for one or two of our busiest parks and working on a possible partnerships to provide bus service for underserved communities to state parks.

Municipal Assistance and Surveys: We are in the process of planning a Municipal Day at National Life for the end of March. We will be inviting officials from around Vermont to participate in a series of workshops presented by our staff as well as staff from VTrans, ACCD, Ag and PSD. We have invited you to give the opening welcome if it can fit into your calendar. In addition, DEC has issued two electronic surveys this week to assess municipal assistance needs in DEC program areas and to identify ways in which we can enhance our delivery of services. One survey is directed toward municipal officials and the second survey is being sent to external organizations that interact with municipalities on environmental issues. We hope to have survey results by mid- to late February.

EVERYTHING ELSE:

Rulemaking:

Draft Materials Management Plan: Waste Management Division filed the draft Materials Management Plan with the Secretary of State following approval from ICAR. This far-reaching plan lays out the structure and framework for the state’s implementation of our Universal Recycling law as well as goals for waste management generally. A public comment period and public meeting are planned as well as a meeting with solid waste districts, alliances, and towns.

Air Pollution Control Regulations (APCR) Amendments: We filed proposed amendments to incorporate new and updated National Ambient Air Quality Standards with the Secretary of State. These changes are routine and should not generate much if any public discussion.

Unsafe Dam Revolving Loan Fund Rules: Facilities Engineering Division filed proposed rules for the management of a revolving loan fund to help dam owners maintain or remove their dams with LCAR and the Secretary of State. The Rules will be presented at the Jan 16 LCAR meeting.

Press Issues/Releases (Fish and Wildlife Press):

Snowy Owls Descend on Vermont from the Arctic: Snowy owls have been spotted in locations throughout Vermont as they descend from the Canadian Arctic in what scientists are calling a rare event. They have been most frequently noticed in the flatter, wide open areas of the Champlain Valley.

East Barre Woman Wins Vermont's Lifetime License: An avid angler and hunter from East Barre, Vermont is the lucky winner of a Vermont lifetime hunting and fishing license. Kathy Robinson, 51, won the license from a drawing of 2,149 lottery tickets.

Vermont's New Free Ice Fishing Day: Always wanted to go ice fishing but couldn't find a good excuse to get away? The Vermont Fish & Wildlife Department has found that excuse for you: a "free ice fishing day" on the fourth Saturday in January. Saturday, January 25, 2014 is Vermont's new free ice fishing day – a day when anyone, resident or nonresident, may go fishing without a fishing license.

Bears, Turkeys and Lynx: There were also articles about the success of our recent bear and turkey seasons and the increase in siting's of the Canadian Lynx.

Significant Events/Meetings:

Entergy Vermont Yankee Decommissioning Meetings: Commissioner Mears met with Health Commissioner Harry Chen and Emergency Management Director Joe Flynn to discuss the long-term issues that Vermont needs to address related to the decommissioning of the Vermont Yankee nuclear power plant. Public Service Commissioner Chris Recchia was invited but was pulled away at the last minute due to the settlement discussions with Entergy. The group discussed transition issues common to decommissioning experiences, when moving from the utility regulation model to the protection of human health and the environment. All agreed to produce a draft timeline and other background information to help with future discussions. David will reach out to Commissioner Recchia to get him in the loop.

Green Infrastructure Initiative-Interagency Training: Justin Kenney hosted a successful interagency training for Vermont state agencies. Over 65 staff from ANR, BGS, and VTrans attended. The full day workshop focused on low impact development principles and green stormwater infrastructure practices.

Ice Storm: Ice, snow, and freezing rain on Dec 21 and 22 were a minor inconvenience in many parts of the state, but damage was significant in parts of Chittenden, Franklin, Essex and Orleans counties. FPR joined a larger effort to clear ice-broken trees and limbs from roadways and

access points so utility workers could repair utility lines. A big thanks to staff that gave up part of their Christmas Eve festivities to help fellow Vermonters.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Environmental Conservation

Vermont Gas Project and Phase I Middlebury Distribution Network: Staff led a public hearing in Hinesburg for the draft stormwater permits and water quality certification. The hearing was well attended and generated significant public comment. The Department will prepare a response summary to comments received at the hearing, and during the public comment period, to accompany the final permits.

EB 5 Turmak Silicopolymer: We are working with an entrepreneur looking to bring a Turkish based business to Vermont via the EB5 program. The company makes pallets from plastic material such as plastic grocery bags. The air division needs information about the air emissions from this process. We have received an air emission report believed to be written in Turkish that is short on units and other data. In general, extrusion of clean plastic is common outside Vermont but there is potential for odor issues and toxic breakdown products with certain plastics that are overheated.

UVM: Air Quality & Climate Division issued a final permit to UVM approving the increase in the sulfur content of their heating oil. UVM proposed a corresponding decrease in allowed annual usage of fuel oil to offset the sulfur increase. UVM burns primarily natural gas and fuel oil use is limited to backup use during natural gas curtailments.

Dam Failure (Tunbridge): On Fri, Dec 13 we were notified via email that the low gate had failed on the dam by the Tunbridge covered bridge. The dam is owned by the Tunbridge Mill Corp and called the Haywood and Noble dam and is on the First Branch of the White River. The email stated that failure had occurred the day before and the pond had drained. Pat Ross of the Rivers Program visited the site on Mon, December 16. The snow and ice cover made inspection difficult, but the water level appears to be up and is still flowing out of the gate area. A more thorough inspection will be performed when conditions allow it to be done safely.

Low Level Radioactive Waste Generation and Data: The State Geologist met with the Health Department to discuss issues related to the future of low-level radioactive waste management for Vermont in light of the Entergy Vermont Yankee decision to close the plant. The closure and decommissioning of the plant will generate significant volumes of low-level radioactive waste. Vermont is required by the Low-Level Radioactive Waste Compact between Texas and Vermont to maintain a registry of all generators of low-level radioactive waste within the state, including the amount and class of low-level radioactive waste generated by each generator and an accounting of waste shipped and proposed to be shipped to the compact facility by volume and curies.

Plastimum: A request has been made for the landfill in Coventry to accept a waste stream from a company in Sherbrooke, Quebec. The company, Plastimum, takes plastics which have been processed in Materials Recovery Facilities (MRFs) and further processes the plastics into a feedstock for manufacturing. During this recycling process about 5-10% of the feedstocks is not suitable for recycling and become the waste stream. Plastimum buys plastics from Vermont MRFs and for hauling efficiencies would like to be able to dispose of the waste stream at the Coventry landfill. Solid Waste staff visited Plastimum on and is considering the request.

Field Assistance Visits: Environmental Assistance provided assistance to Revision Ballistics, a manufacturer of Kevlar helmets for military/law enforcement in Newport. The purpose of our visit was to assess whether facility is required to develop a Pollution Prevention Plan and also to provide compliance guidance with respect to making a hazardous waste determination for by-products of their painting operations.

St Albans Bay Watershed Restoration Initiative: Watershed Management Division attended a meeting at the City of St Albans with city, town and AOT representatives to learn about the progress of the city's consultant in developing a flow restoration plan for upper Stevens Brook. The consultant presented a number of conceptual plans affecting 26 properties on city, town and AOT lands that if fully implemented would meet 100% of flow reduction target. The city and consultant's next steps are to develop a draft plan, seek comment, incorporate comment and prepare a final plan and conduct public meeting(s).

As part of work under another grant, we received information from Northwest RPC relating to thirty prioritized water quality related projects recommended to be implemented within the St. Albans Bay Watershed. The RPC will soon be developing a technique and then a map to highlight critical phosphorus source areas in the St Albans Bay watershed.

Rutland Airport: The Stormwater Program is working with the airport's consultants on a project to bring the airport into compliance with FAA safety regulations. Due to federal mandates and funding stipulations, the project is on an aggressive time schedule. Compliance with stormwater treatment requirements may result in wetland impacts. The Stormwater Program is coordinating with the Army Corps of Engineers on this matter.

Fish and Wildlife

Protecting Rare Plant Species: Staff reviewed and provided comments for pre Act 250 residential subdivision in Highgate that will impact a large percentage of the population of the very rare (S1) Fernald's sedge (*Carex merrii-fernaldii*) at the site. Staff worked with the consultant to set aside an area onsite that contains some of the sedge which will serve as a repository for transplanted individuals from elsewhere on the site.

Ice Fishing is Upon Us! Ice fishing on interior lakes and ponds is increasing although ice conditions are still marginal. Wardens have encountered several fishing violations with the anglers they have encountered. These are mainly limit and closed season's issues.

Deer season isn't over for everyone: Wardens are busy completing all the paperwork they generated arresting violators during the previous deer seasons. They are also completing follow-up investigations and interviews. A few wardens are still responding to and locating areas where deer are being illegally killed. Wardens are visiting all the reporting stations in their areas to hasten the submission of legal reports.

Forest, Parks and Recreation

Land Transactions: On Dec 31, the Department closed on the Munson donation at Niquette Bay State Park. This 31-acre parcel connects the main Park parcel with a separate State Park parcel and provides for a single, contiguous State Park property. Earlier this month the Department closed on another donation, the Stone parcel, at Rupert State Forest. We expect to close soon on the Fitzpatrick inholding in Coolidge State Forest (now owned by the Vermont Land Trust) and on a land exchange at Alburgh Dunes State Park.

Payment In Lieu Of Taxes Program: Staff have been working closely with personnel from the Tax Department's Property Valuation and Review Division to finalize estimated ANR PILOT payments to Vermont municipalities for FY15.

Electronic Communication Licenses: Work continues on a number of major new license agreements, including but not limited to: new electronic communication licenses for Vermont Public Television for their facilities at Burke Mountain, Ascutney Mountain and Killington Peak, and a new master license agreement with Green Mountain Power for their utility lines on Department lands.

Fire Destroys Restroom Building: This week a fire totally destroyed the toilet building at the top of Smugglers' Notch. There were no injuries but the building was a complete loss. The cause of the fire is unknown.

2014 Campground Reservations: State Park camping reservation activity for the 2014 season is more than 10% ahead of 2013 at this point.

Pest Outreach: Hemlock woolly adelgid survey work has started again. Jim Esden has begun the checks of locations with compliance agreements. Volunteers in Wilmington have already done two surveys and volunteers in Rockingham are getting organized. Public awareness presentations are being scheduled in Bellows Falls, Springfield, Windham and Bennington. Jim has also been involved with plans for the new round of Forest Pest First Detector training. Dates are not set, but staff are working out strategy, locations, and refining the training material. We are going to add two pests to the list we specifically mention in the training: white pine blister rust and elongate hemlock scale. Emerald ash borer community preparedness work is continuing; Brattleboro, Townshend and Bennington have started the process and Hartford is nearly finished. The group working on the Hartford plan was recently honored with an Outstanding Tree Steward of The Year Award in the group category.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: January 3, 2014

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY: A status conference was held yesterday and all parties generally agreed to the proposed Entergy/PSD schedule for final briefing to occur before February 14, 2014. Some minor changes and additions were suggested by some of the parties and by David Coen, Board member. We were expecting a list of pre-filed testimony questions and schedule from the Board yesterday, but that did not occur, and has not yet today as of the submission of this report. We do expect that imminently. I am working with the Public Advocate and Wilmer Hale to prepare pre-filed testimony in support of the MOU which we expect to be due next week.

Ice Storm: The ice storm that began on December 20th resulted in not only about 75,000 initial outages, but thousands of recurring outages that were finally under control around December 30th for the smaller utilities. In mid to late January we're going to hold a "lessons learned" workshop through VPPSA for the smaller utilities in particular. In general, the muni's and coops were slow to plan for this event and did not take advantage of the VELCO prep calls, or available GMP crews, though once they incurred damage were engaged and did the best they could, asking for mutual aid at that stage. The failure to participate in the pre-planning and

their initial response to the storm impacts was, with a few exceptions, unacceptable. On a more positive note, I think the Telecommunications companies were fully engaged and responsive, and were an important part of the restoration effort.

Telecom: The draft telecom bill contains three components: Activation of the USF for the ILECs, a revenue-neutral lowered pole attachment rate (benefits Comcast primarily) and removal of the sunset for 248a. Comcast has recently requested that the pole attachment piece be removed from the bill – it is believed that Comcast would prefer a one foot unified rate that we believe would not be revenue-neutral to the pole owners. In addition, Comcast will oppose the activation of USF for the ILECs. Regarding the activation of the USF, the PSD USF reports will show that, by and large, the rural, independent ILECs are currently making money. As discussed in our recent meeting with FairPoint, FairPoint shows a revenue requirement of approximately \$40,000 million in Vermont alone, which we believe the USF cannot support. As a result, the draft bill was re-tooled to require the ILECs who take funds under the USF to build-out broadband at speeds of 4/1 in unserved areas. (ie: areas that are not served by a wired solution). We are looking for a decision about whether to include or exclude the pole attachment rate piece in the legislation.

S.25 Press Conference: In order to get S.25 (on the House Calendar for Tuesday) through the House and Senate without changes quickly, AARP has arranged a press conference on the Bill for Monday morning at 10am at the Statehouse – to be attended by House and Senate leadership, committees of jurisdiction, and me, all in support of moving the bill through quickly. AARP will help defend against all the other Hartwell bills that have been introduced if this passes.

VLS Public Records Request for REC info: We will be fulfilling the PR request, previously reported, of the Vermont Law School Clinic for REC information by the middle of next week. Reviewing the documents, there is much information on the price of REC's, effects on rates, and "renewability" of our various utilities that will be provided in response to this request. Speculating about purposes for the information, we see the Clinic either intending to make a filing against a company before the FTC for mis-representing their "renewable portfolio" or perhaps to petition Connecticut or Massachusetts to de-list the REC's.

Regional Transmission: Clean Power Link contacted me today to relay they will be filing with FERC next week as a merchant facility – not subject to Order 1000. I believe this will help in our discussions with the region over potential cost allocation issues, on which we have a call on Wednesday. Finally, we've been working with VELCO to visually represent what corridor improvements to the Highgate-New Haven line might look like, for discussion with you. We expect to have that early to middle of next week.

Legislature:

PSD Priorities – PSD is working with legislative committees on a net metering proposal, the first hearing for which will be in House NRE on January 8. PSD is also working with Senate Finance and House Commerce on a telecommunications bill. In addition PSD is actively supporting S. 25 (consumer advocacy), and working with Tax to coordinate on solar tax issues.

PSD Reports – PSD has submitted several reports to the legislature, or is in the process of finalizing reports, including the Total Energy Study (interim report submitted), the residential building labeling score (submitted), and smart grid studies (RF and consumer benefits both forthcoming).

Bills affecting the PSD: Other than S. 25 (which as modified includes several useful provisions from H. 39 related to PSD), PSD is not aware of bills held over from previous session that are likely to be active at this time. However several new bills, primarily from Senate NRE, relate to PSD. Several are bills PSD would have serious concerns with.

- **S. 191 (Mullin)** – provides setbacks and screening criteria specifically for solar generation projects.
- **S. 196 (Rodgers)** – offers a proposal on net metering that, while perhaps well-intentioned, is not workable and contrary to what PSD plans to propose.
- **S. 198 (Rodgers)** – requires PSB to mandate, retroactively and in future, radar-controlled obstruction lights on all wind turbines for which FAA requires such lights, to reduce “light pollution.”
- **S. 201 (Hartwell)** – this bill implements a modified version of portions of the siting commission report, and provides for a “friend of the Board” category of participation.
- **S. 202 (Hartwell)** – this bill would dedicate all revenues from EVT efficiency charge above \$45 million to thermal efficiency. While thermal remains a priority, the PSB sets electric budget based on electric needs and this funding mechanism would be arbitrary and inconsistent with current efficiency mandate.
- **S. 203 (Hartwell)** – creates an Energy Siting Counsel at AG’s Office, and takes two positions from PSD to staff the office. This counsel would have independent standing to represent residents and towns affected by projects sited nearby, in PSB process.
- **S. 206 (Hartwell)** – creates funding for intervenor parties in PSB process, an independent Ratepayer Advocate overseen by legislative joint committees, and provides the Commissioner of PSD may only be removed from office for cause.
- **S. 238 (Lyons and Bray)** – creates alternative property tax for natural gas infrastructure, with funds dedicated to Clean Energy Development Fund.
- **S. 257 (Sears)** – makes low-income assistance charges on electric or gas bills voluntary and tax deductible and prohibits PSB from mandating them.

- **S. 292 (Hartwell)** – this bill, clearly aimed at wind, would require PSB siting review process to have energy projects demonstrate that will not result in a net increase in GHG emissions. It also specifies that they must demonstrate projects will minimize curtailment and have adequate transmission, and that they will comply with any Act 250 permit if they are sited on land subject to the permit.
- **S. 302 (McAllister)** – allows PSB to waive efficiency charge for industrial customers that have implemented all cost-effective efficiency at their Vermont plant site.
- **S. 310 (Hartwell)** – provides that any MOU between Entergy and PSD regarding release of escrow funds to CEDF dedicate half of transferred funds to local or regional economic development authorities to assist towns adversely affected by VY closure.

Significant Meetings/Events this week and last week:

December 23: Chris initiates signing of MOU and Settlement Agreement between State and VY

January 2: Darren attends Land Use meeting and meets with VPIRG, VNRC, and GMP; Chris attends PSB Status Conference on VY MOU

January 3: Chris and Bill Jordan conduct interviews for nuclear engineer position

Significant Meetings/Events next week:

January 6: Chris and Darren attend AARP press conference on bill S.25; Chris, Darren, Geoff and Autumn meet with PSB to discuss bill S.25

January 7: Chris participates on NE Regional Energy Infrastructure call

January 8: Chris, Darren and Asa testify on PSD Net Metering bill in HNRE Committee; State of the State Address

January 9: Chris and Darren attend Land Use meeting; Chris testifies in Senate Finance on VY; Chris meets with Adam Necrason for update on NE Clean Power Link

January 10: Chris attends meeting at ANR on stakeholder engagement and VY decommissioning

Media: Much media on VY following the signing of the Agreement and the MOU. We did a press release on the extended storm damage and likelihood of recurring outages on Monday the 30th. Several pieces on Net Metering.

Everything Else:

PERD

Energy Efficiency Utility Activities

- Demand Resource Plan (DRP) –
 - Staff requested from EVT the forecast OPower used to determine potential and cost-effectiveness of the proposed pilot program. Apparently, EVT was never provided the forecast and OPower is not willing to share it with DPS. OPower

cites “intellectual property” concerns. This only amplifies staff concerns about the initiative and lack of vendor transparency. In addition, this position is in stark contrast to the commitment OPower made to the DPS in a recent in-person meeting. Staff requested a meeting with OPower to discuss the issue.

Clean Energy Development Fund

- Reviewed and discussed internally the only proposal received in response to the distributed wind RFP. Developed a list of questions to ask the proposing company.

Renewable Energy Items

- Sent final energy storage grant agreement to GMP for signature; they’ll return two signed copies for the Commissioner to sign, and then the storage grant will be fully executed, and the project can commence.

-

Total Energy Study

- Drafted and issued press release announcing the TES Legislative Report and comment period through Jan 22nd.

Engineering

Proposed Natural Gas Service to Northeastern VT

Representatives from an entity wishing to supply natural gas to several discrete areas in northeastern Vermont met with the Department to discuss the project and the possible permitting and regulatory requirements. The project would consist of constructing distribution pipelines in densely-populated areas, and trucking natural gas from the VGS system to those distribution pipelines.

GMP Billing Issue

The Department met with GMP to further discuss the issue of those GMP South customers whose bills had been estimated at some point over the past 20 months but not yet trued-up to the register readings. These customers (approximately 38,000) will be trued-up in February before the GMP and North and GMP South billing systems are merged in March. GMP brought experts to discuss the data collection process in detail. The next step is that GMP and the Department will work on the message to the customers explaining what happened and explaining any adjustments to their bills.

Public Advocacy

Kingdom Community Wind – Docket 7628 – On 12/20/13 GMP filed a letter describing a mapping error that resulted in portions of level spreaders and associated buffers encroaching on about 1.23 acres of mitigation parcels subject to easements. GMP had notified ANR about

this encroachment, and those parties are working out an agreement to compensate ANR for the encroachment. ANR and GMP disagreed on whether the PSB needed to be notified, and whether the violation of the easement terms is also a violation of the CPG. Ultimately ANR advised (with PSD support) that if GMP did not timely inform the Board then ANR would have to. The Board and parties have now been notified; whether process before the PSB will be necessary is not yet known. Going forward, PSD will have to decide whether the CPG has been violated, and whether we should oppose cost recovery for the required compensation.

Noise Investigation – Docket 8167 – On 12/31/13 the PSD filed preliminary comments regarding goals, format, etc. for this generic investigation. The Department noted that it is in the process of hiring experts to advise it and potentially provide expert testimony. Comments (available on the PSB's website) were also filed by the owners of the three northern Vermont wind projects, the Town of Albany, Craftsbury Conservation Commission, REV, VCE, Shirley Nelson and others. Many general public comments were also received and are on a separate page of the website. Wind developers mostly favored having the Dept. of Health lead an expert study of noise issues, while neighbors generally criticized the CPG standards and monitoring protocols of the projects, as well as the unresponsiveness of state agencies with respect to noise complaints.

Entergy Vt. Yankee – Docket 7862 – On Jan. 2 the PSB held a status conference to discuss procedure for review of the Entergy/PSD settlement. DPS and Entergy had agreed on a fairly expedited schedule that would allow the PSB six weeks to produce an order. All parties ultimately agreed to the schedule. The PSB raised the question of holding a public hearing on the MOU, to which PSD did not object and no other parties commented. PSB also questioned the March 31 drop-dead date in the MOU. The Board stated its intent to issue a scheduling order promptly, along with questions it would like addressed in PSD and Entergy prefiled testimony.

TracFone Wireless Designation as ETC – Docket 7817 – The Board issued a procedural order on December 19th noting TracFone's failure to copy parties on its Petition for ETC Redesignation and failure to provide the necessary information under the federal rules. Consistent with the PSD's recommendation, the Board required TracFone to file prefiled testimony no later than January 15th. TracFone is expected to provide the PSD with a draft before filing with the Board.

Johnson/Morrisville Petition for Change in Ownership & Financing for a 34.5 kV Subtransmission Line – no docket – The Town of Morrisville Water and Light Department has petitioned for approval to transfer ownership of a 34.5 kV subtransmission line in the towns of Johnson, Morristown and Stowe to the Town of Johnson Water and Light Department. Simultaneously, the Town of Johnson Water and Light Department has petitioned for approval pursuant to 30 V.S.A. Section 108 to finance its interest in the line. The Department's recommendation is due to the Board on January 3rd. The petition also references amending a § 248 CPG to reflect the ownership change, but the line apparently pre-dates § 248 so it does not appear to have a CPG to amend. It is not clear whether the PSB will review the petition under § 248.

Stowe Electric Rate Investigation – Docket No. 8074 – Parties have reached a settlement in principle and are working through the details of an MOU to be filed on January 10. The settlement will reduce Stowe’s rates by 3.5 percent and will require Stowe to undergo a business process review.

GMP 2015 Rate Case – Tariff No. 8483 – On December 20, GMP filed a rate case seeking a decrease in retail rates by approximately \$155,000 (0.03 percent) on an annual basis. GMP requests that the Board suspend the effectiveness of this rate case until October 1, 2014, at which point the existing alternative regulation plan expires. The Department is currently analyzing the request and will recommend an investigation. The Department is analyzing whether suspension of the proposed rate decrease is in order. This filing is likely to proceed along a similar track to GMP’s proposed alternative regulation plan (discussed below).

GMP Alternative Regulation Filing – No Docket – On December 20, GMP also filed a proposed new alternative regulation plan, to be effective October 1, 2014, the date the existing plan expires. The most significant changes from the existing plan include: (1) A single annual effective date (October 1) of all Plan rate adjustments (base rate, power adjustor, earnings sharing adjustor, exogenous changes); (2) A requirement to provide additional information in support of all rate adjustments; (3) A requirement that a preliminary version of each adjustment be filed with the Public Service Board ("Board") and the Public Service Department ("Department") and be made available to the public at least 60 days prior to the formal filing date; (4) Revisions in the treatment of exogenous changes; and (5) A four-year term. The Department is currently reviewing the proposed alternative regulation plan.

Addison Expansion—Docket 7970—The Board issued a final order and CPG on December 23. Motions for Reconsideration are due by January 8 and both CLF and the Palmers have said publicly that they are considering filing. The Department is also considering a Motion to Amend or Alter due to what we believe is the Board’s failure to apply the full and correct standard for orderly development [248(b)(1)] with respect to gas transmission lines. The Department is confident that the Project meets the correct standard when applied.

VGS Addison Expansion Phase 2—No docket—Counsel for Vermont Land Trust has entered a Notice of Appearance. One issue likely to arise in Phase 2 concerns a provision in the Addison County Regional Plan prohibiting construction of energy transmission lines whose primary purpose is to serve markets outside of Addison County. Although the PSB is usually only required to give “due consideration” to such local enactments, § 248(b)(1) specifically requires “conformance” with regional plans in regard to gas pipelines.

CAP

POST CPG WIND COMPLAINTS

- (1) Georgia Mountain Community Wind, for noise
- (3) Lowell Wind, for noise, all by same person on 3 different dates, who recorded noise in excess of 50dBa.

- (3) GMP's net-metered wind turbine in Vergennes, for spinning with insufficient wind
- (1) Sheffield Wind, for noise

Finance and Economics

Legislative Issues/Contacts:

Report on Smart Meter Measurement and Verification Plan – As per Dockets 7612 and 7704 and 30 VSA § 2811 the Commissioner (PSD) is to issue a 2014 Report to the Legislature on the costs and benefits realized through the implementation and use of smart meters. Staffs has collated expense and benefit data from reporting utilities and drafted a summary report. To date, utilities have expended \$97.5 million, or 82 percent of 'planned and budgeted' expenses. Almost, 70 percent of expenditures were for smart meter acquisition and installation and 14 percent for utility back office operations.

The savings and societal benefits from smart meters are expected to accrue and accumulate going forward. To date, Utilities have reported operational benefits in terms of reduced metering costs, reduced vehicle miles, reduced carbon emissions, enhanced outage response, and more detailed energy information available to utility customers. A second Measurement and Verification report is due in January 2016.

Electric

Rutland Regional Energy, LLC (RRE) has filed a 248j petition for approval as a merchant generator to build the "City Solar Garden Project". Staff is continuing a review of the project to assess its financial and economic viability and provide support to the PA Division. GMP has signed a power purchase agreement for all of the output of this proposed facility at prices that are above the market for comparable solar power.

GMP - Staff is preparing a RFP for a Limited Scope Cost of Capital determination under Alt Reg and Traditional Regulation.

GMP –Tariff No. 8477: Green Mountain Power Corporation Alternative Regulation Plan Earnings Sharing Adjustor Filing for twelve month period ending September 30, 2013. The PSB approved the proposed surcharge of 1.4845% to recover a portion of the storm costs associated with four major storms during fiscal year 2013. GMP issued a press release and notified customers of the rate change which has stimulated several news stories. Staff has reviewed the news reports and has provided additional information to the Commissioner concerning the rate change.

Vermont Electric Cooperative, Inc. (VEC) has advised the department that it has incurred substantial storm related costs that it would like to defer and recover in a subsequent rate case. Initial estimates are in the \$4 to \$6 million range; about 65% of which may be eligible for FEMA assistance. The department as indicated it would support VEC's request with the PSB for the deferral.

Energy Efficiency Related Activity

EVT and BED-Staff is reviewing invoices totaling about \$4.3 million for payment and a GMP Program Disbursement Request for “GMP Efficiency Fund Capacity Payment” for the reporting month of June 2013, for \$ 6,642.

Gas

Vermont Gas Systems Inc. (VGS) – filed a quarterly Purchased Gas Adjustment (PGA) rate change. VGS requests a 4.61% or (\$4,114,861) decrease in its natural gas rates which represents an overall 2.08% decrease in firm rates effective with bills rendered on and after February 6, 2014. The rate change is largely due to a decrease in the TransCanada Pipeline tolls of about 23% and a slight decrease in the wholesale cost of gas. Our recommendation is due to the Board by January 21, 2014.

Telecommunications

VT USF high-cost fund recommendations report – PSD staff is reviewing a draft report by a consultant RLSA with recommendations for a potential high-cost fund.

Tower database – PSD staff culled through all 248a applications to populate a tower site database with 22 datapoints for each site with information sufficient to enable the contractor Pericle to develop a statewide propagation model. PSD staff has provided this set of data points to the PSB, and has requested that when the new electronic docket system is developed, petitioners be required to submit this information electronically.

Broadband availability process – PSD staff has estimates that the cost of the process to maintain the broadband availability information as it is currently conducted will be \$100,000 per year. This includes twice yearly updates to census block level information on the broadbandvt.org website, developed by both Stone Environmental and VCGI. PSD staff is reviewing alternatives to move some of the process to the PSD to reduce costs.

Broadband verification – PSD staff has submitted requests to providers and the VTA to verify broadband availability information for the 6/30/13 dataset. After these responses are received, hopefully next week, the 6/30/13 dataset, including an updated list of unserved locations, can be released.

Regional Policy

Regional Infrastructure Initiative

- On December 31, Massachusetts provided a draft study, prepared by Synapse Energy Economics, of *Incremental Benefits and Costs to New England of Large-Scale Hydroelectric Energy Imports*. The study finds that construction of transmission to deliver up to 3600 MW of Canadian hydro to Massachusetts would result in “somewhat lower wholesale energy prices” – assuming 2400 MW of new hydro, the reduction in wholesale prices would be 5%. In addition, the study finds that reliance on natural gas

for generation would be reduced and that there would be a substantial reduction in greenhouse gases.

- There will be a call to discuss the study on January 7. It appears that there may be some significant shortcomings in the study assumptions, including the energy price projections, that result in overstatement of economic benefits.
- The discussions regarding the benefits of both the transmission and gas pipeline components have so far focused on reduced wholesale energy prices. However, Vermont utilities have a much more significant percentage of its load tied to long-term contracts than any other state. Accordingly, the benefits that Vermont would receive are significantly reduced, at least for the next 10-15 years.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: January 3, 2014

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Issue Updates:

Bill Laferriere met with the statewide security functions along with Montpelier PD for a “round table” discussion on issues we all face and how to better work together in the future. Good first meeting and several contacts made for those in attendance. In attendance, VSP, DMV, Liquor control, Capital police, Montpelier PD, Sec of State and the AG’s office. The DHS vulnerability audits came up as a key issue and we have started this effort and are trying to determine how to move from audit to action based on the 15 that were done in 2013.

Legislative Issues/Contacts:

Met Rep. Brennan in the cafeteria and took the opportunity to brief him on the Derby rest area and the Vergennes train station as well as Sam Samis’s efforts in Randolph.

Significant Events/Meetings:

St. Albans: Since last Friday, there has been no significant change in status for the PSA for 20 Houghton Street. Mylan’s local counsel advised on Friday afternoon (12/27) that Mylan would be unable to return a PSA to SOV that day. Since then, I have communicated with him regarding language changes in Section 10 that would limit the State’s exposure if there are defects/deficiencies discovered during Mylan’s due diligence investigation. The most recent communication was sent by me at 8:18 AM today with a tweak to that language. Otherwise, it is my understanding that the document is in a form that is acceptable to both sides.

Evolving Issues:

Revolving Energy Fund: Continued meetings with both Jeb and Jim, as well as meetings with Richard Donnelly, Stephen Wisloski and Beth Pearce.

Carr Lot Development: Meeting with Mayor John Hollar and Ed von Turkovich to discuss the Carr Lot Development and SOV participation in new welcome center.

FINANCE AND MANAGEMENT

Issues Update:

The Comprehensive Annual Financial Report (CAFR) is complete for FY 2013 and has been posted to the Finance & Management website.

All General Fund targets were issued to departments and agencies and they are subsequently, working to finalize budget submissions in Vantage, the budgeting IT system. Budget staff is working to complete all budget materials in advance of the budget address on Wednesday, January 15, 2014.

HEALTH CARE REFORM

Status of Governor's Priorities:

Financing: The Business Advisory Council met on 12/16 and focused on three issues.

1. Reviewed the health care finance report prepared by Partners for Health Care Reform and Avalere Health. No surprises here, as the group continues to use Avalere's report as a political/negotiating document to make the point that (a) providers must be paid more, (b) show doubt about the ability to achieve administrative savings, (c) create uncertainty about the impact of health care reform on businesses/jobs, and (d) drive up the total system cost. The council seemed to believe that the Administration ought to create a consensus process that ensures that the 2015 bill and report is as complete as possible and can answer the questions raised by stakeholders.
2. Reviewed the work of a council sub-committee focused on determining whether the financing plan presented in 2015 should include full or partial integration of workers' comp into Green Mountain Care. I expect the sub-group to continue its work and advise the council in March.
3. Received an update on the four hypothetical financing concepts and an overview of how you might structure a Green Mountain Care revenue system with credits and deductions that may allow some businesses to off-set their costs. We set the expectation that the next council meeting, to occur in late January or early February, will drill down on the four concepts and any related scheme of credits, deductions, or exemptions.

Michael Costa, Robin Lunge, and Bea Grause convened a meeting between Avalere Health and UMASS to discuss their respective health care financing reports. The back and forth between the two sides did not shed additional light on the analysis; however, it highlighted the lack of communication between the parties regarding the finance plan and the opportunity and need for a stakeholder process focused

on numbers (not politics) that reduces stakeholder uncertainty. Michael committed to Bea that he would consider how such a process might work. To that end, Michael is drafting a document for review by Robin and others that would provide a way to work constructively with the Legislature and stakeholders to identify the key questions to be answered by the 2015 bill and accompanying report.

Michael Costa spent a significant amount of time trying to set forth realistic options that would pair the finance plan with the strongest possible benefits package, complementary tax reform, and reduction of OPEB liability. These efforts will likely yield concrete options for the Governor by the end of January.

Next 2 Weeks

The next two weeks will focus on several key tasks. We will work with the Legislature to agree on a revenue range, process for unveiling that range, and updating that number over time. Also, we are working with the Legislature to determine how to obtain the money both the legislature and administration needs to fund the consulting work required to produce the 2015 bill and report. Furthermore, we continue to work with JFO to determine which consulting tasks can be done together (reducing time and cost) and which must be done independently. Lastly, Robin and Michael continue to work with Scott Coriell on a communications plan for the next year.

Single Payer Planning: Robin and team completed first interviews for the vacant position and are bringing 3 finalists in for second interviews, which will include time with Jeb, Scott and others. The position will remain posted through January 15th.

Robin and Mark Larson are working on hiring one of Mark's open positions to focus on single payer operations. Robin sent a few resumes (from the deputy posting) to Mark to review. We hope to schedule interviews in January.

Robin, Jeb and Michael Clasen need to meet to determine the best approach for getting a single payer operations contractor on board this spring.

Lessons Learned: Robin is working with Tom Jenny and Gartner to finalize a scope of work for an independent evaluation of VHC. We would send the proposal to at least 3 pre-approved DII vendors who have experience with this type of work.

SIM Grant – Duals: Robin is ready to brief the Governor at the next senior staff meeting. Robin & Anya will figure out how to get it through the SIM grant structure.

SIM/VHCIP: The Vermont Health Care Innovation Project expects both the Commercial and Medicaid Accountable Care Organization Shared Savings programs to launch on January 1, 2014. VHCIP will be convening all of its work groups over the first three weeks of January, where the work groups will finalize Charters and Work Plans. These Charters and Work Plans will then be used to plan a detailed timeline for 2014. VHCIP submitted the sub-grantee program proposal to CMCI for approval in late 2013. The sub-grantee proposal, which will provide over \$3.4 million in funds to providers and other stakeholders, will support payment and delivery system transformation throughout Vermont. VHCIP anticipates opening up the application process in mid-January with first round awards made soon thereafter. The Project also submitted its Implementation Period Report, covering April 1, 2013-September 30, 2013) to CMCI. VHCIP will launch its new website in the new year, making

information about the project more accessible to all Vermonters. This website will include a sign-up feature so that individuals can be alerted to any upcoming VHCIP meetings.

Press/Media Notes:

Galloway, Remsen, and Hirschfield received a copy of Randy Brock's public records request for emails between the insurers and VHC. Robin called all three, but only reached Galloway. Remsen is on vacation, but texted she would call when she is back in town next week. Haven't heard from Pete.

Significant Events/Meetings:

Attorney-Client meetings re: CGI: The Vermont team sent a proposal to CGI for including new critical milestones with new liquidated damages and a clarification that we were not going to pay for hosting until the environments were working. The state has maxed out our LDs at this time, so this is a way to ensure we have that leverage. CGI sent a counter proposal, which was not satisfactory. Because we have much leverage by paying only for deliverables that are fully delivered, we have slowed down the negotiation process. We will have more information on whether CGI has met the small business timeline of Sunday.

HAEU visit: Robin stopped by to say thank you.

White House Call with Secretary Sebelius: The call centered around possible issues when newly insured people visit the doctor, but may not have a card. CMS is asking each state to provide them with their call center numbers so that they can appropriately refer people.

Consent Policy Process: VITL and VMS asked AOA to consider a change to the consent policy for electronic medical records. The current policy requires a consumer to consent on a provider by provider basis in order for a provider to view the patient's records from other docs/hospitals. This means it takes a very long time to get patient records into the system, because patients may not see each provider very often, thus limiting the utility and information available to providers. The proposed change would ask patients to consent to having information from all providers entered into the system. Currently, mental health and substance abuse records are not included in the VITL information system. Federal law provides for heightened consent for substance abuse records, so Robin has asked VITL and VMS to come up with a proposal for how to handle these records in the future.

The process is for AOA to do a stakeholder meeting to get public input, then Robin will take a recommendation on the proposal to Jeb. If there is a recommendation to change the proposal, the recommendation goes from AOA to the GMCB for review. Robin has been working with VITL and VMS to ensure that they have developed the proposal and spoken with key stakeholders, such as the ACLU. The public hearing is set for January 27th.

HUMAN RESOURCES

Evolving Issues:

- The Blue Cross Blue Shield contract was signed on 12/31/13.
- The transition to Blue Cross Blue Shield has gone very well thus far.
- Discussions continue with AHS regarding Investigations Unit.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Healthcare:

Vermont Health Connect: While discussions continue on negotiation of a contract amendment that will allow us to hold CGI accountable for new milestone dates, CGI has stated they are not willing to entertain additional liquidated damage without which, we are better off sticking with our current contract and continuing to withhold payment for incomplete deliverables. We plan one more pass at trying to get CGI to agree.

In the past week, CGI did deliver their security plan of action (POA-M) on the date they told us. However, this morning, they communicated that they don't have the resources to address all the "high risk" items within the 30 days required once the POAM is delivered to CMS. It is my opinion that they will delay submission to CMS rather than staff appropriately to address the risks within the 30 day window. We are well past the delivery timeframes in the contract and CGI has not resourced appropriately to complete work in a timely fashion.

One of the hurdles over the past week was to process eligibility needed for January 1, and we have done so successfully. However, what was implemented was a work around and only represents a portion of the scope of work in the contract. This will be a point of contention with CGI when they invoice for, but do not get paid, for the ACCESS integration as the work under contract remains incomplete.

IE: The small sub-group working on the RFP submitted the RFP to Gartner for review. We expect comments back from Gartner today. The extensiveness of the comments will determine when we can submit the RFP to CMS for approval and when we can issue the RFP.

MMIS: MMIS RFP is being finalized. There have been several discussions mostly around scope that Gartner has done a good job ensuring the business does not continue to put more things outside a traditional MMIS solution in scope. After several meetings with the business and Gartner this has been resolved.

ITOP: Judiciary migration to the SOV Private Cloud (Virtual Desktops and Servers) is approximately 60% complete. The Virtual Desktop infrastructure design and deployment are finished and pilot migrations of users are beginning next week. Approximately 30% of the virtual server infrastructure has been migrated.

Significant Events/Meetings

- Three positions will be put into the Big Bill for DII. One IT Contract Specialist to increase the effectiveness of technology contracts and the success of technology projects, and two Enterprise Architects/Project Managers to increase focus on document management initiatives.
- We have delayed the launch of the OpenData portal as some of the data is not yet available due to year end conflicts. We have invited a small set of users to work with the site to create views into the data sets we do have. We expect data availability around mid-month with a soft launch of the site near the end of the month.

LIBRARIES

No report.

TAXES

Legislative Update:

Miscellaneous Tax Bill: The Commissioner and staff are continuing to review potential provisions for the bill. Below is a summary of housekeeping provisions we recommend including, and a list of provisions that still need further vetting.

Housekeeping Provisions: The Department has been careful to insure that the housekeeping provisions are fairly non-controversial. At this point, those provisions include:

- clarification on lister education
- clean up of a provision on municipal beaches in other towns that Sen. Kitchel was instrumental in passing last year
- harmonizing the late filing date for homestead declarations with that for property tax adjustments (VLCT is still non-committal)
- clarifying the billing process for late declarations (VLCT should like this)
- requiring filing of a use tax return within 90 days on any item over \$5000
- an ACCD provision allowing the Latchis theater to access the Irene credit program
- mandating that a corporation's election to file a consolidated return last for 5 years
- clarifying that if a corporation fails to file a timely VEGI claim, the authority to earn incentives is lost (Fred Kenney is agreed)
- annual clean-up of tobacco provisions

Pending Provisions:

Increasing the Downtown Credits: This ACCD provision is anticipated to be included in this bill.

Current Use: The Property Valuation Review Division had suggested clean-up on several current use issues, including the eligibility of maple sugaring and compost facilities. The Commissioner prefers that instead of opening up yet another vehicle for current use wrangling, we continue to deal with these internally. If there is a current use bill that moves, that would present a better opportunity for clean-up. We do have a meeting next week with Ag to discuss several current use and sales tax issues.

Sales Tax on Compost, Other Ag Sales Tax Issues: The House Ag committee continues to look at exempting compost from sales tax. Ag apparently has issues with the bill as drafted, and in any event, we do not have an estimate of what such an exemption would cost.

Solar: The Department is still working with DPS to determine what alterations to the generation tax might be put forward. The possibilities include exempting public, pious and charitable owners from the tax (not anticipated to have an immediate impact on revenue) and increasing the exemption level. To take the exemption to 150kWh, which is REV's preference, appears to cost \$122,000.

E-Cigarettes: The Department has looked at two alternative ways to tax these. They could be defined as "tobacco products" and taxed at wholesale (this is the approach MN took). Alternatively, they could be defined as a "tobacco substitute" and since each e-cig is currently equivalent to a pack of cigarettes, they could be taxed at the same dollar amount. This latter, more innovative approach would potentially raise more money, but also would be subject to tax avoidance if the manufacturers of e-cigs changed the delivery method of the e-cig fluid to bigger cartridges.

Renter Rebate: The Department continues to explore revenue neutral ideas to make the rebate more accessible, for example, as a simple credit on the income tax form. The issue is that the cap on the credit likely would need to be set at about \$500 for an income tax filer to insure revenue neutrality, as opposed to the current \$3000 cap for a household. \$500 is close to the average currently claimed, and is so low because the ease of the credit would increase utilization and potential fraud. The \$500 is also misleading, because it would be available to all filers in one household; for example 4 tenants might all receive the credit for a total of \$2000. The Department continues background discussions on this issue, and is reviewing Mark Perrault's draft report to Ways & Means on renter rebate.

Education Symposium: Unfortunately, Larry Picus was delayed in finishing his draft framing paper, and transmission to the Commissioner was further delayed by a technical glitch. The Commissioner is working with Aly Richards to edit.

Cloud: After much internal debate, the Tax Department is landing on regs that would look to the "essence of the transaction" rather than trying to draw bright lines. It will be an interesting discussion with legislators and businesses – of course, everyone would prefer "bright lines". However, the bright lines we considered internally tended to tax more transactions that arguably were not "software" sales (for example, information services).

FAST Contract for Integrated Tax System: We continue marathon telephone negotiations over the holidays with FAST, and appear to be very close to a deal. FAST has agreed to a 10 year term for the contract, which means that if they have not generated sufficient revenue benefits in that period to cover invoices, they will not get fully paid.

CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

From: Susan Spaulding
Date: January 3, 2014
RE: Boards and Commissions Update

Public Transit Advisory Council: Gwendolyn Hallsmith would like to be reappointed.

Appointments Made December 30, 2013

Vermont Municipal Bond Bank:

REAPPOINTED: David Kimel, St. Albans
REAPPOINTED: John Valente, Rutland City

SerVermont:

REAPPOINTED: Peter Hayward, Brattleboro
REAPPOINTED: Ryan McLaren, Essex Junction

Board of Medical Practice:

REAPPOINTED: Michael Drew, Rutland (MD)
REAPPOINTED: David Jenkins, Burlington (Public Member)

Real Estate Commission:

APPOINTED: Joyce Cameron, Charlotte (Public Member)

Real Estate Appraisers:

APPOINTED: Kurt Kaffenberger, Burlington (Appraiser)

Uniform Law Commission:

REAPPOINTED: Richard Cassidy, So. Burlington –

Educational & Health Buildings Financing Agency:

REAPPOINTED: Edward Ogorzalek, Rutland
REAPPOINTED: Kenneth Linsley, Danville
REAPPOINTED: James Potvin, Mount Holly

Agriculture & Forest Products Development Board:

APPOINTED: Elizabeth Kennett, Rochester

Rail Advisory Council:

APPOINTED: Herb Russell, Rutland

Native American Affairs Commission:

APPOINTED: Walker Brook, Jeffersonville (Elnu tribe)

Human Services Board:

APPOINTED: Katherine Amestoy, Burlington

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: January 4, 2014
Re: Weekly Report

Status of Governor's Priorities: Final budget numbers submitted along with performance measures.

Legislative Issues/Contacts:

- ICAR review set for regulation changes set for January.

Press Issues/Releases/Contacts: Department working with State Police on seizure of alcohol during a traffic stop last week.

Significant Events/Meetings: Next Board Meeting 01/15/2014 13 Enforcement Hearings.

Evolving Issues:

- Finalizing vendor contract for ERP/POS Project-ongoing.
- Preliminary review of department processes for potential licensing and enforcement system.
- Performance Audit underway. Met with Auditors Office and consultant along with Department staff.

Summary of Key Department Activity:

- December final sales broke a record of \$8,199,061 which is +6.33% over last year. Year to date sales at +4.5%. Very good first six months of the fiscal year.

Commissioner's Commentary: Have a great weekend and good luck in 2014!