

WEEKLY REPORTS

Checklist
1/29/16

Darren Springer

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

Sue Allen

- Agency of Education – Rebecca Holcombe
- Agency of Transportation – Chris Cole
- Agency of Agriculture – Chuck Ross
- Agency of Natural Resources – Deb Markowitz

Sarah London

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

Jessica Gingras

- Boards and Commissions – Jessica Gingras
- Department of Liquor Control – Jim Giffin

TBD

- Department of Labor – Annie Noonan
- VT Commission on Lottery – Greg Smith

To: Governor Peter Shumlin
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development
Date: January 29, 2016
Re: Weekly Report

PATRICIA MOULTON, SECRETARY

GOVERNOR'S PRIORITIES:

- **GlobalFoundries:** Chris Recchia and his team, me and my team met with Janet Bombardier on Tuesday regarding comments she made to a report we filed as part of Act 199, related to large industrial users. We had a good discussion about the SMEEP program GF has. GF makes a case that required efficiency investments now have a 8 to 9 year payback versus the 12 to 18 month payback when the SMEE program started. She would like relief from the mandatory charge, or an expansion of the definition of "efficiency" to include other measures that reduce green house gases or have other environmental benefits. We are working with DPS to find some alternatives. Likely nothing this legislative session. As part of the Act 199 work, we will be hosting meetings with large industrial users to probe how to make the energy savings account more usable, and other issues they are frustrated about regarding the efficiency charges.
- **Kingdom Wood Pellet:** Chris Brooks and Tabatha bowling of Vermont Wood Pellet informed us this week they are slowing down on their plan to build a second wood pellet facility in Lunenburg at the former Gilman paper property. They have been pursuing an aggressive timeline to get that plant started up by this May. There are now pushing that off until January 2017. This is driven primarily by low oil prices, a mild winter and therefore slower than normal sales of wood pellets. The good news is that Vermont Wood Pellets are still the number one pellet in the marketplace and has strong customer loyalty. Chris is feeling very optimistic about proceeding in January. We will be holding in all funders meeting to discuss the delay.
- **New business opportunity for Windham County:** I met with Bachar Samawi this week who lives in West Dover. His business is assisting new products develop markets after the prototype and beta testing phase. His latest product is a soccer training tool he wishes to target to educational facilities first then consumer sales. The really cool thing is that he wants to set up his operation in Vermont because he was so impressed with Governor Shumlin's stance on supporting Syrian refugees. His latest business was in Syria and he lost it when the war broke out. He also owns a home in West Dover and would like to establish the world headquarters for this new soccer product in Wilmington/Dover. He anticipates hiring between 10 and 30 people as the business grows. He is a candidate for Windham County economic development program funds. He has another product of a labeling device that records the temperature of a product from the time it leaves the factory/processing floor to the market. Very important in the food and pharmaceuticals markets.
- **Working lands:** We are making progress setting up a "emergency loan program" for the forestry and value-added agriculture sectors. It is likely Vermont Community Loan Fund will administer this program, but VEDA is also willing. It will initially be capitalized with the grant from NBRC, and WLEB.
- **Joan Goldstein reports: Mack Molding:** We called on Mack Molding with Bill Colvin and Fred Kenney to review a preliminary VEGI application. If VEPC approves the sub-5 enhancement they could get a sizable reward, \$500,000 or so. Of course he is interested in Enterprise Funds and he wants 'what GW got'. I asked if he would be willing to testify in support of it. He appears to be reluctant to be the 'pariah' that the press makes the recipients of these awards to be. The Governor may want to pay him a visit and perhaps the Commerce committee to see what is going on at that great plant. He is willing to testify about his business and the competitive landscape in which he operates. We will think about how to position this for best results.
- **Jared Duval reports:** Amoskeag Woodworking in Fairfax closed on Friday, laying off the remainder of its approximately 15 employees. The business will not re-open. We did everything we could to assist them over the past year to avoid this outcome. Owner Kevin Hastings was receiving in depth TA from John Ryan and was also assisted by Dave Redmond from the Northern Forest Center (both consultants who are supported by orgs with WLEB grants). I also connected Kevin with the New England Trade Adjustment Center (NETAAC), earlier last year, which provided significant funding for strategic planning and plan implementation as he sought new markets over the last 9 months. For working capital, we encouraged a CDBG application and a WLEB application, which were both in progress. What I heard from both John and Dave is that Kevin simply waited too

long to get assistance. He was way overleveraged/under-capitalized and got boxed in by all of his debt. Dave and John both actually encouraged Kevin to close this past summer. Kevin had loans from People's, VEDA, and the Flex Fund -- all of whom were very patient and flexible. Given his financials, he simply could not attract equity investment... which was the key missing piece on a path to viability.

LEGISLATIVE ACTIVITY

- **Burlington Town Center Project:** Lucy received a call from Liz Miller who is doing freelance work for the Burlington Town Center project. The development is in the Waterfront TIF district which is due to expire in 2025. The worry is the TIF pay years will not be complete by then. They are looking at two options as Liz described them. The hard way: Legislature to change/extend the end date on the waterfront TIF. Easier way, redraw the line so that the project will be in the downtown TIF, which is where it really logically belongs anyway. Fred is researching the new line option to see if there are other issues or problems with that which we may not be aware of. **Joan Goldstein also met with Don Sinex this week,** Don Sinex is in the application process for NMTC for his BTV mall project. He is also interested in a possible EB-5 raise for a portion of the project. We know that he is just commencing the permitting phase but the time is opportune to assist with any and all possible funding scenarios.
- **Peer to Peer Report:** Lucy and Joan met with Senator Balint and folks from DFR to discuss the findings and recommendations of this legislatively ordered study. With so many new and innovative financing vehicles being created right now, it became clear that many providers of capital or TA have no idea about the spectrum of specialized capital and services that are available to entrepreneurs. To get at this problem ACCD oversees the RDC contract requirement that RDC's hold at least one financing networking event/workshop per year. Additionally, ACCD will hold one education event per year for the spectrum of technical assistance and financiers serving Vermont so they can all understand the entire universe of options that are out there. In the process of holding this event, ACCD will also compile a directory of providers which can be available to entrepreneurs and others.
- **Pathways from Poverty 15 % Recommendation:** Noelle held the second working group meeting. We have made considerable progress on answering the questions (15% of what? What funding sources would this apply to? What mechanism to achieve the goal? What are the tools? What are the assistance and support that is needed along with the unit?). Notes were sent out and the group asked to forward concepts to be included in and EO. Current plan is to have an outline to the Governor's office by end of next week.
 - A number of bills have been introduced touching on housing; from residential lease agreements and the eviction process to mandating a percentage of housing stock be "affordable" in each municipality. Shaun is noting and keeping track of which get hearings.
- **Vermont Training Program:** We are proposing to help employers who develop programming to help build a 'pipeline' of talent from middle schools and high schools and are adding post-secondary schools to the legislation. We are learning that there really is not a developed internship program throughout the college systems - outside of Champlain, Landmark, and BDCC - and we can work towards improving that by helping employers defray costs associated therewith.
- **Regional Council of Governments bill:** Pat is in this afternoon at house government ops regarding the regional Council of governments legislation. Chris Cole, Deb Markowitz and I have met on this bill. They are supportive, we are neutral but can become supportive with certain changes in the bill which we will present to house government ops. This is being driven by a handful of regional planning commissions and we have been working closely with them on our concerns.

LUCY LERICHE, DEPUTY SECRETARY

- **Economy Wide Carbon Pricing Conversation at VEIC:** Lucy attended a meeting at VEIC about a cap and trade carbon market approach they are exploring currently with California and Quebec. They are interested in the success of RGGI and would like to find a path to doing a regional approach that the Governor could support. Secretary Markowitz was present and spoke about REGGI, and Secretary Johnson presented a history of Vermont climate initiative over the last couple of decades for context. No ask from us at the meeting, but they wanted the Administration to be aware that this work was underway.
- **ESRI Report:** An independent report examining the best administrative and operating structure for the Vermont Center for Geographical Information (VCGI) is in draft form and being finalized. A key recommendation states that VCGI should be centralized, ideally in the Agency of Administration, to get at the problem that VCGI needs

to have more authority throughout state government. The issue is that ANR, VTRANS, and perhaps others already have robust data programs, and they are suspicious of VCGI's independence. There is a feeling that VCGI is acting as an arm of ACCD rather than from the broader perspective that would be more desirable. Understanding VCGI's recent move into ACCD means that moving it again seems improbable, we are working on a recommendation to address the ESRI report concerns that may involve an MOU between the AOA and others across state government who are using VCGI services.

- **Vermont Sustainable Jobs Fund:** As a Board Member, Lucy is currently conducting interviews for VSJF's 3-year Strategic Plan. We are asking what's next for VSJF? How can we build on the success of the organization in the working lands space, or perhaps find other areas/sectors where VSJF's skills can be of value?

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Commissioner MacKay

- **Planning Manual Released:** Vermont has not updated our Planning Manual for local municipalities since 1988; until this week. Thanks to the hard work of the CP+R team, Julian Kelly, along with support from Heather and Vermont Life's editorial help, a new plan was released and can be found [here](#). Kudos to John Adams for spearheading this effort!! Below is one of many comments the team has received. Congrats to John, Chris, Faith, Annina and Richard. So proud of their incredible work!!
The 2016 Planning Manual is EXCELLENT!!! Wow - so impressive! Thanks for your help and congratulations on producing this wonderful publication.
- **Digital Parcel Mapping:** Joined Deputy Secretary Tetreault in a meeting with Karen Horn at Vermont League of Cities & Towns. Karen is supportive and will to help. She plans to notify towns of the initiative and will share a draft announcement for us to review. Karen is also interested in any local/municipal Return on Investment that may have been done on this enterprise which we will try and provide. Next stop on the Noelle and Rich road show will be ANR and AG.

COMMUNITY PLANNING & REVITALIZATION ♦ Chris Cochran, Director

- **Vermont Downtown Board**
 - Awarded village center designation to Concord, Newbury and Wells River
 - Renewed village center designation for Guilford, Jamaica and Waterville
 - De-designated Pawlet, West Pawlet, and East Dover village centers for not meeting the new town plan requirements. The communities are updating their town plans and will reapply once that work is complete.
 - Renewed downtown designation for Middlebury
 - Approved a Downtown Transportation Fund grant extension for St. Johnsbury
 - Approved neighborhood development area designation for the Village of Essex Junction
 - Reviewed general guidance and a draft letter to the Town of Colchester outlining expectations regarding the new town center requirement for civic and public buildings. The board requested we work with the town on a revised letter for their review at the February meeting.

GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director

Ann continues to improve post January 18th back surgery. She was able to get up and out for fresh air on Wednesday 27th with a 20-minute stroll at the mall with her walker.

CDBG Monitoring Visit

- Staff monitored the Town of Lyndon for the Northeast Kingdom Revolving Loan Fund (NEK RLF) scattered site projects on January 27th. The Town made a subgrant to the Gilman Housing Trust, dba Rural Edge (Gilman Housing), to continue the Northeast Kingdom Rehabilitation Revolving Loan Fund, a regional scattered site housing revolving loan fund serving Northeast Kingdom counties for \$1,400,000 of VCDP grant funds, for housing counseling and rehabilitation of single family homes to meet basic housing quality standards. This includes lead abatement, handicapped accessibility modifications, and energy efficiency improvements as needed. The VCDP funds helped to leverage \$16,554,000 of Other Resources to rehabilitate 113 low/moderate income owner-occupied housing units. Staff provided technical assistance to the Town and Gilman Housing in a number of areas. Gilman Housing provided staff with a tour of three projects to see the rehabilitation of the homes.



Project Site Visi#1: Concord, VT Happy Homeowner with new access ramp, new pellet stove and portable ramp.



Project Site Visit #2: James St. St. Johnsbury to include 13 windows, re-roof main house roof and more.



Project Site Visit #3: Pearl St., St. Johnsbury to include Historic exterior doors, 15 windows and more.

HISTORIC PRESERVATION ♦ Laura Trieschmann, State Historic Preservation Officer

- **National Park Service Resolution:** Several of the VDHP staff attended the reading of the resolution honoring the 100th anniversary of NPS. VDHP were acknowledged for their role and partnership. Thank you Rep. Clarkson.
- **3D Vermont:** On Tuesday, Jess, Jamie, and Elizabeth met with Peter Drescher and Mike Hathorn to continue the planning for the 3D Vermont competition to be held on March 25 at Vermont Technical College. There are 36 middle and high school teams participating in the competition this year, doubling the number from last year. The interest in the competition is obviously wonderful, but presents some logistical challenges that we met to discuss and work through. This is great problem to have!!!
 - We are looking for judges for the competition; if interested please contact Laura Trieschmann.

State Architectural Historian

- **National Register of Historic Places:** The Vermont Advisory Council on Historic Preservation recommends the following actions:
 - Ruth Stone House, Goshen: Recommends that the nomination be revised to include information about important landscape features and to further research the historic status of one building on the property. With these revisions it can be forwarded to the NPS for final review and listing. The property is being nominated for its association with Stone, a prolific writer who did much of her work while living at this house. Her granddaughter attended the Advisory Council meeting, providing wonderful insight.
 - The Chittenden County Courthouse, Dog Team Tavern and Brooksville Advent Church were all recommended for removal from the National Register due to loss of historic integrity. The courthouse was razed after a devastating fire; the tavern has been demolished; the church was moved and substantially altered/enlarged to serve as a dwelling.
- **2016 Certified Local Government Grants:** The Vermont Advisory Council on Historic Preservation awarded seven CLG grants totaling \$68,880 to six communities:
 - Stowe: 2016 Historic Preservation and Downtown Conference support
 - Hartford: White River Junction National Register Historic District Update
 - Norwich: Mid-Century Modern National Register Historic District and Goodrich Four Corners National Register Historic District
 - Rockingham: CLG Program Support, Interpretation and Historic Stewardship
 - Calais: Town Hall Engineering Plan for Flood Protection

- Windsor: CRSurveyor Digital Survey Application Support
Paperwork related to the contracts and required risk assessments are now being prepared; each community has been notified.

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

- Arthur completed the reviews of year-end reports from the Vermont Community Loan Fund's (VCLF) Charitable Housing Investment Tax Credit, Champlain Housing Trust's Mobile Home Down Payment Assistance Loan program, and the CVOEO Mobile Home Park Cooperative grant.
 - In 2015, new investments with the VCLF in the charitable housing investment program totaled approximately \$195,200, and VCLF made two loans for affordable housing totaling \$1.77 million. The balance of funds invested in the program at year end totaled more than \$2.9 million at a cost to the State of approximately \$33,700 in Vermont income tax credits.
 - From July 1 through December 31, 2015, CHT made 20 mobile home down payment assistance loans to purchase Energy Efficient Manufactured Homes. Two loans in 2015 assisted Irene survivors, and two loans assisted with the purchase of Vermod High Performance Modular Homes. CHT made loans in 11 counties throughout Vermont, leveraging more than \$580,000 in tax credit equity.
 - In October, the CVOEO Mobile Home Program and CHT jointly hosted an event called "Home Sweet Housing Co-op" for cooperative members from multi-family co-ops in Burlington, Vermont mobile home park co-ops, and guests from a co-op in Montreal. The all-day workshops covered financial planning, maintenance, and member and leadership development. This spring, CVOEO is planning three one-day workshops geared toward co-op board members, building community, and planning and financing.
- Shaun met with representatives from the Department of Labor, Agency of Agriculture, Department of Health and other stakeholders regarding a document aimed at educating farmers and farm workers about the state and federal wage and housing regulations surrounding farm work. The original booklet was released about a year ago and the Agency of Agriculture has received a number of comments about potential improvements – including to the section regarding landlord-tenant law and housing cost deductions. Shaun provided some insight to potential clarifications and cautioned against changes to landlord-tenant laws that were suggested by some.

VERMONT COMMUNITY DEVELOPMENT PROGRAM ♦ Josh Hanford, Director

CDBG-Disaster Recovery Work

- **City of Montpelier:** The City's \$1 million Implementation Grant application for a \$1.3 million project to stabilize and rebuild the Granite Block Retaining Wall to protect the 1 Taylor Street property from flooding has met all thresholds. Staff have reviewed the project and provided questions to the City to clarify.
- **South Royalton School:** The School has submitted a Disaster Recovery Planning Grant application, requesting \$55,980 in CDBG-DR funds to complete the planning required to address repeated flooding of the school. CDBG-DR funds would hire a consultant to develop plans to flood proof the basement of the South Royalton School which received nearly \$1 million in flood damages as a result of Tropical Storm Irene. Staff are continuing to review the application and are working with the school to address questions.

CHIEF MARKETING OFFICE ♦ Heather Pelham, Chief Marketing Officer

- **Economic Development Marketing Plan:** Work on this strategic plan continues to dominate Heather's time, but with the delivery of the first draft deliverables from the consultant team, progress is undoubtedly being made and the work product to date is encouraging. The next task in the discovery phase is the coordination of 30+ one-on-one telephone interviews with representatives from all our target audience segments to continue to drill down on message perceptions. Given the breadth and depth of potential Vermont ambassadors to participate, getting the list down to 30 was challenging, but we ended up with a great mix of business owners, influencers, young professionals, visitors, etc. Heather has also been gathering additional background research, best practice ideas and details on proposed tactics for the consultant team to support the development of the marketing plan.
- **Creative Services:** Design work by the CMO team this week included an oversized exhibitors map for the Agency of Agriculture to direct visitors to local producers during Consumer Night at the Vermont Farm Show; review of new video creative for the Agency of Transportation promoting Amtrak ridership to families, business travelers and college students; and continued work on the comprehensive update of all travel itineraries for Vermont's ten byways for VDTM.

VT CENTER FOR GEOGRAPHIC INFORMATION (VCGI) ♦ Steve Sharp, Interim Director

- **VCGI Imagery Program**

- **LIDAR:** VCGI was recently contacted by USGS regarding the 2016 BAA proposal to populate a project planning document for their internal use in estimating project costs. While this development does not ensure success for the proposal it is viewed as a positive sign and shows USGS is moving forward with their awards process now that the Continuing Budget Resolution of 2015 is no longer restricting their efforts.
- **Outreach and Professional Development Program**
 - VCGI and partners (UVM Spatial Analysis Lab, Airshark, Maponics, VT E911, USDA NRCS) staffed an informational and dynamic display at the State House on 1/20. Lots of folks checked out the drones and maps!
 - Leslie attended the VT Society of Land Surveyors Program Committee meeting and offered to ask someone from Shoreland Protection to present at the Spring Seminar.
 - Leslie met with Heather (CMO) to discuss how VCGI should go about creating new display materials with the help of the CMOs office.
- **GIS Governance & Coordination:** The EGC Action Planning Subcommittee met on 1/27/2016 to continue its review of Esri's report. Additional headway was made. The Subcommittee has three more recommendations to review, and plans to get together again next week to pull together a set of recommendations for the EGC to review and approve.

DEPARTMENT OF TOURISM & MARKETING: Megan Smith, Commissioner

- **Winter Season:** Winter continues to lag at the resorts. Although the Martin Luther King weekend was very strong, this past weekend was less so. Between the storm to our south, which affected the southern market and the playoff game which affected the Boston regional market, skiers seemed to stay home. Although many fans were disappointed in the results of that playoff game it will most likely result in a stronger start to the month of February.
- **Vermont Council on Rural Development -** Megan attended the 8-year follow up of the VCRD Community Visit session in the town of Killington. The original session in 2008 resulted in the 1% option tax and town officials shared the results of that investment. Town officials were very vocal about the great amount of state and federal grants that have been used for projects and that the 1% has been used for match. Rural Economic Development Council, Rutland Chamber of Commerce and all of the upper management of the resort were in attendance. The community has set its goals for the next several years and they include a new fire house, affordable housing, mountain biking and recreation trails and connectivity. Although the resort would like for the 1% to be voted down as they are the biggest contributor by far, the resort-town relationship is stronger than ever. The freshman class from the Green Mountain College Resort Management Program all attended and many of them spoke to the ideas that became priorities. In a town that can be known for its infighting, it was nice to see the community come together on such important issues.
- **Travel Recreation Council -** We had a productive monthly meeting. VDTM shared results of recent campaigns and discussed our immediate plans for the rest of the winter season and shared what we know so far about what to expect from the legislative session. We ended the meeting with a well-attended retirement celebration for Catherine Brooks. It was fun to hear the stories of the Quadricentennial, the Civil War Celebration and all the projects that Catherine has completed in recent years including the African American Heritage Trail, the Byways Program, and the Stone Trail.

Steve Cook, Deputy Commissioner

- **Winter Marketing Update**
 - **Online Travel Agency Orbitz.com:** VDTM ran a winter advertising campaign on Orbitz.com to promote distant domestic travel to Vermont. The focus was to encourage winter travelers who are members of the Orbitz loyalty program to book a winter trip to Vermont.
Key Highlights:
 - Total gross booking dollars during the promo were \$131,100;
 - Total gross booking dollars by Orbitz Rewards members were \$73,152 (56% of total);
 - Total Orbucks delivery was \$501;
 - Vermont saw a positive ROI on both total Gross Booking revenue (+1.62) and on Gross Booking by Orbitz Rewards members (+0.46);
 - **Boston Outdoor:** On February 1st VDTM will launch a significant campaign in the greater Boston market. This campaign includes:
 - Kenmore square station domination

- Fenway park outdoor digital video display
- Charlotte Airport display advertising (started Jan 20th)
- **Adara / Arrivalist Marketing / Data Campaign:** Steven is working with Adara and Arrivalist, two media organizations who VDTM has purchased media from in the past. They have joined forces to collaborate on marketing analytics that focus on both the financial impact of marketing campaigns. Along with arrival and travel patterns of consumers who visit Vermont. VDTM is working with both to develop a plan that would coordinate these two sets of data to enhance Vermont's marketing efforts and generate valuable data.

COMMUNICATIONS ♦ Laura Peterson, Director of Communications

- **Communications Outreach:** As a result of a press release on [extreme races](#), Laura will be interviewed by WCAX on February 2nd. She also helped a WPTZ reporter on a story about fall tourism numbers, continues to work on the fam trip for a Huffington Post journalist coming to Vermont in the spring, issued a press release on [historic grants](#), and edited the DHCD newsletter. The [Commissioner's newsletter](#) will go out to members of the hospitality industry on February 1st.

SALES ♦ Kathleen Kolva, Sales Manager

- **AAA Great Vacations Expo:** Kathleen represented VDTM at the AAA Great Vacations Expo in Columbus, OH February 22-24. With the Travel Channel star Samantha Brown as the headlining guest, this show drew-in approximately 15,000 central Ohioans. Vermont had a prime location, the second booth from the Expo entrance, providing great visibility and traffic. With its vibrant hot air balloon cover, the newly printed Summer/Fall 2016 Vacation Guide was eagerly picked-up.
- **Upcoming Trade Shows:** VDTM is actively seeking partners for upcoming shows – AAA Expo in Foxboro, MA March 4-6; Philadelphia Travel & Adventure Show March 19-20; Daytrips & Destinations, CT May 14.

DEPARTMENT OF ECONOMIC DEVELOPMENT: Joan Goldstein, Commissioner

- **Potential EB5 project:** Met with Steve Malone of Greenmount Properties about his EB-5 project proposed for Bear Mountain at Killington. He is expecting to finalize his jv with Powdr Corp. They will revamp the base lodge at Bear Mountain and add 120 residential units. The structure he discussed with us - 50% presold units - and less than 50% in EB-5 raise sounds like a good plan. Malone is an experienced developer and has done EB-5 projects in NH (Loon Mtn.). Powdr Corp is frustrated with the delays in the other Killington developments and wants something to happen to put Killington on par with other world class resorts.
- Met with Government and Public Affairs and Business Development people from Wipro. As they are negotiating with the state for a human services tech contract they are keen to let us know of their corporate social responsibility programs. I am very interested in how they can help us with youth development throughout the state. If they get the contract it may mean about 50 new jobs. They would like to hire local if they could.

BUSINESS SUPPORT - Economic Development ♦ Jared Duval, Director

- **Vermont Wood Pellet** will announce on Jan. 28 or Jan. 29 plans to furlough 15 employees, likely for 4-10 weeks. With the warm winter and low oil prices, inventory is full and future projected demand can't justify continued pellet production at the current time. Secretary Moulton recommended that Chris Brooks explore the Short-Time Compensation Program via Labor, in hopes of lessening the negative impact to employees (an option in lieu of furlough to keep employees on as little as half time while they receive unemployment for the time they are not working). The CDBG application for the new Gilman/ Lunenberg mill will likely be delayed until future demand becomes clearer. This follows news that Green Mountain Wood Pellet in Windsor had to lay off approximately 7 employees last week, for similar reasons.
- Working Lands Annual Report to be submitted to Legislature next week. Key highlights:
 - Based on 50 of 112 grant recipients reporting from our first three years of investments, projects funded by WLEB have resulted in:
 - 106 new jobs
 - \$11 million in increased gross income for VT working lands businesses
 - If the rest of our grantees results align with those that have already finished reporting, our \$3 million of investments over the past 3 years will have contributed to:
 - 230 new jobs
 - Over \$25 million in increased gross income for VT working lands businesses
 - For every \$10,000 in Working Lands investments, we have seen grantees report a corresponding increase in gross income of over \$80,000.

- 1 new job for every \$13,500 invested.

FINANCIAL SERVICES ♦ Dan Towle, Director

- **Business Insurance (BI) Magazine Interviews:** Dan has been interviewed for two articles that will be published in an upcoming magazine. One of the stories has to do with legislative changes in captive insurance, the other has to do with the trend of captives redomesticating to Vermont.
- **World Captive Forum:** Dan will be in Florida next week attending this 25th annual conference. The state will be exhibiting at this conference and speaking on a panel. This conference has proven to be an excellent event for meeting prospects and visiting with existing clients and referral sources. Dan will be joined by Dave Provost of the Department of Financial Regulation.
- ***Questions You Should Have Answered Before You Choose a Domicile Article:*** Dan is writing an article along with Risk & Insurance Magazine that will be published in an upcoming issue. The article outlines the major questions that should be answered by all prospective captives when evaluating domiciles.

VERMONT TRAINING PROGRAM ♦ John Young, Director

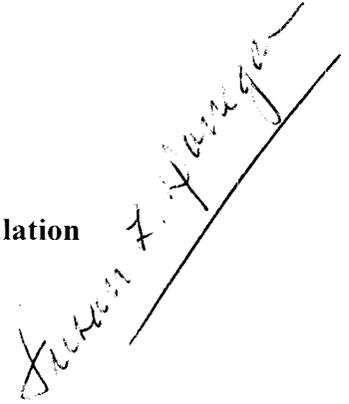
- Met with Bourne's Energy last week to discuss the possibilities of VTP with their need for future training needs around the lack of finding candidates for their service technician positions. They are hoping for a larger Statewide conversation as well to encourage training providers to offer apprenticeship programs in HVAC.
- Visited Vermont Creamery who continues to grow as their products become more popular. I will be expecting a VTP application from them to include in house management training as well as vendor training for Lean.
- Met with Burlington Bytes with Brett Long which is a 12-person website development company located in Burlington. They provide affordable websites for smaller companies and businesses and are hoping to double in staff this next year.
- Vermed is getting closer to a completed application as the Bellows Falls facility will be receiving an EEG electrode component that will require new and improved tool sets to manufacture 10 million units.
- Global Foundries is very close to a completed application for vendor trainings for their tooling maintenance workers who will then use that to train other Global maintenance technicians.
- I will be attending a strategic meeting on workforce development in the senior sector as well as employer visits to Darn Tough, Liquid Measurements in the upcoming week.

State of Vermont
Department of Financial Regulation
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Montpelier, VT 05620-3101
www.dfr.vermont.gov

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

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: January 29, 2016
Re: Weekly Report



Insurance Division:

A recently completed audit of Banker's Life and Casualty Co. revealed that on several occasions the company failed to notify customers that their policies were due to be terminated. The investigation also found that the company's marketing and advertising materials outdated and in some instances, incorrect. Banker's Life has agreed to pay DFR a penalty fee of \$8,000. It has also agreed to provide quarterly training on Vermont insurance laws for agents and managers who hold are licensed to sell insurance here. And all marketing and advertising materials used by agents must now be approved by Banker's Life home office to ensure that they comply with Vermont regulations.

Also this week, an investigation by the department found that Phenix Mutual Fire Insurance Co. of Concord, N.H., had issued policy cancellation notices to consumers without first requesting permission from Commissioner Donegan. The company will pay DFR an administrative penalty of \$6,000.





Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: January 29, 2016

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY – Bad day yeaterday – looking to repair today. We are very close, but due to multiple entities on our end, getting to a solution has proven elusive. At issue is how to tie the agreement to change site restoration standards to an advanced schedule that Entergy and Northstar will commit to in advance of Northstar formally being in the picture. We are working hard on this and I hope you and the AG will see the benefits in moving forward. We are discussing an option later today I hope to brief you on on Monday.

SNRE on SSTF – Deputy Comm. Copans spent 90 minutes testifying in Senate Natural on the Solar Siting Task Force recommendations. Senator Bray continues to drill down on planning, both at the regional and town level. He has also begun to raise the prospect of a Commission to evaluate and modernize Section 248. Deputy Commissioner Copans now has a standing Monday afternoon meeting with the Chairman to stay coordinated.

SNRE on NM 2.0 - Senate Natural spent Wednesday morning taking testimony on the PSB's draft net metering rule. The PSB, the PSD (Copans), REV, GMP, WEC, and VPPSA testified. Battle lines were as expected, though both REV and GMP took a moderate approach. Copans described the Dept proposal, encapsulating it with the motto – "Right Pace, Right Place." The PSB predicted they would have a revised draft rule by late December. They also acknowledged that applying siting and REC credits to only excess generation, as well as the 10 mile radius, were not well received. There have been some reverberations since the hearing, including sentiment from some quarters (VEC, Senator Rodgers) that the legislature should revisit net metering and make adjustments. The Dept will strongly discourage any efforts to do so, at least until a revised rule is issued by the PSB.

Global Foundries Meeting – ACCD and PSD traveled to Williston to meet with Janette Bombardier and others at G.F. to discuss the SMEEP program and possible improvements. GF argues that they have made all reasonable investments that provide a timely return and should therefore be given greater flexibility with the SMEEP fund.

Act 199 Report - In 2014 the legislature included in Act 199 a report to be produced by ACCD and PSD that looks at large industrial/commercial ratepayers and potential approaches to address competitiveness issues via utility costs. Specifically the report addresses retail choice, the efficiency charge, and rate design. A final report was shared with the legislature last week and ACCD and PSD plan to follow up by initiating a stakeholder process to explore possible options for bringing down costs for these large ratepayers.

GMP ESAM Filing – No Docket – GMP filed its ESAM in late 2015 and the Department has engaged in an initial round of discovery, addressing a wide range of issues. In its second round (anticipated late this week or early next), the Department will drill down on lobbying payroll expense, working capital, cost of capital, and other issues. This ESAM will not take effect until October 1, so Department staff is moving forward on it, but without urgency. That said, the initial round of discovery revealed significant concerns, which the Company is aware of. The second round of discovery is extensive and some measure of disallowances is highly likely.

GMP Net Metering Expiring Credits Tariff Change – Tariff No. 8596 – GMP filed a proposal to defer the expiration of accumulated net metering credits that would be otherwise subject to expiration by 4 months, until June 1. The basis for this change is GMP's neglect in dealing with the issue, which was known to them for a year, in a timely fashion. On January 25, the Department filed a letter supporting the change.

VGS Rate/Alt Reg Case – The Department has identified witnesses and is checking references, etc. in anticipation of getting experts on board. The Company has indicated that the filing will come in on Feb 16. The Company has put forward a proposed schedule and alt reg plan. Department legal staff has indicated that while some initial discussions are reasonable, there will be no agreement on the plan or schedule in advance of the case. It is important that intervenors also be able to influence those issues. There is also an initial disagreement on whether Vermont Gas is able to seek an April 1 effective date for its rate request given that the alt reg plan extends through October. Vermont Gas plans to request an April 1 effective date, but ask that the proposal be suspended until Nov. 1. Department staff indicated that this approach does not seem

appropriate. Ultimately, the import of this issue is the amount of time in which to prosecute the case. VGS's approach (intentionally or not) will provide the absolute least amount of time to prosecute this case before rates would go into effect as a matter of law, despite the complex issues to be addressed. Department staff will likely oppose this approach and is researching the issue to better understand the basis for doing so.

CoverageCo – The CoverageCo project is a small cell deployment project. The CoverageCo project is still being redesigned. A proposal for the EDA corridors appear to be settled. However, many of the corridors in the third, “incentive,” contract remain uncertain. The Department wants to preserve some of the original designed corridors. These include Huntington and Albany-Greensboro. The company asserts that many of the sites within these corridors are not financially viable. The Department believes that these communities need to be served regardless of whether the project is redesigned or not. CoverageCo is performing an analysis of those corridors to determine better placement for the radio units. The analysis is due February 10.

FairPoint Service Quality Investigation (Docket 8390) – DPS and FairPoint have reached an agreement on the total amount of credits that will be provided to FairPoint customers that had service outages between April 1, 2013 and February 25, 2015. Credits paid to residential customers will be based on the length of the outage (in hours) divided by a monthly rate of \$25.26. Credits for businesses customers will be based on a monthly rate of \$44.76. DPS and FairPoint also agreed on the customers that are entitled to credits based on data that FairPoint provided during the service quality investigation. DPS and FairPoint have also agreed to language that will be included in customer bills describing the credit.

Verizon Wireless 248a Application – Waterbury – Verizon has agreed to allow intervening parties an additional two weeks to file comments in response to the application. Those comments will now need to be filed by February 15, 2016. The attorney for the Towns of Stowe and Waterbury has reached out to Division staff to explore alternate possibilities for locating the facility. Division staff understand that there is significant opposition to the proposed facility from both the Towns of Stowe and Waterbury. ANR is also very concerned about the project due to its impact on prime wildlife habitat and several other environmental criteria.

Meetings/Calls this Week:

Jan 25 – NESCOE,

Jan 26 – SMEEP Act 199 meeting with Global Foundries, Entergy VY meeting

Jan 27 – Windham County delegation on agreement w/VY, VCRD meeting, Deputy

Commissioner Copans testified on Solar Siting Task Force Final Report to SNRE & NM 2.0,

Jan 28 – Meeting with Mary Powell, Champlain Community Action meeting, NDCAP meeting, NECPUC call

Jan 29 – VEDA Board meeting, Capstone Community Action Meeting (being rescheduled)

Meetings next Week:

Feb 1 – Senator Bray

Feb 2 – Eversource meeting,

Feb 3 –

Feb 4 –

Feb 5 – Aegis on landfill solar projects, EAN Clean Energy Finance

Media: JC – VTDigger on Solar Siting Task Force Report; CR – VT Digger on “ongoing and constructive” discussions regarding EPZ as they saw the Gove eliminated funds for that in his budget with a note that we hoped to “find alternative funding”; Howard Weiss Tismann on SSTF; Susan Smallhere and Mike Faher on NDCAP meeting.

Public Official Contacts: CR Met with Plymouth Selectboard and other town and State (MA) representatives about Pilgrim shutdown on Thursday.

Everything Else:

PERD

Legislative Activities

- The final Act 199 report on rates, efficiency, and manufacturing businesses was submitted to the legislature.

EEU Avoided Costs

- Attended RAP webinar detailing recent work suggesting that EE can reduce load by 30% in many states by 2020. The JEC study showed that given current DRPs we are on track to reduce load by around 20% by 2020.

VSPC

- Quarterly meeting held with full committee. Chairs of Geotargeting and Load Forecasting subcommittees made pitch for special joint meeting to explore potential new roles of VSPC in era of grid transformation

Heat Saver Loan Program

- Quarterly reporting from VSECU and OCU has begun; began compiling data on HSLs from the quarter
- Processed invoice for December interest rate buy down for VSECU: 15 loans using \$23,342.65 IRB leveraging \$160,079.07 in Heat Saver Loans
- Started drafting the quarterly report due to VLITE for last quarter’s activities; extension granted until next week due to program manager’s scheduled break
- Received final review and go-ahead from both credit unions for HSLs that allow State Weatherization clients whose home energy efficiency upgrades are on hold due to the presence or suspected presence of asbestos or asbestos containing materials (i.e., vermiculite). Staff anticipate launching this component with the OEO and Wx agencies next week.
- Processed invoice for Energy Futures Group for marketing assistance with the TEF Pilot (\$401.25)

2015 Comprehensive Energy Plan

- Created database of nearly 1000 stakeholder email addresses collected throughout development of the plan, whether at public hearings and stakeholder meetings or written comments. Will send thank you letter next week to stakeholder list for participation and input during plan development. Email will also serve as notification to stakeholders regarding publication of the plan, including a link to the plan itself. Waiting until next week to send email when new PSD website is live and we can confirm the link to the energy plan is operational.
- Staff presented an electric-focused version of the CEP overview to the Vermont System Planning Committee.
- Set the CEP team release celebration for the afternoon of February 2.

Clean Energy Development Fund

- Reviewed and approved an invoice to SEON for the administration of the Windham Wood Heat project. The invoice was for \$21,775 and included \$8,800 for two full energy audits at two schools considering wood heat: the Flood Brook and Guilford Elementary schools.
- Assisted in the planning and promotion of the Northeast Biomass Heat Conf. which will be held, for the first time, in Vermont in 2016



CEDF will be speaking on a panel on policies to promote advanced wood heat and will also be moderating a panel on thermal efficiency and fuel switching to wood.

Other Items:

- Met with VLITE director to continue discussions related to development of their proposed business development program. PSD and ACCD staff were asked to assist with thinking about potential compensation structures that could help bring this project to fruition. Also discussed forthcoming VLITE board meeting to be held at PSD in Giga on February 16th which will engage the PERD director and a set of stakeholders in conversation about how VLITE can help advance the goals of the 2016 CEP.
- Staff attended a presentation regarding economy-wide carbon cap and trade programs (and especially the Western Climate Initiative) hosted by VEIC.

Regional

U.S. Supreme Court Ruling on Demand Response

- On January 25, the U.S. Supreme Court ruled that FERC has jurisdiction over demand response.

- The Court found that wholesale demand response directly affects wholesale rates, and therefore FERC has jurisdiction. The D.C. Circuit had previously stated that FERC incorrectly relied upon Federal Power Act language that it has jurisdiction over practices that affect wholesale rates, stating that the provision could be read extremely broadly to include almost any portion of the economy. The Court ruled that when there is a direct effect on wholesale rates, as here, it is clear that FERC has the authority to implement such practices
- Further, the Court found that FERC was not arbitrary and capricious in requiring that demand response resources be paid the same locational marginal price as generating units.

Green Mountain Power and VEPPI sued in Federal District Court Over PURPA

- On January 27, Allco Renewable Energy Limited filed suit in Vermont Federal District Court against GMP and VEPPI, alleging that GMP and VEPPI have refused to enter into long-term contracts with Allco's solar projects as required by PURPA.
- Allco asks the Court to find that GMP, or alternatively VEPPI, has an obligation to enter into a long-term contract prepared by Allco, award damages to Allco resulting from lost income, and award Allco its attorneys' fees.

NESCOE Meeting re State Policies

- On January 25, states met with NESCOE staff to discuss whether it would be helpful for NESCOE to conduct an analysis of the impact of state policies on wholesale markets. The results of the discussion were:
 - There is no interest in having an analysis on the impact of a carbon tax.
 - There was limited interest in looking at a clean energy standard, which would include nuclear and large hydro resources.
 - There was limited interest in looking at harmonizing RPS categories.
- NESCOE staff had a conversation with the New England Power Generators Association where NEPGA stated that they would not contest transmission development provided that there are no long-term contracts supporting the line. NEPGA further stated that it would support a clean energy standard but would oppose new policies that support renewables while potentially disrupting wholesale markets. Based on the summary of the conversation, NESCOE was informed that conversations with NEPGA would likely not be helpful.

FERC NOPR on Wholesale Market Offer Caps

- On January 21, FERC issued a Notice of Proposed Rulemaking that would allow resources to submit offers in wholesale markets that are greater than the \$1000/MWh cap provided that the resource could demonstrate that a higher offer is based on the resource's costs. For example, if an oil-fired unit could only get oil at a very high cost, such that its offer would be higher than \$1000/MWh, it could submit that higher offer.

- The purpose of the proposed rule is to address winter-time constraints when natural gas and oil prices are significantly higher than the rest of the year, and, due to pipeline constraints, there may be a limited number of resources that can provide energy.

Finance & Economics

Electric

GMP: T8539: Tesla Powerwall pilot: GMP submitted a tariff for its Tesla Powerwall pilot program on December 30, 2015. Last week Staff requested clarification on some of the language contained in the tariff. A recommendation was submitted and the language was revised.

GMP: Green Mountain Power 2015 Earnings Sharing Adjustor: GMP's filing showed that their actual 2015 revenues for the period of October 2014 through September 2015 were below the Earnings Sharing Band Floor, but above the 50/50 sharing lower bound. The filing indicates that GMP is requesting to collect 50% of the \$1,524,000 variance amount from customers. This amount will be reflected in the next base rate filing under the Plan, scheduled to be implemented on October 1, 2016. Staff is reviewing the first round of discovery received January 20.

Engineering

VY Requests Alternate Disposal for Liquid Low Level Radioactive Waste

VY has requested NRC approval by April 15, 2016, to ship up to 200,000 gallons of liquid “low activity” radioactive waste to US Ecology Inc. facilities in Grand View, ID in lieu of using the Texas Low Level Waste Compact site. VY requests disposal at this alternate facility for economic reasons. NRC approval allows VY to complete draining of radioactive Reactor Vessel water to the former Emergency Core Cooling System Torus for long-term storage. US Ecology’s facilities are qualified for hazardous wastes, but are not qualified for radiological waste storage or disposal without NRC “alternate disposal authorization.” VY’s request notes that the NRC has previously approved similar disposal requests for other decommissioning reactor sites. The State Nuclear Engineer is currently reviewing this request.

VY Conducting Table Top Drills for Emergency Response Organization Qualifications

On 1/26, the State Nuclear Engineer was notified that VY is presently conducting a series of Table Top Drills to assure that it will have enough qualified staff to fulfill its onsite Emergency Response Organization (ERO) requirements subsequent to the staff reduction related to the elimination of the offsite VY Emergency Planning Zone (EPZ) later this year. The State Nuclear Engineer has requested the schedule for subsequent drills to facilitate observing one of them.

Vermont Gas Systems Addison Natural Gas Project Construction

100 feet of new pipe was installed on Segment One last week in order to join the most northerly 1.7 miles (of previously discontinuous pipe) together and allowed that section to be pressure tested on Saturday, 1/22. VGS is attempting to establish, in accordance with federal pipeline safety standards, a Maximum Allowable Operating Pressure of 1,440 psi for the project. The 1.7-mile section was then joined, via welding, to an approximately 9-mile section of ANGP pipeline which was mostly installed last year and had been previously pressure tested. This newly-joined section is currently being prepared for a test to attain geometric data via in-line instrumentation. A short section of project pipeline facilities, located adjacent to the connection

point with the existing/operating transmission line in Colchester, is expected to be pressure tested later this week. VGS is continuing to periodically supply the Department documents necessary to determine the project has complied with federal gas safety regulations and PSB CPG requirements prior to commencing gas operations.

PSB Interconnection Rule Revision and Act 99 Generation Interconnection Working Group Engineering and Planning have completed a revised version of the draft new Rule 5.500 incorporating all comments received from the Working Group. This revised version of the proposed rule will be circulated one more time to the Working Group for final comments/corrections and then submitted to the PSB for its rulemaking process.

Public Advocacy

Kingdom Community Wind – Docket 7628 – Department staff met with sound experts from Acentech to review a draft report and findings related to the first month of continuous monitoring in May, 2015. Acentech staff agreed to make some additional analysis and changes to the report in response to Department feedback. The Department expects to receive the draft report/analysis from Acentech by the end of this week.

GMCW Noise Investigation – Docket 8613 – The Hearing Office held a status conference and set a January 29 deadline for GMCW to submit sound modeling results pursuant to the HO's December 15 order. Parties have a February 12 deadline to file recommendations for next steps.

South 40 Solar – Docket 8600 – Department staff met with petitioner and BED to discuss concerns regarding the project's \$.195 PPA price. The Department made clear that the petition did not contain enough information regarding the valuation of the project's output to give it confidence that the project met the § 248 need and economic benefit criteria. BED and petitioner have indicated that they will supply additional information to the Department. Petitioner also continues to work toward finalizing aesthetic mitigation measures with the various homeowner group intervenors and will provide that information once available. The parties are now working toward a revised schedule that provides sufficient time to review the new material once it is received and draft initial testimony. Department testimony is due on February 3 under the current schedule.

VELCO PV 20 Replacement Project – Docket 8604 – ANR filed prefiled testimony regarding the potential impacts of the project regarding the lake's water quality, use and the Ed Weed Fish Culture Station. Additionally, VELCO supplemented a response to ANR regarding the use of a shear plow for the project. The PSD has no remaining issues with the project. Discovery on non-petitioner parties is due by February 5th.

TDI New England Clean Power Link Project – No Docket – TDI has shared another draft of its section 231 petition that it has informed the PSD will be filed shortly. The PSD will attempt to provide additional feedback as time allows. The PSD anticipates recommending the PSB grant this petition without further investigation.

Triland 2.2 MW Solar in Pownal – Docket 8610 – The PSD has requested the petitioner submit additional information regarding transformer noise. The PSD has reached out to ANR and

understands it has some remaining concerns. Hopefully, the PSD will be able to assist in the resolution of ANR's issues. The PSD anticipates filing a letter with the PSB stating that the PSD has no remaining issues with the proposed project and suggesting this docket follow the settlement schedule. The MOU deadline is February 11th.

GMPSolar Hartford – Docket 8580 – PSD's engineering division has reviewed GMP's responses regarding its draft SIS. GMP has not determined whether it will need additional 248 approvals, since it does not know the locations of the required system upgrades. PSD will review this issue with GMP once the SIS and facilities study are finalized.

Next Generation Solar Farm, LLC 2.2 MW Solar Facility in New Haven - Docket 8523 - On January 21 and 22, 2016 the Board held a two day technical hearing. Day one focused on aesthetics and system stability and reliability, while day two focused on orderly development. On day one, while the proceeding was off the record, intervenor Edward Rybka asked the hearing officer for permission to cross examine the Department's attorney concerning the MOU entered into between the Department and the Petitioner. The Department's attorney objected on several grounds, including the availability of a PSD witness to answer questions about the MOU. On day two, the attorney for the Town of New Haven renewed the request, apparently on behalf of the Town and Mr. Rybka, and requested, in the alternative, that the Board require the Department to file written responses to additional questions concerning the MOU. The Department indicated that it was willing to provide an update on the Department's position concerning the project's fast track analysis but otherwise vigorously objected as it had previously. The hearing officer ruled that the Department's attorney would not be subject to cross examination and that further questioning was unnecessary. The hearing officer did, however, request that a Department engineer provide testimony as to whether GMP's second supplemental fast track review satisfied the relevant condition in the Department's MOU. The Department filed testimony answering this question on Monday January 25. Legal briefs are due Friday February 5, 2016.

Barton Village, Inc. Electric Dept. rate increase of 20.81% - Docket 8646 - On January 20 the Board issued a procedural order requesting comments from the Department and Barton Village, Inc. Electric Department on whether a second public hearing should be scheduled due to the error made by a newspaper reporter concerning the date of the public hearing. Although the public hearing, held on January 14, was properly noticed, the Department supports a second public hearing to ensure that members of the public who were affected by the newspaper's error have an opportunity to be heard on the issue. The Department will recommend that any new intervenors be required to accept the existing schedule so as not to unduly delay the proceeding.

Vermont AllSun Solar XII, LLC 500 kW Group Net Metered Facility – CPG #NMP-6314 - The Department understands that the applicant and intervening adjoining landowner have reached a settlement in this proceeding. The Department and the Agency of Natural Resources are also exploring settlement options with the applicant.

Green Mountain Power Corporation offer of net metering above the statutory cap – Docket 8652 - By order dated January 26, 2016 the Board granted intervention to the Town of New Haven, SunCommon, and Renewable Energy Vermont (REV). The Board requested parties to respond to the Town of New Haven's filing of January 8, 2016 by February 5, 2016, and provided REV and

SunCommon with an opportunity to file comments concerning process and schedule by February 5, 2016 with responses due by February 12, 2016.

Net Metering Applications

There are currently 13 net metering applications under review.

Swanton Met Tower Penalty Investigation – Docket 8561 – The Department filed a *Motion for Partial Summary Judgment* on January 15th on the issue of whether Respondent committed a violation of law by installing a met tower without a CPG. Along with the motion, the Department also filed its response to Travis Belisle’s *Motion for Public Service Board Review of Hearing Officer’s Order on Intervention* and *Motion for a More Definite and Detailed Statement on the Burden of Proof and Issues for Hearing*. Both ANR and the Langs filed comments supporting the Department’s Motion. The Board subsequently established a deadline of February 4th for responses to the Department’s Motion. On January 25th, counsel to Travis Belisle filed a letter requesting that the response deadline be extended to February 15th to allow Respondent’s counsel time to investigate “the installation and funding from the DPS for over 20 meteorological towers around the state for the purpose of measuring wind for potential wind turbine projects.” Respondent’s counsel asserts such an investigation is necessary to determine whether a CPG was required for Mr. Belisle’s met tower at the time it was installed.

Enosburg Falls Water & Light Department Section 108 Petition – no docket – Enosburg Falls filed a petition on December 14th seeking approval to issue long-term debt in the amount of \$2 Million to finance the rehabilitation of its hydroelectric generating facility. The Department filed a letter on January 26th recommending approval of the petition.

Barton Electric Investigation into Misuse of Funds – Docket 7719 –The Department has reviewed Barton’s proposed Internal Controls, filed with the Board on December 15th, and has not identified any concerns. On January 21st the Board issued an order approving Barton’s Motion to Amend its 2011 Financing Order to authorize a 30-year term for the bonds. The Board concluded that no further investigation of the misuse of funds is necessary, and referred any remaining issues associated with the matter to the ongoing tariff investigation in Docket 8646. Further, the Board terminated Barton’s obligation to file monthly status reports, effective immediately.

VEC Bylaw Amendment Petition for Declaratory Judgment – Docket 8551 – On January 15th intervenor Michelle DaVia wrote to the Board asking for consideration of a conflict of interest report provided to the VEC Board and requested by the Department in discovery. In its discovery responses, VEC declined to provide the confidential version of the report but shared a redacted report with the Department (which was already in Ms. DaVia’s possession). After reviewing the redacted report, the Department withdrew its request, as it determined the report was not relevant to the Board’s review of VEC’s petition. VEC filed a letter on January 22nd clarifying this issue.

GMP Base Rates Filing – No Docket – While this filing is months away, Department staff has been urging GMP to perform a lead-lag study in advance of the proceeding to determine its working capital allowance (a significant amount of ratepayer expense). GMP had used an accepted, though imprecise method of determining this amount – basically taking 1/8 of the

O&M expense. GMP and Department staff held two initial scoping and methodology calls to discuss expectations for the study.

GMP Vegetation Management – No Docket – Department staff, in collaboration with its rate consultant, is putting together a counterproposal to a vegetation management plan put forward by GMP a couple months ago. GMP is seeking to capitalize two years' worth of intensive hazard tree removal at a cost of \$3.8 million/year. The Department is presently analyzing what effect it would have for GMP to not capitalize this amount and simply spend it as ongoing O&M, especially in light of GMP's recent history of vegetation management, which appears to lag both industry trends and its own benchmarks.

VGS Addison Expansion—Docket 7970 - Second Remand: Following the January 8 Board order denying the Rule 60(b) motions and returning the case to the Vermont Supreme Court, Ms. Lyons withdrew her appeal and the matter has been dismissed by the Court.

The Department's Gas Engineer is gathering his inspection reports for production to Over & Under pursuant to a FRCP 45 subpoena. These documents will be reviewed by the PA division and provided to Over & Under's counsel on January 28.

Discussions continue among the Department's Gas Engineer, our safety consultant, VGS, and the PA division with respect to the commissioning (gas up) of the first 11 mile segment. These discussions are with respect to safety requirements and the Department's expectations from the Company. VGS currently estimates commissioning this segment the first week of February.

VGS-Sandy Birch Road, Georgia Gate Station-Docket 8679 - This is a petition to refurbish and upgrade an existing gate station in Georgia. The petition is pursuant to Section 248(j) and the statutory notice requesting comments by February 19 was recently issued. Engineering has been looking at this Project for some time and we will conduct informal discovery if necessary. We anticipate that the Department will support the Project.

Lincoln Renewable Natural Gas-Salisbury project-Docket 8596 - Biomethane digester project in Salisbury to connect with the Vermont Gas system and ultimately serve Middlebury College. This petition has been pending for some time and the statutory notice under Section 248(j) was issued in October 2015. The Petitioner, the Department and ANR have all submitted comments and responses to various Board questions. In October/November, the Board received several negative public comments regarding property value diminution, odor, traffic and other issues thought to be potentially occasioned by the Project. The Board has determined to convene a public hearing in Salisbury and is attempting to schedule something the last week in February.

Triland Williamstown Solar Project-Docket 8666 - Petition to construct a solar electric generation facility of up to 2.2 MW off George Road in Williamstown. Engineering is reviewing. Prehearing conference is scheduled for January 29.

GMP-St. Albans Community Digester-Docket 8673 - 800 kW methane biodigester generation facility to be constructed in St. Albans. Staff is reviewing. Prehearing conference scheduled for February 2.

VGS-Broughton condemnation-Docket 8641-This parcel is in Monkton. Mrs. Broughton has a pending motion for summary judgment. The DPS appraiser was scheduled to visit the property on January 28. Rising Tide got word of the scheduled appraisal and turned out a crowd to protest in front of the property. On the advice of law enforcement, the appraisal was cancelled. A prehearing conference is scheduled for February 9.

VGS-Cuneo condemnation-Docket 8642-This parcel is in Williston. Motion for summary judgment identical to Mrs. Broughton's is pending. The Department's appraiser will visit the Cuneo property on January 29 and the Board is attempting to schedule a prehearing conference for early February.

VGS-Town of Hinesburg condemnation-Docket 8643-This parcel is in a park owned by the Town. A negotiated settlement has been reached. A prehearing conference is tentatively scheduled for February 11.

VGS-Peyser condemnation-Docket 8645-This parcel is in Monkton. Status conference is scheduled for February 8. The purpose will be to discuss the schedules submitted by VGS and Peyser - there is no agreement on a proposed schedule.

Telecommunications

ECFiber – ECFiber provided addresses for 3278 locations that it says that its plant passes. Staff is processing this information to correlate the addresses to E-911 locations.

Fiber Maintenance Bid – Today, proposals are due in response to the Department's request for proposals for a fiber maintenance vendor. Thus far, the Department has received two bids, with a third expected by the end of the day. Bids will be opened on January 28th. The maintenance vendor selected by the Department will care for the Department's existing fiber assets.

Sharon-Pomfret Fiber Project – Work is complete on the fiber project that connects ECFiber's network in Sharon to its Woodstock network. ECFiber will use the Sharon-Pomfret fiber to connect last mile homes and businesses in east central Vermont. Testing is expected by the end of the week. The other fiber projects are wrapping up and are expected to finish by March 31. The Department has drafted a media release to be issued after testing is released.

Canaan Meeting – Staff is scheduling a meeting on broadband with Canaan. Several state projects are happening in Canaan. VTA extended fiber to Canaan and the CoverageCo project touches Canaan. Canaan is in the VTel territory as well as Connect America Fund area.

Charter Line Extension in Danville – Charter is late on its line extension project in Danville. The VTA paid for the majority of the line extension and the residents paid for the remainder. Charter has promised that it will complete its project in three weeks. Department staff will check in with consumers in three weeks to ensure that service is available. If the project is still incomplete three weeks from now, the Department should consider discussing with Charter the possibility of taking action against the company, as the company is likely in violation of the line extension rule.

Readsboro and Marlboro Meetings – Department staff met with the towns of Marlboro and Readsboro to discuss broadband availability. Staff made a general recommendation to both towns that they form broadband committees to investigate service options. These towns should request meetings with the providers to see exactly what is available and where and how much it would cost to improve service. Marlboro, for example has no cable, but two cable companies are franchised to serve Marlboro. A cable line extension may be a cost effective way to improve service within that town. Readsboro on the other-hand, would likely have more success pursuing a partnership with FairPoint or VTel. Legislators for both towns were in attendance at both meetings.

Comcast CPG Renewal (Docket 8301) – DPS submitted prefiled direct testimony on Tuesday, January 27. DPS submitted testimony from three witnesses. The DPS testimony also included the Department’s community needs assessment report, which was completed primarily by CAPI division staff.

The Vermont Access Network (“VAN”) also submitted its prefiled testimony on February 27. VAN presented testimony from six different witnesses on behalf of AMO and PEG channels throughout Vermont. The VAN witnesses have presented a list of issues and proposed conditions that they would like to see inserted in the CPG. The primary issues of contention are whether the PEG channels should be included in Comcast’s interactive guide, broadcasting PEG channels in HD, and providing better technical support to allow PEG channels to do live broadcasts. VAN has also presented testimony on a series of other ancillary technological and funding issues that they would like to see addressed through the CPG process.

The Department testimony, in part, supports VAN’s request for better technical support for remotely originating live programming. The Department has also requested that the Board require Comcast to list PEG channels on its interactive guide unless Comcast can demonstrate with specificity that such a requirement would be financially and technologically unreasonable.

The Department also received two bids in response to its RFP for expert assistance in the docket. The Department is reviewing those proposals and considering whether it will be necessary to re-open the bid.

VTel – Springfield Area Public Access TV (SAPA) Arbitration (Docket 8609) – Attorneys from DPS, SAPA, and VTel have a conference call scheduled for Friday, January 29, to discuss scheduling for the docket. SAPA’s attorney has indicated that they hope that the docket can be fully resolved within six months. There is a strong disagreement between the parties over the primary disputes (which mostly relate to funding amounts), and the Department believes that it is unlikely that the parties will be able to reach a settled agreement on the dispute.

VTel Cabot 248a Petition (Docket 8549) – The Board has rescheduled the continued technical hearing for February 4, 2016. DPS will present its witnesses’ testimony at the rescheduled hearing.

FairPoint Pole Attachment Complaint (Docket 8470) – Charter and Comcast both reached settlement agreements with FairPoint prior to the technical hearing. The Department is not a

party to the settlement agreements. All parties consider the settlement agreements to be confidential, and the Department is not aware of the specific terms of the settlement agreements. However, the parties have advised the Department that the settlement agreements are contingent, in part, on the Board approving a special contract rate for pole attachments from Charter and Comcast on FairPoint poles until the PSB resolves the pending VoIP docket. The Department advised all parties that they should not depend on Department support for any special contracts that are filed with the PSB as part of their settlements.

North Calais Neighbors Coalition Public Records Request – Calais residents that participated in the recent Board docket for VTel’s proposal to construct a telecommunications facility in Calais (Docket 8535) have filed a public records request with the Department. VTel withdrew its petition on the eve of the technical hearing after significant opposition from the Town. The Department also submitted testimony critical of the proposed facility. The neighbors are requesting copies of all correspondence between DPS employees and VTel employees since January 1, 2010. Division staff forwarded the request to the Department’s public records officer. Division staff have been advised that the records officer is in communication with the neighbors about limiting the scope of the request to limit the overall time and cost that would be necessary to comply with the request.

Smart Meter Report – All utilities (GMP, BED, VEC, WEC, SED) have submitted data requested for the 2016 report to the legislature. Staff is reviewing narrative responses while Finance assimilates the expenditure and savings data. Target date to submit the report to the legislature is February 19 or sooner (the prior report was submitted on February 20, 2014).

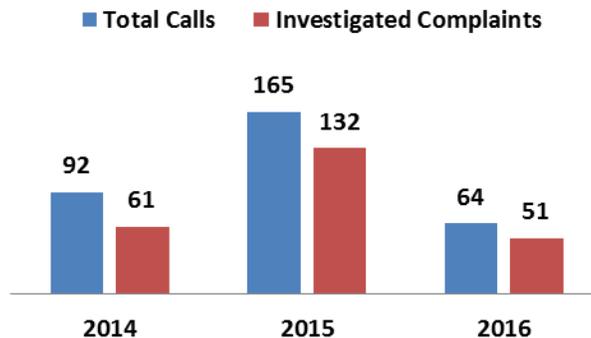
Brattleboro Development Credit Corporation Meeting-Connectivity staff met with a team at the BDCC to discuss the telecommunications infrastructure as it currently exists in Windham County. The BDCC has projects in place which they hope will create and retain a flourishing business community, and improve the quality of life of all its residents. In consideration of these projects, the BDCC is looking at ways to offer better connectivity and access to townspeople throughout the region. Connectivity staff reviewed infrastructure, answered questions and discussed potential resolutions for connectivity issues.

CAP

Please note that this report covers activity from Sunday to Saturday, January 17–23 2016.

CALL DATA

Calls to CAPI Same 7 days each year



VEC remote disconnection discussion- CAPI met with VEC to discuss a proposal by the company to allow VEC to remotely disconnect customers for non pay. VEC cites safety concerns for techs who visit properties. VEC says that disconnect and reconnect fees for customers will be reduced with remote disconnections. A tech visit during business hours currently cost consumers \$55.00. The fee for remote disconnection would be \$28.50. In the past year, about one third of VEC members who were up for disconnection paid the meter tech at the premise. VEC will reach out to other companies who have the ability to disconnect remotely for proposals, which would allow companies to disconnect remotely while providing adequate notice and opportunity to pay to customers. CAPI also suggested asking VEC members and local Community Action agencies for input.

GMP customer survey-GMP met with CAPI to discuss an after call survey and current customer satisfaction data. GMP will begin to survey customers through the IVR about satisfaction with interactions with the reps. GMP believes that this will help the company address training issues with reps in real time. GMP will begin to administer the survey in the next few weeks and will keep us apprised of results and willingness of customers to participate.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Hal Cohen, Secretary, Agency of Human Services
Re: AHS Weekly Report
Date: January 29, 2016

Secretary's Message:

Regarding S.107, I was scheduled to testify on Thursday this week to the Senate Committee on Government Operations, and was given 11 minutes notice that my testimony was cancelled. Despite the cancellation, I'm well prepared for future testimony on this. I have also prepared a detailed written response to S.107, which I have already shared with the committee and it remains the basis of my testimony. I have sent that over to your office through Darren and Sue.

On Thursday, I testified before the House Committee on Human Services for FY 17 Budget that relates to the jurisdiction of that committee. Upfront, Chair Ann Pugh said that she didn't want to hear anything in the budget that is not under her committee's jurisdiction, in particular, the Department of Corrections and parts of the Department for Vermont Health Access. During my testimony, she and Representative Topper McFaun had a dispute because Topper wanted to know why there was an up in our building costs and Pugh said that it was irrelevant to their committee. Before the testimony, I let the chair know I would do my best to not bring in budget areas outside of their jurisdiction, but I also wanted them to know that all of our departments are interconnected in ways that it's a disservice not to include the full picture. I want to highlight that the involuntary medication changes we've proposed was a very hot issue in the committee. Chair Pugh and Representative Haas, were very passionate and expressed anger that this was in the budget and that we didn't have a lengthy public process providing input regarding this policy change. Chair Pugh accused us of putting this in the budget only to receive cost savings. I contradicted that statement and let her know that policy drove our decision to want to change current practices. I let her know, that we believe that it is inappropriate to involuntarily place someone in a hospital and not treat them in a timely manner. Commissioner Reed and Commissioner Costantino will also testify in front of this committee next week and I'm sure that they'll also get an ear full.

I testified with Commissioner Lisa Menard, in front of the Senate Committee on Institutions, we had an informal conversation around correctional facilities and our secure residential facility. We are exploring a number of options around how better to serve inmates with mental health issues and inmates who are aging in our facilities and suffer from disabilities and/or dementia. Commissioner Reed put out an RFI regarding interest in operating or building a secure residential facility. We did receive seven responses, a few of which were interesting and we are following up on. One is from a major nursing home, which would be open to taking inmates who are in this population. Commissioners Hutt and Reed traveled to the Vermont Veterans Home (VVH) to discuss the facility's interest in serving more specialized population needs. VVH remains open to exploring this possibility of serving a small number of individuals with long term care needs, as long as maintaining their federal requirements for veterans' priority care. Consultation support services will be a vital part of serving a more complex needs population. Both Commissioners also met with Genesis Health Care representatives on that state's long-term care service demands, their current array of services within Vermont, and initial follow-up questions to their organization's interest to the Request for Information

for secure residential services put out by DMH in the fall. Their ultimate capacity to serve a more complex long-term care population in Vermont is unclear and will need additional exploration. We have also heard from two major developers who are interested in building a correctional facility and leasing it back to the state. At this point, we are really just exploring the possible options and will get back to you with some recommendations. In the meantime, I have contacted Peter Hood, who is chair of the select board in Middlesex and asked him if Middlesex would be receptive to extending agreement we have on housing our temporary secure facility in Middlesex. He thought they town would be very open to an extension which ends in 2018. This would give the next administration a little breathing room, so I plan to submit a formal extension request.

AHS Highlights:

Agency of Human Services Central Office (AHS CO):

Refugee Office

The Refugee Office is finalizing (sent for approval and processing) several grants to provide services to refugees during calendar year 2016: 1) To USCRI/VRRP, English Language Training \$133,967, Employment Services for refugees in their 1st year in the US \$90,000, Pathway to Higher Education (P2HE) \$17,000. 2) To the Association of Africans Living in Vermont for Employment Services to refugees in the US between 1 and 5 years \$90,000, for Elderly Citizenship Services \$30,000, for Citizenship Services to refugees \$17,000(amendment) + \$52,808=\$69,808. 3) To CVAA, Services to elderly refugees \$45,000. 4) To CVOEO VT Tenants \$10,353 for Refugee Tenants' Education. 5) Prior grants was also awarded on 10/1/15 to CVOEO Financial Futures for financial literacy education to refugees, \$20,500. and 6) to ReSOURCE, \$150,000 for the Helping Hands project for YIT and older workers. 7) In addition, grants were awarded for the school year 2015-16 to Burlington (\$86,500) and Winooski (\$63,500) School Districts for refugee students, with a starting date of August 15, 2015.

Grace Cottage RCPC meetings continuing

Grace Cottage in Townshend has decided to leave One Care to join CHAC. They are in the process of learning what the requirements are for community meetings. In the meantime, the group agreed to continue to meet.

Vermont Department of Health (VDH):

Request for Information for Hub in Franklin County Posted

The Request for Information (RFI) for a Comprehensive Addiction Treatment Center for Franklin/Grand Isle Counties was posted on Monday, 1/25. This RFI is issued for VDH to gather input and obtain information and cost estimates in proceeding with proposals to open a new Regional Comprehensive Addiction Treatment Center to serve Franklin and Grand Isle counties. The purpose of this RFI is to determine if there are solutions capable of meeting the State's anticipated requirements and to determine alternatives for meeting those requirements that are consistent with the overall vision for VDH and the State. The closing date is 2/25/16.

Department of Mental Health (DMH):

Vermont Psychiatric Care Hospital

VPCH census remains at 25. The hospital Advisory committee met this week and was given an update on the hospital and a high level review of the external Nursing Consultant report. The report is now on the DMH website for staff review as well. VSEA has also reached out to make sure that no decisions had been made as yet regarding report recommendations. A regular Labor-Management meeting is

scheduled to receive any formal feedback from staff. The leadership teams at VPCCH and DMH have reviewed the report and are in the process of writing an action plan for considering each recommendation.

Emergency Departments

This week there were 34 people in need of inpatient psychiatric admission and 26 have been admitted. There are currently 3 involuntary adults waiting in Emergency Departments with plans for at least two of them to be admitted today. One individual who is currently waiting in DOC is expected to be admitted today after waiting less than 24 hours. There are no involuntary minors waiting for beds at this time. At present, there are two voluntary adults waiting for inpatient beds and one is expected to discharge to support services in the community. Due to high bed occupancy, three voluntary minors are currently waiting of which two have been waiting less than 8 hours. The Level 1 units throughout the state remain at 100% occupancy with the overall occupancy of adult beds at 88% and child/adolescent bed occupancy is at 94%.

Department of Aging and Independent Living (DAIL):

Governor's Commission on Successful Aging Meeting with Governor Shumlin

The Governor's Commission on Successful Aging Health Reform Subcommittee will be meeting with Governor Shumlin next Tuesday, February 2 to review the findings and recommendations contained in its Interim Report. There are many recommendations contained in the report however, the Subcommittee will be focusing in three areas: falls prevention, oral health and mental health and substance abuse.

The Commission report was circulated to AHS departments and input was sought. Many of the recommendations align with activities that are already underway or have been identified by AHS and individual departments as priorities. For others, the Commission recognizes that there are not adequate resources (financial and other) to pursue them at this time.

Blind Operator of the Courthouse Café Catering the Swearing in of Mary Morrissey

Next Friday, February 5th, Heidi Viens, the blind operator at the Courthouse Café, will be catering a lunch for Mary Morrissey, current Deputy State Attorney, who will be sworn in as a new judge. The lunch will follow the ceremony and will be held in the Champlain Room at the courthouse—32 Cherry Street. Heidi runs the Courthouse Café in that same building and has provided good customer service for Mary Morrissey and many others who are regulars at the café. Heidi was honored and excited when she was asked by Mary to cater the event.

She operates this small business in partnership with the State Division for the Blind and Visually Impaired (DBVI) as part of the Randolph-Sheppard Business Enterprise Program. Heidi is totally blind and a graduate of Champlain College. She will be present to organize and serve the lunch for between 80 and 100 people.

Department of Corrections (DOC):

Population

The Department's incarcerated population averaged 1747 for the previous week. The Department's incarcerated male population averaged 1600 for the previous week. The out of state population is currently at 239. The female population averaged 147 for the previous week.

Department for Children and Families (DCF):

Podcast on DCF Social Workers

Erica Heilman, publisher/reporter of the podcast RumbleStripVermont has received national awards for Best Podcast in 2015 and 2014; she has been interviewed by several radio stations nationally regarding the real stories she tells about people's lives. This week she has published a podcast entitled "Inside DCF" with interviews of DCF social workers and the work they do. The response has been favorable and has shown the public's admiration and acknowledgment of the difficulty of this work; "Erica and the case workers have pulled back the curtain on the sad, grim reality that we may be losing the battle." We have thanked our social workers who have participated in this important process that shows some light into the world they work in. The podcast may be streamed here: <http://www.rumblestripvermont.com/2016/01/inside-dcf/>

Department of Vermont Health Access (DVHA):

Vermont Health Connect Update

VHC and AHS are prepping for a CMS onsite meeting on February 1st and February 2nd to discuss the Agency's go-forward plan for Medicaid renewals and broader Health Services Enterprise platform activities.

On 1/21, a "Go" decision was made to implement an "expedited" 3.3.2.11 release into production. This implementation deferred future functionality needs (i.e. VHC Medicaid Renewals and Department of Labor (DOL) data for verifications) in order to allow operations to start executing 2016 QHP Changes of Circumstance (COCs). The implementation was completed on Saturday and User Validation Testing (UVT) started on Sunday. UVT will be completed once the carriers effectuate the cases run during this validation phase (anticipated to be complete by the end of this week). As of Wednesday, no major severity 1 defects have been identified and the operation's team is currently evaluating the capability to execute 2016 CoCs.

VHC Renewal Testing: Testing of the full release with VHC Medicaid Renewals and DOL functionality is not complete. As of Tuesday, only 55% of the test cases have been successfully executed. That is only a 2% improvement over the previous week. Last week, the User Acceptance Testing (UAT) team shifted focus on running regression tests to validate operations previous functionality including CoCs would continue to function as expected. This validation was key to the 1/21 go decision. UAT will now continue to validate new functionality in the Release 2 package. The UAT team has logged defects which have blocked the Medicaid renewal cases from being completed. There are ACCESS integration defects preventing the test cases from being completed end to end. There are 32 open critical or high defects remaining.

The final 2017 SHOP RFP was published and distributed to four selected vendors on 12/18. Bidder Questions were received and Responses provided last week. Proposals were received on 1/19 and evaluation is scheduled to begin 1/21 and be completed 1/29. The new schedule leads to a March 14 contract start date.

Legacy Medicaid renewals continue successfully, with approximately 1,000 renewal applications submitted thus far.

The State's special reconciliation team kicked off its work on Tuesday. The team is monitoring live system transactions to identify transmissions that are causing discrepancies between systems. This will allow VHC to make greater progress on reconciliation with BCBS by identifying root cause and remediating issues.

Other Report Items from the Agency of Human Services:

Agency of Human Services Secretary's Office

Using Data to Respond to Anecdotes

Responding to a key partner's concerns and claims that some of AHS' systems of care (Corrections and Mental Health) were routinely discharging volatile clients to our homeless shelter system and contributing to more episodes of violence in shelters, the AHS Secretary's Office worked across departments to gather and analyze current data. Ultimately, we were able to respond to the shelter that while there were indeed a small number of people in shelter who were involved with the Department of Corrections, these were not the individuals involved in the assaultive behavior. We also arranged between Department of Mental Health and Department of Children and Families to have the local designated agency provide mental health first aid training to shelter staff.

Vermont Department of Health (VDH)

Infectious Diseases

VDH has begun receiving inquiries from Vermont laboratories and clinicians regarding the Zika virus, a mosquito-borne illness that has recently emerged in the western hemisphere. VDH is working with the CDC to test its first specimen for Zika virus, collected from an ill Vermont resident with recent travel to Haiti and also crafting guidance for Vermont clinicians on the appropriate testing.

Many Physician Assistant Licenses Will Lapse on February 1

As of January 27, close to 100 physician assistants have not completed the renewal process, of approximately 350 licensees expected to renew. Additional notices have been sent and an effort has been made to contact each licensee by telephone.

Department of Mental Health (DMH)

Legislative

DMH General Counsel, Karen Barber, testified to the House Judicial Committee on H.533. This was follow-up to testimony last week and request from the committee that DMH and the Center for Crimes Victims Services (CCVS) develop compromise language on notification requirements for individuals who have a mental health condition and will be discharged from the care and custody of the DMH Commissioner. DMH and CCVS representatives were able to meet last week and agree on recommended language for statutory change. The Defender General's Office, however, continues to raise concerns about the language proposed and consider it to still be too broad.

Department of Disabilities, Aging and Independent Living (DAIL)

Teleconference Update re: the Café at the Waterbury State Office Complex Scheduled

In response to a need to be transparent about the selection process for a blind operator for the Waterbury State Office Complex café, the Division for the Blind and Visually Impaired (DBVI) will be hosting teleconference updates about the café and the ongoing preparation and selection process. The opportunity for blind operators to own these businesses in state buildings is supported through the Randolph-Sheppard Act. The first teleconference is scheduled for Monday, February 1, 2016 at 3:30 pm. The agenda will cover:

- Update on the Development Phase which began January 1st.

- Explanation of the requirement to offer the operation of the Waterbury Café to the current Randolph-Sheppard operators.
- Opportunities for running the facility

Department of Corrections (DOC)

Paths for re-entry meeting

On 1/27/16, Commissioner Menard and other DOC staff met with the Chancellor of state colleges, presidents CCV, Johnson and Lyndon as well as Bill Schubart to discuss possible ways to use state colleges as a path for re-entry for some offenders. Some cost neutral ideas were discussed for follow up and we are likely to continue the conversation.

Department for Children and Families (DCF)

VT Early Childhood and Afterschool Workforce Survey

Through the Vermont Early Learning Challenge – Race to the Top grant, the Child Development Division was tasked with implementing a survey of the early childhood and afterschool workforce. This survey was focused on gaining information on the wages, benefits, credentials, and other characteristics of the Vermont Early Childhood and Afterschool workforce. The goal of the survey was to provide the Department for Children and Families (DCF), the Agency of Education (AOE), and other Vermont stakeholders with a clear picture of the Vermont Early Childhood and Afterschool workforce.

The finalized survey open May 13th, and closed on June 19th. Survey participants included a wide range of individuals from registered and licensed home child care providers, licensed child care center staff including Head Start, Pre-K teachers, afterschool staff, child care support services, and K-3 teaching staff in public schools. The Child Development Division received 1,403 responses to the survey. These results are expected to be released by February 1, 2016 and will be available on the Child Development Division website.



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**CONFIDENTIAL AND PRIVILEGED
MEMORANDUM**

TO: Governor Peter Shumlin *PS*
FROM: Rebecca Holcombe, Secretary, Agency of Education
SUBJECT: AOE Weekly Report
DATE: January 29, 2016

Emerging Issues

So much going on, it is hard to know what is important.

Hoffer

Hoffer continues to pick over our entrails. We have been doubling down HARD on bidding out even the smaller contracts (\$7500). For many contracts smaller than that, the staff time to bid sometimes begins to approach the value of the contract so we are instead focusing on ensuring that no small contract is approved by a single person, and on questioning for every contract whether we need it.

Federal grants do allow us to award single source contracts if we request and they approve, but as a small state and many of the professional consultants our SUs contract with are past AOE employees, current AOE employees, spouses of employees, or friends of employees. To avoid the appearance of a conflict of interest, we are also looking at processes that require when the AOE receives a request for a sole source determination with federal funds that at least two AOE staff (maybe one program and one finance) have to review it before approving the request. We are getting interesting pushback from the field, as bidding is disrupting some relationships and expectations. At the end of the day, this is probably healthy, but it is like turning a ship in a storm.

Hoffer's representation of our situation in Senate Ed felt unfair. He linked the whistleblower and his contract findings, even though we were exonerated in the whistleblowing incident, and the findings were pretty trivial and dealt with contracts and the whistleblowing was about grants. I think we just have to tough it out and continue to focus on doing the right thing. This feels like a side effect of doubling down on a handful of nonperforming staff members. VSEA is pretty much on the rampage against us right now.

Collaboration within the team

I wonder if we can talk gently in cabinet about the need to continue to work together and be on the same team. I don't know if it is the political climate or overload in all agencies, but we seem to be having a hard time closing the loop on some things that we have done in

collaboration with other agencies for years. For example, we have been trying to finish an MOU for months with labor and need some adult ed data that they have given us for years so that we can complete our federal reporting, which is very late. I don't know if there is a way to help coordinate, so that we don't lose banal but essential internal coordination as we try to respond to external demands.

CTE and State Workforce Investment Board

I was worried when Frank Cioffi called, because I thought he was going to make a lot of new big asks, but it looks as if he is just excited about the Report on Career and Tech Education which we just submitted, and wants to try to work more closely with us. The report focused on three strategies: 1) increasing post secondary education, 2) developing 6 “priority pathways” that align with priority sectors in the VT economy, and 3) tuning CTE curriculum to develop and support 21st century skills and higher levels of academic skills. We will be on the agenda at their next meeting.

An aside, he is a pretty ardent act 46 supporter now.

Act 46

Act 46 is in large part about getting to scale and simplifying structure, so that school systems actually have the capability to deliver on their educational goals and imperatives. It is also about using public assets more efficiently. The last two weeks have seen a flood of proposed bills, a very large proportion propose to amend Act 46 in ways that erode those goals. Act 46 is not perfect, but it is working and I think it outlines where we need to go. Obviously, it will be as good at the end of the day as the local decisions on how to implement. I think the vocal opposition from advocates of local self-interest will be strong as it starts to work and this flood of bills reflects that. Ironically, some of the loudest critics live in areas that are currently at risk of losing their schools due to declining enrollments. I feel very strongly that we need to resist the impulse to tinker unless absolutely necessary, especially given the climate in the House.

A couple of observations and patterns:

1. We absolutely cannot have new big legislation this year, despite what Sharpe says. He is focused on CTEs and special education funding, and I think we need to get a little farther into Act 46 before we can do either of those responsibly. He may want to build a legacy with those two additional pieces, but doing so right now might bring down the whole castle.
2. Some of the most dysfunctional conversations in the state are in places where Act 46 does not give boards the political cover to do the right things. In regions where districts might actually have to vote to change their structure to merge, they don't have to do anything unless they want to. This means they have to own the choice they make, and there are a few places where folks can't own this, so instead are looking for work arounds that let them have their cake and eat it too.
3. Some of these boards are having a really hard time understanding that the reasons their taxes are so high is that when you try to give everyone everything they want, someone has to pay for it. There really is no escaping that. They will just have to

decide if they want to continue to pay for the lone ranger strategy, or whether it might be worth compromising a little because they can do better by working with others. Basically, our theme song at the Agency these days is “*You can’t always get what you want, but if you try sometimes....you get what you need.*” I now have Dave Sharpe saying that, and Zuckerman said it too.

Picus Report:

The Picus adequacy study was interesting, in that it made several assumptions that seem to support moving to fewer, larger units in order to deliver better services at scale. In other words, it seems to reinforce Act 46. Here are some examples (emphasis mine):

- The EB model **assumes somewhat larger pupil/teacher ratios** than are generally employed in many Vermont’s schools, even though we modified our recommended EB ratios to meet Vermont policy on number of pupil contacts at the high school level.
- The EB approach to special education, which relies on state funding for children with severe disabilities and a census model (see chapter 3) for children with mild and moderate disabilities, resulted in special education spending some \$136 million below the current spending level of \$294 million. We believe the major cause of this substantial difference is that Vermont schools identify a higher percentage of students as needing special education (16%) than the figure utilized in the EB model of 12%. **Moreover, the EB model provides a large array of resources, resourced at close to \$95 million, to provide services to any student needing extra help to meet state standards before they fall behind and are labeled a student with a disability and provided an Individualized Education Plan (IEP).** The EB estimate assumes costs of \$100 million for children with severe disabilities, although current special education funding makes it impossible to be more precise in the costs of special education for children with severe disabilities. We note in Chapter 4 that all four of our professional judgment panels identified the growing social and emotional needs of children as a major concern in schools, a concern that may lead to additional educational resources. As that chapter indicates, we have made some modifications to our EB model to help fund additional staff to meet the growing needs of the state’s children.
- Under the current governance structure for schools, most districts are part of a Supervisory Union (SU) that provides a range of services for all of the school districts, and in most cases offers duplicative services such as developing and managing budgets for each individual school district. **The EB model assumes that SU services are provided to all schools/districts in the SU as if it were operating as one school district, establishing economies of scale in central operations.** The *Vermont School Finance Adequacy Model* also makes it possible to create alternative Supervisory Districts (SDs) to establish further economies from larger central organizations.

- The EB model does not include instructional aides at any education level whereas most Vermont school districts employ substantial numbers of aides in their instructional programs.
- The EB model appears to have **fewer administrators** than generally found in Vermont school districts.
- In these three studies, the EB elementary school model was used to develop a per Preschool pupil cost for a high quality preschool program. **The per-pupil cost for Pre-K was derived from a prototypical preschool program of 150 students, which included 10 classrooms of 15 students each. In addition, most of the staffing and program elements included in the EB model's typical elementary school were included for the preschool students.**

Meetings

VSA meeting—presented to all Superintendents. Shap Smith and Dave Sharpe also presented. Both indicated no intention to change the structures in Act 46. I think this is a good idea. Almost all proposals I have seen submitted either erode the goal of getting to scale or erode the goal of coherence or both.

Commissioner Flynn re: collaborations on school safety

Larry Picus about his report. I think I made him miserable, but he ended up telling David Sharpe that we were the smartest state team he has worked with. He seemed most concerned we would try to dismantle his report. We decided to focus instead on how he represented it.

Dave Cioffi, head of the Statewide Investment Board. Surprisingly positive meeting—he asked us to present on our recent CTE report at the next SWIB meeting, and seemed excited about our recommendations and eager to partner with us.

Lots o' chatting in the legislature.

Media Contacts:

Act 46

Katy Savage, Vermont Standard, asked about spending cap “miscellaneous” whether we know which districts will be impacted by any “threshold spending.”

Nathalie Gagnon-Joseph, Barton Chronicle spoke to Brad James about about accelerated mergers, and particularly with respect to Westmore. She also asked about the \$23 million in ARRA money and if the Legislature replaced it or not. James briefly explained to her the

influx of ARRA money to the Education Fund did not impact the districts one way or the other, so not having it several years later did not matter. He referred her to Joint Fiscal Office if she wanted a detailed explanation.

Alex Rose, Fox 44, asked if the Agency of Education has data on how many school districts have already submitted budgets. Stephanie Brackin replied that we don't until districts submit preliminary budgets in February.

ESSA

Howard Weiss Tisman, Vermont Public Radio asked how many federal dollars Vermont would lose if Vermont did not follow the ESSA testing standards (roughly \$55 million.) Tisman also talked with Amy Fowler, Deputy Secretary.

Powerball

April Burbank, Burlington Free Press, was working on a story regarding how the Powerball craze possibly increased Lottery revenue, and how it may impact the Education Fund. Bill Talbott, Deputy Secretary, responded.

Education Assessment Survey

Catherine Gewertz, Education Week, asked AOE to fill out an assessment survey.

Substance Abuse

Aimee Caruso, Valley News, contacted Health Department Substance Abuse Program Manager Kelly Hale-Lamonda about what alcohol and other drug education is required in schools, and what approaches the Health Department supports in schools. Lamonda provided information created in collaboration with Agency of Education, titled Comprehensive, School-Based Alcohol, Tobacco and Other Drug Prevention, a fact sheet Substance Abuse Prevention Program Overview, and detail of the AOE school-based grant program.

Haley Dover, Burlington Free Press, is working on a story about opioid addiction and the rise in juvenile court dockets filed by the state, which includes cases where children are removed from homes where family members are addicted to opioids.

Pink Eye

Wilson Ring, Associated Press, asked if pink eye was becoming a concern in schools. The question was referred to Sharon Treyfry, who is the school nurse liaison for the Health Department.

School Discipline

Stephanie Brackin, Communications and Web Manager, talked with **Lola Duffort, Rutland Herald**, about school data on Hazing, Harassment and Bullying. The data team is working on pulling this information and we have not yet completed the request. She was provided the School Discipline Report.

E-Cigarette Use

Matt Drew, WFFF, interviewed Health Department Tobacco Control Program Director Rhonda Williams about the use of e-cigarettes among youth. The youth tobacco prevention group *Our Voices Exposed* (OVX) at Enosburg Falls High School. Lindsay Simpson, AOE student health and learning team leader, was updated.

Civics Teacher

Ric Cengeri, Vermont Public Radio producer of *Vermont Edition*, asked for the name of the best high school civics teacher in Vermont for a live interview in the studio on Monday, February 1.

Executive Privilege

TO: Governor Peter Shumlin
FROM: Secretary Chris Cole
DATE: Friday, January 29, 2016
SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Shelburne Salt Shed Transfer Station

As you are aware, Vermont Rail Systems (VRS) is currently developing a property on Route 7, just north of Shelburne Village, that will be an intermodal transfer station for road salt, lumber and potentially oil and gas. VRS as a railroad has federal preemption from state and local land use regulations but are still subject to federal environmental laws and our highway access permit. VRS disagrees that we have regulatory authority regarding our highway access permit but despite our difference of opinion, we are working together to ensure their development does not negatively impact our state highway from a safety or congestion perspective. Our traffic engineers are meeting with VRS and the Chittenden County RPC Director to review the amount of trucks that will use this facility. It should be noted that 85% of the trucks are expected to travel north and never go through Shelburne Village.

The Town has filed an injunction in Vermont Superior Court to stop the project and is demanding that the project go through its local DRB review. The railroad has filed for injunctive relief in federal court citing federal preemption. The law and previous cases are on the railroad's side. Additionally, the railroad has blocked off a portion of a parking lot that is part of the railroad ROW they lease from the State that the municipality has used for the last 10 years. Many Shelburne residents are concerned as this increases the emergency response time for fire and police services to reach the public school. Yesterday at the Senate Finance hearing on this topic, David Wulfson offered the town a no cost lease for the parking spaces in exchange for an Executive Session before the selectboard, a meeting he has indicated he has been requesting in writing from the town but has received no response.

The State Legislators do not appear to be supporting the actions of the selectboard Chair to escalate this situation; most have had dealings with the railroad and are well aware of their federal preemption status. The selectboard Chair does not appear to want to work in a cooperative fashion and is insisting that the Congressional delegation

or the Governor assist the town in forcing the railroad through their local process. The railroad has offered to drop their federal lawsuit if the Town drops their state lawsuit and both sides sit down and discuss the Town's issues. Representative Lenes is acting as emissary for the railroad with their offer for the lease in exchange for the Executive Meeting and the offer to work together rather than litigate. It would appear that the ball is in the Town's court. The Town has not contacted my office; let me know if you want me to reach out to the Town. I indicated to the Legislators at the Senate Finance hearing that I would be happy to speak to the Town but wasn't going to get involved unless they asked for my participation. The railroad still has to get a couple of permits from DEC before they can begin construction. The railroad is prepared to litigate this as far as it takes and they will have financial support and legal support from the American Short Line and Regional Railroad Association.

Here is a chronology of events:

- January 20: Shelburne Zoning Enforcement Officer Joe Colangelo issued a Notice of Violation against VTR for an alleged violation of Shelburne's zoning bylaws.
- January 25: Town of Shelburne filed suit against VTR in the Vermont Superior Court, Environmental Division.
- January 25: Town of Shelburne filed Motion for Preliminary Injunction with the E-Court, requesting that the court order VTR to cease work on the project.
- January 26: VTR filed suit in US District Court against Town of Shelburne and Joe Colangelo, seeking injunctive and declaratory relief on the grounds that federal pre-emption bars the Town's attempt to require an interstate railroad to comply with local zoning.

Various documents related to the litigation are available on the Town of Shelburne's website: <http://www.shelburnevt.org/413/Vermont-Railway-Intermodal-Facility>

Middlebury Tunnel

The engineer's analysis is complete on looking at the cost and time savings on a tunnel clearance of 18'8" versus 21'. The cost savings are approximately \$4 million and the time savings is approximately 11 weeks. The height of 18'8" was selected because it represents the next highest obstruction on the line and we didn't want the tunnel height to be less than that obstruction. We have also been looking at rail car carriers for both passenger rail service as well as freight commodities that could be used and they need a height clearance of 20 feet and the Amtrak dome cars (cars that have glass windows on the roof and would be great for foliage season) have a height clearance of 20 feet. While I don't believe this line will ever have a need for double stack container traffic, having the ability to get the Amtrak dome cars into Burlington and the potential to bring in cars for sale in South Burlington via rail, leads me to selecting either the 20 or 21-foot option. A clearance of 20 feet saves approximately \$1.4 million and 5 weeks from the project. This decision will be made the day after the Rail Council meeting on February 17; we have asked them to weigh in on this issue.

I'm also working with the railroad to get them to agree to shut the line down completely every other day. This could have a great impact on reducing the amount of time for this project as it would give us potentially 4 or 8 hours additional construction time every other day. This scenario would have to be approved by FHWA as it involves more costs to move longer trains and pump out their fuel products. We are actively developing estimates that we will incorporate into our decision making. I am scheduled to meet with Angelo Lynn, along with the Town Manager the day after the Rail Council meeting to describe what the project looks like in terms of the schedule and impacts and the reasons behind our decision making. I am ensuring that all potential options for reducing time will have been examined and incorporated or rejected.

I-91 Brattleboro Bridge

Negotiations continue and we should arrive at a decision point at the end of February whether negotiations will end in an agreement satisfactory to both sides or whether we will end up in litigation to solve the issue. A settled agreement would be preferable but we are prepared to protect the State's interests by going through litigation if necessary.

Transportation Garages and Solar Power

I met with David Blittersdorf of All Earth Renewables to discuss a proposal to build solar trackers at all of our state garages, under the 15 kilowatt threshold. Despite reluctance from VTrans staff, I've agreed to move forward with the All Earth proposal under the BGS net metering contract. We will have an option to purchase the trackers after 6 years for half price and I intend for the Agency to exercise that option. We will also hold the REC's. David intends to build them all this summer and we would like to have a press conference with you and David on this issue, after the first pair are installed.

NOTES FOR STAFF

Legislative Action

- I will be testifying on H.249, the RPC COG Bill. In general, we support the concept but have some concerns with specific language we will be sharing with the House Gov Ops Committee.
- H.560 a Highway Safety Bill introduced by Representatives Jewett and Burke. I have met with Representative Jewett and Emily Boedecker of Local Motion and have indicated the items we support, items we don't and items we want to better understand. There are a couple of items, including mandatory ignition interlock for repeat offenders that we can support but much of the bill we can't. The sponsor and Local Motion have indicated they would like to get something and recognize they need our support to get through the transportation committees. I will stay in close coordination with Sue Allen on this topic.
- H.571 the Driving While License Suspended Bill. The House Judiciary Committee

doesn't seem to support removal of all non-driving related offenses from the license suspension requirement. We will continue to press the importance of this issue.

- I have met with Representative's Deen and Brennan with Commissioner Schuren to discuss our latest approach. Both Chairman seemed to support our latest approach, it remains to be seen if the municipalities or VLCT will support this approach as it doesn't provide any guarantees nor explicitly includes the amount of an incentive payment for the creation of a Municipal Stormwater Utility. There is a joint hearing between the House Transportation and Fish and Wildlife Committees on Tuesday; Commissioner Schuren and I will be testifying, the three municipalities that are immediately affected – Williston, South Burlington and Colchester – will be invited along with VLCT.

Middlebury Airport

Aviation Director attended the Middlebury Design Review Board and presented the runway, taxiway and tree clearing project. We are waiting for the DRB's decision.

I-91 Brattleboro Bridge

Negotiations continue and we should arrive at a decision point at the end of February whether negotiations will end in an agreement satisfactory to both sides or whether we will end up in litigation to solve the issue. A settled agreement would be preferable but we are prepared to protect the State's interests.

Fair Haven Welcome Center Solar Net Metering Project

VTrans staff completed revisions to the Utility Accommodation Plan using the MA DOT plan. The revisions are now being reviewed by the ROW and Utilities Section. The Fair Haven CE and highest and best use evaluation are expected to be complete and approved by FHWA in the next several weeks. We are still shooting for a summer construction of this solar array, our first in the federal ROW.

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Chuck Ross, SECRETARY

STATE OF VERMONT
AGENCY OF AGRICULTURE

Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 29, 2016

Secretary's Top Issues

Vermont Farm Show

This week the Agency of Agriculture participated in many aspects of the Vermont Farm Show which was at the Champlain Valley Expo in Essex, VT. As part of the event many VT agricultural industry organizations had their annual meetings, many of which were attended by members of the Vermont Agency of Agriculture. Those meetings included (but are not limited to) the Vermont Maple Makers Association, the Beef Producers Association, the Vermont chapter of the Future Farmers of America, the Beekeepers Association, the VT/NH Christmas Tree Association, the Organic Farmers Association, the Specialty Foods Association, and others.

Wednesday night was the annual Consumer Night, at which over 50 vendors from across the state presented their wares. Consumer Night also featured the Capital Cook-Off, which, yet again, the VT Agency of Agriculture, *Food* and Markets won.

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Confidential and Privileged

TO: Gov. Peter Shumlin
FROM: Chuck Ross, Secretary of Agriculture
RE: Weekly Memo
DATE: January 29, 2016

Status of Governor's Priorities:

Legislative Activities and Issues:

At the request the Department of Fish and Wildlife we gave input on H.552 on the designation of critical habitats.

1/22/16

In House Ways and Means the Agency listened to Liquor Control's (DLC) testimony addressing the Fee Bill (Jim Giffin). The committee seemed to be interested in:

- Use of VIC & how VIC is paid? 3% charge passed on to licensee or paid from department's fee revenue? DLC pays from their revenue.
- Soon DLC will begin working with Secretary of State to increase on-line licensing abilities
- Committees of jurisdiction are interested in creating a "Farm Distiller License".
- Possibilities for statutory/fee consolidation?
- Departments discussing Fee Bill proposal with impacted constituents and providing summary feedback to Committee.

1/26/16

- Cary Giguere made a presentation in House Agriculture and Forest Products (a similar presentation will be made in Senate Agriculture) on the Agency of Ag's and national efforts on managing bee population decline. Decline is attributed to many things including disease, urbanization, agricultural and bee management practices, pesticides, and nutrition. The presentation focused on pesticide labeling including directions for use and warnings, and educational efforts.

1/27/16

- Farm Bureau requested hearing with Senate Ag on the topic of equine equity. No related bill has been proposed to date. Pertinent points in testimony:
- Lynn Des Marais Vermont Farm Bureau - framed the issue - VT equine farmers should be included in the definition of farming and they should have access to the same benefits as other farmers. This initiative will extend into next year; how is it that equine farmers are considered farmers in some contexts (e.g. RAPs) and not farmers in others (tax context);
- Bonnie Sogoloff - owner of Cedar Spring Farm in Charlotte - equine farmers are committed to following RAPs and all other agriculture regulations; horse economy puts millions of dollars of revenue into VT; the IRS definition of farming and farm includes horses, but the VT tax dept. interprets the definitions a different way, and does not recognize equine businesses for purposes of current use;

- Kingman Penniman - re. workers comp premiums, equine businesses are lumped into a different category than are other farmers (equine business owners are paying 20-24% vs 2-4%); town of Berlin will not recognize any horse farms in the town - his horse barn is classified as a commercial entity;
- Kate Selby - owner of The Equestria in New Haven - The definition of farming in current use is solely for the purpose of keeping the land open/productive, not food production, so equine management should qualify in current use; the buildings and fences are the issue since the land is already in current use.
- Conclusion: Senate Ag will work with the Finance/Ways and Means committees to put this issue on the legislative radar officially.

NASDA / Other National and Federal Issues:

Secretary Ross will be in Washington DC this weekend and part of next week for the annual NASDA Winter Policy Conference.

Press, Marketing and Communications:

The Agency of Agriculture has published two excellent foldout information brochures about “[Agriculture in Vermont - 2016 Highlights Brochure \(pdf\)](#)” and “[Vermont Agency of Agriculture 2016 Grant Programs Brochure \(pdf\)](#)”. These publications are colorful, easy to read, and available online.

Summary of Key Agency Department Activity

Agricultural Development:

Produce Safety Team & Vermont Department of Health Discuss Food Safety Modernization Act (FSMA) Priorities

- VAAFM Produce Safety Team—Abbey Willard, Kristina Sweet & Shelley Mehlenbacher—discussed collaboration on food safety and FSMA implementation with VDH staff.
- VAAFM & VDH may develop a MOU to streamline enforcement of both current and pending state and federal food safety regulations for meat, milk, maple and produce.
- VAAFM & VDH will also collaborate on educational meetings on FSMA for Vermont producers this spring.

Food Safety Modernization Act (FSMA) Presentation at Vermont Vegetable and Berry Growers Association (VVBGA) Annual Meeting

- Produce Program Coordinator Kristina Sweet presented an overview of the final FSMA Produce Safety Rule to VVBGA membership at the association’s annual meeting in Fairlee.
- Sweet also discussed plans for development of a Vermont State Produce Safety & Market Access Program and asked produce growers to join an industry work group that will advise program development.
- Growers sought clarification on details of the final rule and expressed appreciation for the synopsis of new federal requirements for produce farms. Two growers confirmed interest in joining the advisory work group.

Meeting of VVBGA’s Community Accreditation for Produce Safety (CAPS) Program Advisors

- VAAFM Produce Safety Team—Abbey Willard, Kristina Sweet & Shelley Mehlenbacher—participated in a meeting of CAPS program advisors to refine the program requirements and accreditation process for the 2016 growing season.
- The CAPS program has completed its initial pilot year and will accredit farmers who have drafted produce safety plans and documented implementation of produce safety practices throughout their farms.
- CAPS program advisors will also join the produce industry workgroup that will advise VAAFM’s produce program development.

Food Systems Section Chief, Willard, and Farm to School Coordinator, Zipparo, Meet with Farm to School Stakeholders About S. 202

- Senator Sirotkin has asked farm to school stakeholders to adjust S. 202 language, which is related to Universal Meals
- Community Eligibility Provision (CEP) is the federal program that allows for schools that qualify to serve free meals, also known as Universal Meals, for all students
- CEP has been used to help school food service programs become more viable, which allows schools to have more resources to spend on local products

Senior Agriculture Market Specialist, Zipparo, Meets with Student Nutrition Association of Vermont About Collaborating on the 2016 Vermont Farm to School Conference

- SNA Vermont usually holds their annual meeting around the time the 2016 Farm to School Conference will take place
- VAAFAM hopes to partner with SNA, in order to combine both meetings, enriching both organization's goals
- VAAFAM's Farm to School Program is a close partner with members of SNA Vermont, which is made up of food service directors and staff

Farm to School Coordinator, Zipparo, Meets with Central Vermont Hunger Council to Discuss S. 169

- S. 169, which is a bill that updates the language in Act 145, the Rozo McLaughlin Act, in order to reflect the current climate of farm to school in Vermont
- The Vermont Hunger Council was very interested to learn the ways that farm to school is used to increase healthy food access for Vermont students, who make up nearly 1/6 of our state's population

Farm to School Coordinator, Zipparo, Convenes Call on Using Farm to School to Reduce Food Waste Between VT Agency of Natural Resources and National Farm to School Network

- NFSN is interested in building food waste prevention into their priorities for the next few years. Nationally, using farm to school to reduce food waste, either through increased consumption or food recovery
- ANR sees farm to school as a valuable partner in reaching the goals of Universal Recycling
- This relationship is innovative, and not seen in other states, which is why NFSN is particularly interested in learning from Vermont's model

Consumer night another huge success!

- 50 Vermont food and ag product vendors gathered in the Blue Ribbon Pavilion at the VT Farm Show in Essex for the Buy Local Market during Consumer Night. Vendors had samples and products for sale to interested consumers throughout the evening.
- Customer counts show over 250 people shopped and grazed their way through these local ag product booths
- Simultaneously, the House, Senate and Agency of Agriculture teams of the Capital Cook Off planned, shopped the market, and prepared their local dishes for the panel of judges to sample and evaluate.
- All three teams used creativity and culinary skill turning the mystery protein (chevon) and gilfeather turnip, and dozens of other local ingredients into delicious dishes.
- In the end, the Agency of Agriculture team was victorious but it was close and all teams appeared to enjoy the friendly competition again this year
- Great raffle prizes were awarded to customers shopping at the event, good media coverage of the event, and lots of fun was had by all

Agricultural Resource Management:

North Lake Farm Survey Initiative:

- Approximately 266 farms have been fully surveyed and data summary is ongoing. Staff are also finalizing data entry from previous surveys.
- Staff are coordinating efforts and are reviewing the remaining the farm locations to determine whether or not they need to be visited when weather conditions improve (e.g. some locations that were thought to be farms are no longer active farms).
- Staff are working to coordinate efforts to provide assistance to farms that need BMPs as a result of the North Lake Farm survey efforts.

Medium Farm and Large Farm Operation (MFO and LFO) Programs and Conservation Reserve Enhancement Program (CREP):

- Staff conducted technical assistance visits on 3 MFOs in Franklin County to evaluate BMPs and related maintenance of the BMPs.
- Staff conducted a compliance check on a SFO in Franklin County to evaluate a ditch that was that is a part of an effort to improve field runoff onto neighboring properties.
- Staff participated in a Vermont Clean Water Initiative Program (VCWIP) quarterly partners' staff meeting and a VCWIP funding and implementation tracking meeting.
- Staff have participated in the VT Farm Show and have been staffing the Agency's booth.

- CREP staff met at the Williston NRCS office to assist a farmer in finalizing and signing a CREP contract.
- CREP staff are preparing the CREP annual report.
- Staff are working with LFOs regarding permit amendments for authorization to construct additional animal housing, waste storage, increase animal numbers and importation of wastes for digesters.
- Staff are drafting reports and memos related to inspections and enforcement cases and following up as needed.
- Staff are continuing to work on and test the FoodSafety Water Quality database. We are currently working on enforcement actions, permit fees and payments, data tracking and data migration. We are expecting a staging release which will allow us to continue testing.

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Deborah L. Markowitz
Agency Secretary

Trey Martin
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 29, 2016

Subject: ANR Weekly Report

Governor Level Issues:

Vermont Rail Intermodal (Shelburne): Vermont Rail has proposed to construct a salt shed on a parcel of land in Shelburne. The land abuts conserved land, owned by Nature Conservancy and is full of rare and special species. There are also wetlands on the site. The rail project is exempt from State review, although there is a question about whether this is true on portions of the site that have been leased by VTRANS. Even with this general exemption, federally-delegated National Pollution Discharge Elimination System (NPDES) permits administered by the Stormwater Program are required as are state endangered species taking permits. DEC is reviewing the application for construction, which includes a review of compliance with threatened and endangered species, in conjunction with the Department of Fish and Wildlife. We have determined that no operational permit was required because of the federal preemption for rail facilities. Wetlands issues are covered by the Army Corps of Engineers. The land has been cleared, an action we approved, but construction has not yet begun. An unannounced site visit showed that a silt fence had been constructed on site, pre-permit. A Notice of Alleged Violation will be issued and we will monitor future activities to ensure compliance with federal permits and practices. There has been strong opposition to this project by Shelburne residents and environmentalists. VTrans will use the salt for the state highways next winter. A traffic review will be conducted, paid for by Vermont Rail. Act 250 permits were issued in the 1970's and there is a question about whether they will apply to this development.

Vermont Lake Champlain Citizens Advisory Committee 2016 Action Plan: This plan will soon be released (February 2). Recommendations include: (a) a call for permanent funding sources for the Clean Water Fund and (b) a restructuring of the Clean Water Fund Board to include a majority of members from outside state government. The basis for the latter

recommendation is to keep the state agencies priorities from diverging away from public priorities. We do not agree that the board make-up should change. Other recommendations include: (c) more agricultural enforcement; (d) prohibit manure or phosphorus fertilizer on fields with excessive soil test phosphorus levels; (e) expand agronomic assistance; (f) increase public access to the Lake; and (g) invest in natural infrastructure – riparian buffer acquisitions, dam removal, aquatic organism passage projects.

EVERYTHING ELSE:

Legislative Issues/Testimony:

Results Based Accountability (S.198/H.521): The House FW&WR Committee took additional testimony regarding DEC’s population indicators and performance measures, primarily focused on water. Following testimony from Rep. Anne O’Brien, the Committee seems to have a better sense of its assignment regarding S.198/H.521, as well as the respective roles of the Legislature and Agencies in rolling out Results Based Accountability.

DEC Permit Process Improvement (S.123): Both SNRE and HNRE continued with a third week of testimony on S.123. Rep. Klein has indicated that HNRE will report out the sections of the bill that consolidate 85 DEC permit processes into five. It’s not clear yet, however, if the committee will support moving from “de novo” to “on-the-record” review of DEC permits on appeal to the Environmental Court.

S.123: Jon Groveman, NRB Chair, is scheduled to testify in the Senate Natural Resources Committee Thursday on S.123. He will indicate that Act 250 is not part of the record review proposal, support keeping Act 250 out of the bill, and note one minor Act 250 change that the NRB would support making this year., that may be able to be added to the bill As indicated in an e-mail to Sue Allen before the session started, a couple of years ago the Legislature added a provision to Act 250 that required an applicant to seek reconsideration of a Jurisdictional Opinion (JO) with the NRB before appealing a JO to the Environmental Court. The process has been difficult to administer and has taken more time and resources at the NRB than anticipated. In addition, the NRB has lost legal staff to budget cuts since this change in the law was made. It would help the NRB if we did not have to review reconsideration of JO’s, and we could deploy our legal resources elsewhere.

Prior to this change in the law JO’s issues by Act 250 District Coordinators were appealed directly to Court. The NRB would like to go back to the way the process worked before this change was made. I believe applicants will support it because it eliminates a step in the process. I don’t think anybody will oppose this change.

Water Quality Classifications (H.517): Despite mostly positive testimony in support of H1517, House FW&WR stalled on this bill in week three because several committee members wanted to understand better how water classifications work. DEC’s Neil Kamman will testify again in week four, and hopefully his testimony will move this bill forward.

Petroleum Cleanup Fund (H.363): The Senate read H.363 a third time on Wednesday and passed it in concurrence. The bill has gone to the Governor for his signature. The bill increases the maximum payout amounts from the Petroleum Cleanup Fund for farm and residential tanks (from \$2,000 to \$2000, \$3000, \$4000); and increases from \$350,000 to \$400,000 the amount that the Secretary may authorize from the Heating Fuel Account for ASTs and USTs. These changes will allow PCF payouts to keep up with inflation.

Clean Water and Drinking Water State Revolving Funds (CWSRF & DWSRF- H.610): House Corrections and House FW&WR will hold a second joint meeting this week, on Thursday, on DEC's proposal to re-write the statutes governing the CWSRF and DWSRF. Rep. Emmons has been very supportive of this effort to clarify and simplify the CWSRF/DWSRF statutes. DEC will work with Rep. Deen to explain how the proposed pollution control priority system will align with the goals of Act 64.

Stormwater Utilities: DEC Commissioner Schuren and Stormwater Program Manager Padraic Monks testified, in House Transportation, in support of VTrans' proposal to create more predictability and transparency in the monies paid by VTrans to stormwater utilities. Rep. Deen expressed concern that this proposal was not vetted in HFW&WR prior to introduction in House Transportation. DEC and VTrans will present testimony in HFW&WR next week. VTrans and DEC will testify about VTrans' concept, not specific language, which allayed some of Rep. Deen's concerns.

Clean Water Fund Board Membership (H.518): Secretary Deb Markowitz testified in FW&WR against H.518, a bill that would add six new members to the Clean Water Fund Board. ANR opposes this proposal because it would detract from the agencies' expertise in pollution control and would allow special interests to dominate the board process. The friendly exchange between HW&WR and Secretary Markowitz gave pause to Reps. Deen, McCullough and Krebs, who generally support the bill.

S.237/H.584: The House version of the miscellaneous forestry bill was recently introduced and a variety of testimony from members of the Vermont forest products industry was provided this week to the House Natural Resources and Energy committee.

Press Issues/Releases:

Beetles Bees Butterflies: A "Save the Date" announcement was sent out to advertise a seminar on pollinators that will take place at ECHO in Burlington on March 17. Registrations are starting to trickle in even before the agenda was posted.

Press Event for Primary Battery Law: A press event was held at the State House on Thursday to raise awareness about Vermont's first-in-the-nation primary (non-rechargeable) battery stewardship law. Secretary Markowitz and Tony Klein spoke along with Andrew Sirjord from Call2Recycle.

EPA Releases Clean Water Survey, Estimates Low: The EPA released its 2012 Clean Watersheds Needs Survey (<http://www.epa.gov/cwns>), compiling 2012 data for wastewater and stormwater projects planned for the five years following the survey. The five-year cost in Vermont was estimated at \$154 million. This estimate is quite low, relying on 2012 data that does not take into account the Vermont Clean Water Act requirements (Act 64) or the Lake Champlain TMDL needs. We are currently partnering with the Treasurer on a legislatively-required report that will cover the full cost of clean water, revenue sources, and the gap. This report will likely come out in late November 2016. It will show that much of the cost of clean water will be covered primarily by federal funds, zero interest federal loans, and private investments. Potential funding sources will be outlined to increase revenue in the Clean Water Fund.

F&W releases: Ice Fishing Festival to be Held at Lake Elmore State Park: VT's third annual Free Ice Fishing Day is January 30, 2016. The festival will be held from 11 a.m. to 3 p.m. The event is free and families with kids are encouraged to attend. **VT's 2016 Hunting, Fishing, Trapping Lawbook is Available**

Significant Events/Meetings:

Tanker Truck Rollover & Spill (Ferdinand): DEC staff assisted the Vermont Hazmat Team in responding to a tanker truck rollover in Ferdinand on Wed, January 20 and Thurs, January 21. Hydrogen peroxide and diesel fuel was released - a dangerous combination (potential exothermic reaction if the two mixed). The responders ensured that the two products did not mix. The peroxide did not reach any surface waters, which is also fortunate given that it can kill aquatic organisms.

Barnet Runs Out of Water: Barnet has recently run out of water, and the cause remains unclear. System operators are pursuing an improvement project, but suffer from a lack of managerial, financial, and technical capacity and capability to run the public water system. DEC staff continue to meet with the Barnet Fire District in an effort to resolve the issue.

Vermont's Visibility Improving: DEC's Air Quality & Climate staff drafted a five-year progress report and implementation plan to address the regional haze program requirements of the Clean Air Act. Vermont has made progress in reducing emissions, resulting in improved visibility. The state will meet the 2018 visibility goal at its Class I area, the Lye Brook Wilderness in the Green Mountain National Forest. If requested, a hearing will be held to receive comments on the report and plan. Comments are accepted through February 11, 2016. <http://www.anr.state.vt.us/air/Planning/htm/StateImplementationPlan.htm>

Open Burn Complaint (Montgomery): DEC received several complaints about a tire/solid waste burn in Montgomery. Within four hours of receiving the complaint, an Environmental Enforcement Officer had investigated and confirmed the issue, as well as received a confession from the responsible party. The case will proceed to litigation for formal enforcement action.

SUMMARY OF KEY DEPARTMENT ACTIVITY

Office of Planning and Policy (OPP)

Ouimette Timber Harvest above 2500 Feet: OPP is working with DFW and FPR staff to review an Act 250 application for a timber harvest above 2500' on the Ouimette property in Brighton/Ferdinand. The project site is located in the area formally proposed for the Seneca Mountain Wind project. During the review for the wind project proposal, considerable data was collected on bear-scarred beech stands, natural communities, wetlands, streams, and perhaps Bicknell thrush habitat. The application submittals and the information provided to DFW by Steven Slayton, a consultant working for Ouimette, does not provide information on the project's impact to these resources. It appears the two areas are part of a larger timber harvest that seeks to enhance the maple sugar sap production of the area to support Sweet Tree's operation. After consultation with DFW, it is concluded that a site visit is needed to ensure that the proposed timber harvest will not negatively impact Criteria 1(E), 1(G), 8 and 8(A) of Act 250. The project area is enrolled in the Use Value Appraisal (UVA) program and the proposed harvest has been approved by Matt Langlais. OPP planner is working with Ouimette's forester and the Act 250 District Coordinator to identify if there is path forward for the timely review of the harvest proposal. OPP will likely file comments on behalf of the Agency early next week which will request a site visit, additional information and a hearing. The comments will also suggest that the Agency would support postponement of the proceeding (if requested by the Applicant) to provide time to work out issues with the goal of avoiding the need for a hearing on the matter.

VELCO PV-20 Transmission Project: The Agency filed testimony in the PV-20 case with the PSB on Mon, January 25. The PV-20 project involves the installation of 4 new high-voltage transmission lines and the removal of 7 older transmission lines, which run along the bottom of Lake Champlain from north of Plattsburgh, NY to the Alburgh area in Vermont. The Agency's testimony focuses primarily on the water quality impacts of the project and potential impacts to the Ed Weed Fish Hatchery's deep water intake. The issues raised by PV-20 are similar to those addressed in the TDI proceeding, so the Agency filed similar testimony and will seek real time monitoring of water quality during construction, a response plan to reduce sedimentation and other impacts if they come close to exceeding water quality standards, and a plan to ensure protection of the hatchery's intake. The project also requires a DEC Lake Encroachment Permit and 401 Water Quality Cert., so many of the other construction and operational impacts related to invasive species, uses of the lake, etc., will be addressed through those permits.

New Applications for the Week of January 18: OPP received 4 new Act 250 applications and 2 new Section 248 petitions.

Environmental Conservation (DEC)

Proposed Solar Project at Elizabeth Mine: EPA and DEC technical comments on the proposed solar project were sent to the developer (Brightfields) and consultant (Weston and Sampson). Comments focused on ensuring that the proposed design, construction, and

decommissioning of the solar project will not adversely affect the function of the cover system. DEC is responsible for the maintenance of the cover system in perpetuity. Comments will be reviewed with the developer and consultant in the coming weeks.

E-Waste RFP Posted: An RFP for the new e-waste Vermont contract was posted on January 15. The contract would start on July 1. This new contract follows many conversations with solid waste management districts and electronics manufacturers who have been frustrated with the poor electronics recycling markets and that the current contract does not take into account market factors. The draft State Standard Plan and Manufacturers Opt Out Plan Procedure are on public notice, which ends January 25. We received positive feedback from solid waste district managers for addressing their concerns (or at least most of their concerns), in the new contract.

\$90K Federal Highway Grant (Shelburne): DEC received notice of a \$90,000 federal highway grant award prepared in collaboration with the Town of Shelburne. The funds will be spent on the construction of a gravel wetland to treat about 40 acres of impervious cover discharging to a stormwater impacted tributary of Shelburne Bay.

Illicit Discharge Detection & Elimination Mapping: DEC staff have worked with ~90 communities to create GIS drainage maps and infrastructure reports in an effort to detect and eliminate illicit water and wastewater discharges. 65 communities have completed illicit discharge surveys. The maps and reports will be posted to our new website, along with municipal stormwater master plans. We have also developed an on-line GIS database for stormwater, wastewater and drinking water GIS data for non-MS4 communities. Communities will be able to print out their own maps to address water quality needs.

Recycling/Organics Outreach Mtg: Solid Waste Program staff organized a meeting of Solid Waste Districts and Alliances outreach staff to discuss and share resources and strategies for effective outreach in light of the Solid Waste Implementation Plan (SWIP) outreach requirements to businesses and schools. Presentations were made by the Mass based Center for EcoTechnologies, the Northeast Recycling Council, and the Northeast Resource Recovery Association and about 25-30 people attended.

Leddy Park Soils & UVM Spatial Analysis Lab (SAL): The UVM Spatial Analysis Lab recently assisted the City of Burlington by using their Unmanned Aerial Vehicle (UAV – aka drone) to accurately estimate the contaminated stockpile soil volume, which allowed better planning for soil disposal logistics and costs. We will have a report shortly that better details the work done by the UVM SAL. Their program was recently featured on VPR, as they have been doing some very interesting work both internationally and here in Vermont, such as doing flood damage assessments, monitoring potential ice jam conditions, watershed delineations and estimating fill needed to repair roads following flooding. There is a potential that their tools may be able to assist the Sites Management Section (and ANR in general) in other ways. See <http://www.uvm.edu/rsenr/sal/?Page=pgProjects/signature.html> for more info.

Solar and wetlands: Hyde Park Electric – The Vermont Wetlands Program issued a permit for a solar project in Hyde Park. Months after meeting out on the site, the developer proposed a

project with many more impacts than originally understood with a tight timeline for financing. After working with the applicant to minimize impacts we were able to approve a project which met the mitigation sequencing.

Allen Road Grand Isle Solar – A Solar project is proposed within acres of wetland buffer. Although we have successfully worked with BDE in the past avoiding the resource where possible, this project has an application before the Public Service Board.

248 Agenda Solar – As part of the GMP cap, several solar developers have put forward projects which are not approvable by the wetlands program. In some instances the application material is deficient in information needed, where in others there are panels placed directly in wetland resources. The filing of such projects will add additional burdens on the Wetlands Program when these projects reach litigation.

South Burlington Town Center – The Wetlands Program met with the Town of South Burlington, South Burlington Real Estate, and representatives to discuss their proposed City Center project. The Town has received TIFF designation from the state for the parcel. The project is currently slated to remove the entirety of a Class II wetland which currently treats waters to Potash Brook, a stormwater impaired system. The developer seems to believe the project cannot go forward without all of the impacts to the wetland, where the Program finds that the development of this wetland for parking lots, condos, and stormwater infrastructure an undue adverse impact to a Class II wetland. Discussions will continue with the town and developer next month. Because of the TIFF designation, we will reach out to ACCD to discuss the issue before the next meeting.

Lake Carmi TMDL - DEC's Lakes and Ponds Program organized and facilitated the Lake Carmi TMDL Implementation Team meeting. The Team discussed their long-term goals; MAPP staff presented draft TMDL implementation actions and technical and financial resources. CWIP staff presented how DEC will assist the group in tracking progress toward meeting TMDL goals; and, the Team discussed a coordinated communications plan for common messaging. Members of the Team were very satisfied with DEC's approach.

Fish & Wildlife (FWD)

Fishing Activity: There have been a number of trucks going through the ice this week. Many anglers catching huge perch, pike and trout. One notable 12 lb. 4 oz. brown trout was caught on local pond in central VT. Hard water violations include license issues, over-limit of fish and over-limit of lines.

The Brook Floater Mussel: Staff met with Invertebrate SAG to discuss several topics, including the status of Brook Floater mussel and possible upcoming recommendation to change listing from Threatened to Endangered. Staff also assisted migration in response to climate change and proposed the use of Missouri trawl for fish sampling and potential impacts on T&E mussels. Staff proposed the development of a mussel occurrence database for VT.

New Federal Rule for Salamanders: Staff reviewed the new federal rule outlawing the importation and interstate transport of more than 200 salamander species (including Vermont natives Eastern Newt and Eastern Red-backed Salamander). The ban is an attempt to prevent the introduction/spread of ‘salamander chytrid’ fungus (*Batrachochytrium salamandrivorans*) which has been wiping out salamanders in Europe over the past two years. It applies to live animals as well as dead specimens and parts, even those that have been preserved in alcohol/formaldehyde for years. The rule takes effect on January 28, 2016.

Forests, Parks and Recreation (FPR)

Forest Legacy: Lands Administration and Forestry division staff conducted a site visit to the Nurse Mountain property in Granby this week to review potential easement violations and to decide how best to proceed in resolving these issues. We have been notified by the USDA Forest Service that they will be sending a letter to the Department regarding our response to the Forest Service’s concerns about Sweet Tree’s sugaring operation on lands encumbered with a Forest Legacy easement.

Leases and Licenses: We will be developing a proposed new lease agreement for Quechee State Park which we plan to provide to the U.S. Army Corps of Engineers later this winter. The Department’s existing lease with the Corps for this Park expired a year ago. We will be working to develop a new license agreement with Sprint and Smugglers’ Notch Resort to replace Sprint’s existing (expired) telecom license at the Sterling Base Lodge at Smuggs. We are in the initial stages of developing a proposed license agreement with Anbaric which would allow them to use Kingsland Bay State Park for their “Green Line” project, subject to certain conditions.

Act 250 on Trails: FPR staff will be meeting with NRB management this week to further discussions about clarifying and streamlining Act 250 jurisdiction policy related to recreational trails on private lands. A significant portion of our public trails in Vermont are on private lands and the department is an active player in the effort to keep those resources available for all to enjoy.

Natural Resources Board (NRB)

Exit 4 – CLF/VNRC and the applicant for the large project off Exit 4 of I-89 (Green Mountain Center) asked the District 3 Act 250 Commission to approve an MOU that would ensure that the information exchanged during the parties’ settlement discussions is confidential. The parties also indicated they might need more time to complete settlement discussions, which by order of the Commission must be concluded by the end of February. The Commission declined to approve the MOU because it is beyond the Commission’s authority to approve an MOU regarding confidentiality of settlement discussions. However, the Commission’s decision noted that the Vermont Rules of Evidence already provide that such information confidential. The parties are still pursuing settlement. In addition, the NRB does not agree with arguments raised by other participants in the proceeding that there is no authority for only some parties to the proceeding to attempt to reach a settlement.



State of Vermont
Department of Public Safety
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To: The Honorable Peter Shumlin
From: Joe Flynn, Deputy Commissioner of Public Safety
Date: January 28, 2016
Subject: Weekly Report

Priorities:

Current revenues raised at the Division of Fire Safety through plans reviews (new construction etc.) are off due to a slowing in the pace of submissions. If this were a trend that continued projections would be affected negatively. This past year we have reviewed millions of dollars of construction valuation of State Buildings for BGS all at no cost, yet we incur fee for space, DII fees etc. Given our budget pressures and to be consistent with other fees charged to State entities (radio communications support fees paid by AOT, DOC, F&W etc.) we are discussing whether we should be charging BGS for plan review service the same as we charge everyone else.

Secretary Johnson and Senator Campbell toured the Forensic Lab this week to discuss the ongoing HVAC problems plaguing the facility. BGS is working to remedy the air handling issues (need lab-wide evaluation of system). Snorkels/hoods/bio-cabinets are inoperable/unsafe to use when air handling is down. BGS/Control Tech/Precision reps evaluated two exam areas on 12/10; significant amount of work remains at the equipment and control level. Secretary Johnson and Senator Campbell were also updated on the black mold problem in the older part of headquarters itself, though none is known to be in the Lab.

Fire Safety

The Division received \$11.5 Million in new plan review construction valuation collecting \$35,000.00 in permit fee revenue. Plan review revenue is still slow this fiscal year although there are some major projects in design. One being the Haystack Ski Resort - a permit fee cap (\$185,000) when the plans come in.

We had been working on an aboveground fuel tank replacement project at the fire academy because the older tank leaked and had to be purged last summer. To save money we are now requiring staff to fuel off campus before returning thus, we can save around \$25,000 and the system of fueling off campus is working fine.

January 27, 2016: Testimony at Senate Gov Ops at 1:30: Professional Regulation

January 28, 2016: Testimony at House General on Non-Flush Toilets- not sure if there is a bill or not but G.J. our Chief Plumber Inspector will answer some general questions likely to be technical in nature regarding suitability for use in rental property. 10:30 a.m.

February 1, 2016: Submit Governance Report

DEMHS

Vermont Yankee 2015 Annual Letter of Certification was completed, signed by the Director, and sent 1 to FEMA on 1/25.

The GEPAC Meeting was hosted in the SEOC this week.

The VY Interagency group met and reviewed the current status on the comments to the NRC ANPR.

The State Hazard Mitigation Officer vacancy was posted. Ray Doherty resigned effective 01/15/16.

Staff met with ANR personnel on 01/28/16 to coordinate development of chapters of the new State Hazard Mitigation Plan.

As of 1/22/16, 61% (+1% since last reported) of Vermont towns now meet the Local Hazard Mitigation Plan (LHMP) ERAF criterion, and 42% of towns now have a FEMA-approved LHMP. There are currently 6 LHMPs in the SHMO review queue.

Newport Daily Express interviewed Deputy Director Robert Schell about VT Alert - story about Newport Police now using the system.

CJS

All existing lab positions currently filled

Backlogs (as of 12/31/2015):

Blood Alcohol (0)

Drug Chemistry (823)

Serology (66)

DNA (casework) (156)

DNA (CODIS) (761)

Firearms (29)

Latent Prints (464)

Arson (5)

The Capital Construction Bill includes work necessary in the VFL to create the capability to perform in-house drug testing.

Firearms destruction process still undetermined

~200 firearms at VFL and another ~1000 in the field (number from 1 year ago)

Query out to all LE to determine what's being held locally.

In house Latent Print training by FoCoSS Forensics began January 5th (7 staff participating).

If S.10 picked up by Senate Judiciary, hopeful the certified mail requirement for expungement letters is removed.

We are working on renewing several property leases for our communications sites. In the past all leases were established directly between the Department of Public Safety and the Lessor, or lessee in cases where the department allowed the use of radio sites or communications towers. Currently all leases are managed by BGS Property Management Services - Bill Laferriere. BGS would like to use a standard template with includes the state's terms and conditions for all property. However most of our leases are unique and require considerable interaction with either a land owner or applicant. Specifically, in the scenario where the Department is looking to renew a lease for use of private property our responsibility includes:

- Negotiating rates
- Determine term of the tenancy with the owner
- Attempt to Include cost containment measures
- Ensure protection from physical and radio interference
- Include language to allow for growth

- Protect the department's interest

In the example where the state leases space to other parties interested in collating at an existing communications site, the Department is responsible for:

- Setting rates
- Term of the tenancy
- Ensure protection from physical and electrical interference
- Include language to allow growth
- Protect the department's interest
- Limits on occupancy
- Repairs and maintenance
- Ingress and egress terms
- Restrictions on tenant illegal activity
- Other Restrictions

When the Department leases an asset, there is an expectation that the fees recovered from the lessee's use are returned to the Radio Technology Program for offsetting the cost associated with maintaining the tower or radio site. However, this has not been the case for several years. With the creation of the VTA, the fees recovered from leasing these assets went to an undisclosed account(s). Currently the VTA authority has been transferred to the Division of Connectivity. I have had several meetings with the Division of Connectivity, BGS Property Management and DII where I advocate that Public Safety should receive a portion of these funds to offset our costs. Conceptually all parties are in agreement but we are not there yet. I will continue to push for a model that shares revenue.

The Message Switch sole source contract has cleared both Dave Beatty's office and the SOA. We have been asked to provide the AG office with a word copy of the document for editing which indicates they are actively working on the document (Good news). I hope to have more information next week on this project.

We have passed the deadline for determining if DII has a workable telephone solution for the Westminster facility. After several attempts and subsequent failures by DII and their contractor, we have advised them that we will be proceeding with a solution from Carousel Industries. Carousel has a proven track record on being able to accommodate our business requirements and are ready to assist us. We are currently working on the sole source documents for the contract. We have spoken to the staff at DII and suggested that they should continue to research a solution, but we must move ahead to ensure our scheduled is not impacted.

The FirstNet Job description and supporting funding documents are now in place to move ahead with the hiring process. This is the 100% federally funded position. The person will be responsible for developing and coordinating a variety of Public Outreach Initiatives and products including, community outreach and education, social media outreach and marketing for the Department of Public Safety FirstNet program.

e-Ticket - We have made significant progress this week on the eTicket procurement issues.

We are close to signing a contract with Crosswind Technologies. Our deadline for a Crosswind contract is 2/1/16. If we miss 2/1, Crosswind will not commit to delivering a solution by 4/30/16, in which case, funding from GHSP will be in question.

We are also negotiating with Spillman Technologies for an interface to the e-Ticket system. I expect that there will be a significant amount of negotiation needed, which will take several weeks to accomplish.

The VSP pilot project for In-Vehicle and Body Cameras has begun. We are at the beginning of a 45 day pilot of the Watchguard solution. Equipment has been received and is being distributed to troopers. Work still continues on the DPS retention policy, which has a significant impact on the

overall cost and maintainability of our camera systems. Progress on the retention policy issue appear slow.

Legislative and Executive Branch Contacts -

Currently a conversation is being scheduled with Senator Sears on minor language corrections needed around the Sex Offender Registry. Additionally, testimony has been scheduled for 1/28/16 for both Marijuana Legalization and the Fee Bill (increasing the Record Check fund ceiling from \$200K to \$500K).

Administration

We met with Commissioner Pallito to discuss Pay Act funding for FY'16.

Commissioner Pallito mentioned that Commissioner Susan Donegan of the Dept. of Financial Regulation is upset about the DPS fee request to increase the Fire Academy fee (assessment to fire insurance providers to pay for fire service and EMS training programs) because she sees this as unfairly impacting Vermont based insurers.

We are reviewing the Revision to Statewide Bulletin 2.3 – State Vehicle Policy to identify any areas with DPS that need to change practices or take new action.

VSP

A Troop

FF

11 Total Arrests, 4 DUI

Snow storms continue to keep the Williston and Middlesex barracks busy. 28 - Motor vehicle crashes and 22- motor vehicle complaints.

St. Albans investigated 100 cases resulting in 8 arrests on 11 charges. These included impeding an officer, aggravated assault, and an attempting to elude.

BCI

Assigned special investigation in New Haven. D/Sgt assigned.

Obtained search warrant for phone in Attempted Homicide case in Williston. ICAC will execute the warrant.

Assisted uniform with a TRO violation. D/Tpr. interviewed victim and obtained recorded phone messages left by suspect. Male was located and lodged at CRCF.

Assigned sex offense at CRCF. Male victim was lodged at jail by Burlington PD for domestic assault. Male spent a couple of hours at the jail until he was bailed out by family members. When released male started to walk home and made a comment that he was raped. Investigation showed this not to be the case. It appears the male's mother made the allegation of the sex offense when she heard her son make a comment over the phone. Male is currently admitted to the mental health floor at UVM Medical Center.

Arson investigation with Marlboro Fire Dept. Investigation showed no arson.

Untimely at NWMC. Female presented at the Emergency room for leg pain. While walking inside female collapsed and passed. Female had extensive medical history such as Kidney disease, diabetes, and obesity. Death ruled natural.

NUSI executed a wire warrant with a suspect. Male did not deny allegation but made no admission. Arrest warrant applied for as the suspect is currently living in Florida.

24 year old female alleging a sexual assault that occurred when she was with her boyfriend. Numerous allegations of Domestic assault as well. D/Tpr. assigned.

Female alleging she has been getting inappropriately touched by her landlord in Enosburg. D/Tpr assigned.

Untimely in St Albans. Male was transported to NWMC. Male determined to be on Hospice care. No Detective responded once hospice was notified.

Assigned Sexting case of an 18 year old male sending picture of his genitals to a 15 year old female. Male is a transient in Barre City. D/Tpr assigned.

D/Tpr conducted an interrogation of a male who confessed to sexual intercourse with 7 and 8 year old female cousins. Juvenile citation given to male.

Assisted in crash investigation involving on duty Trooper.

Assisted uniform with Bomb scare at Harwood union.

Ongoing criminal investigation of armed robbery in Marshfield. CI signed up and wire warrant obtained for recorded conversation with female suspect. CI alleged she knows the female who assisted in the robbery and heard the female brag of the robbery.

B Troop

FF

9 Total Arrests, 4 DUI

Trooper applied for and was granted a search warrant for a residence in Lunenburg to search for stolen property taken during numerous residential burglary complaints in Essex County. Several items were located at the residence tying the offender, Kevin Sinclair, to four burglaries. Sinclair and his girlfriend, Jessica Norrie, have been arrested for their involvement with the four burglaries.

Increased interdiction related work.

Multiple reports for mail box vandalisms. The vandalisms occurred in several Towns. Good leads developed.

BCI

Missing person case in St. Johnsbury. Henry Morey Age 45. Reportedly last seen on January 9th by his Ex-Girlfriend, who later discovered that she was mistaken and that she last saw him January 3rd. However other people had reportedly saw him after the January 9th date but no one has seen him recently. Cell phone is not working.

Call out to report of individual sustaining a gunshot wound to abdomen – Male subject travelled directly to Weeks Memorial Hospital in Lancaster from his residence in Gilman, VT – The male reported the gunshot was self-inflicted; he had been in domestic altercation before the wound was sustained interviews performed; scene processed; the girlfriends cell phone run through Cellebrite following granting of consent. Evidence was processed. Nothing to indicate this was anything else but self-inflicted. Non-life threatening.

Sex Assault investigation at Newport Correctional Center. An inmate is alleging that another inmate sexually assaulted him.

Sex Assault investigation Orleans County. A juvenile currently residing in the state of Georgia is alleging they were sexually assaulted in Orleans County.

C Troop

FF

12 Total Arrests, 2 DUI

Arrested a subject wanted on several Vermont warrants and several New Hampshire warrants, did fugitive from justice paperwork, all drug related warrants.

Investigated a fatal head on collision on Rt. 125 in Bridport, pregnant female crossed the centerline and struck an elderly couple head on, male driver died, doing black box downloads on both and phone download.

Investigated an aggravated assault in which a person was threatening to shoot up several businesses, subject located in Rutland and taken into custody, search warrant done to search vehicle.

BCI

Continued investigation of Rutland Town drive by shooting; reports, contact with offender's family, return of property to defense attorney, subpoena returns.

Case follow up on a sex assault – writing warrants for Facebook – follow up interview and meeting with DSA Dennis Wygmans.

Case follow up – spoke with CSAC counselor regarding alleged offender – waiting for further information.

Reviewed ICAC information for case of sexting – will provide recap of information to mother of juvenile on 1/25/16

Assigned new case: Assault inmate on inmate at MVCC.

Assigned new case: Two (2) drugs cases from MVCC.

Assigned new case: Agency assist to Bennington PD in reference to a stalking order to be served on Michael Miner of Center Rutland.

Assigned Johnathan Shaft missing person case from 2014. Spoke with mother in reference to possible leads case questions and possible direction of the continued investigation.

Meeting with Bennington County DCF/SIU investigators.

Meeting with Rutland State Attorney about Fatal Investigation.

Follow up on Fatal Investigation.

Follow-up on SANE Kit from 2013 case. Notified Emergency Department to contact victim for VFL.

Assigned sex offense from 2003. Met and interviewed victim's brother. Collected DCF notes on original case. Investigation continues.

Completed report on suicide at correctional center. Submitted to AHS investigator.

Arrested inmate for possession and transportation of buprenorphine strips at correctional center.

Continued follow-up on Leicester robbery.

Assigned theft report from Marble Valley Regional Correctional Facility. Inmate Gates reported correction officer took \$75.00 from his pocket during search. Investigation continues.

Received information from correctional officer Nicholas Daigle on possible suspect of robbery in Rutland City.

New Case: Sex Offense. Town of Clarendon. It was reported a 14 year old girl may be involved in a sexual relationship with the Mill River High School Principal. Victim interviewed. Faculty, staff, and students interviewed. Principle placed on Administrative Leave.

Set up Arson Unit future training class at the Vt. Fire Academy.

Re opening of old sex assault case. Two victims re-interviewed after new disclosure came about. Case will not proceed due to multiple inconsistencies in the statements compared to the first interviews from 2011.

Search warrant application and issuance for Rutland Town shooting (Verizon records and Apple records).

Report of possible child abuse of 9 yr old by victim advocate. Information reported found to have been previously reported and investigated by DCF.

Case follow up, Hart homicide.

D Troop

FF

10 Total Arrests, 4 DUI

Arrested one at SSCF in Springfield as a Fugitive from Justice.

Fatal accident in Londonderry. Alcohol and speed were factors, 26-year old male from out of state didn't negotiate a curve and struck a tree on the driver's door. Male operator was injured but survived, he was extremely intoxicated as well.

Suicide on Island Road in Townshend. 30 year old male hung himself with a dog leash.

Resident called about her 16 yo daughter being lost near Harrimon Reservoir in unknown area on a class four road with two older males-initially report they don't know where they are and truck is stuck, details came to light that they were in one of the males camps-had a fire and were warm and dry but refused to say where they are since female is skipping school-Mom had also called BPD and made a report with them she was missing after she stayed in town last night at a friend's house.

Assist to BPD with robbery at Avenue Grocery-Western Ave Brattleboro.

Report of a woman slumped over the steering wheel on RT 30 near State Forest Road. Rescue responded unable to locate. Buckley located the vehicle parked in the Harmonyville Store parking lot. The vehicle was not registered. Female issued VCVV for NR and vehicle towed.

Assist to NIU-MV stop-I91 SB Exit 2-two females arrested with a total of 172 bags of heroin, 30 Clonazepam pills and \$3331 cash seized.

Tpr. was on his way home and stopped at a store in Barre where there was an Armed Robbery occurring. The perpetrators ran and Tpr. gave chase. The two subjects were able to escape; Tpr. was not injured and Barre City PD took the investigation.

BCI

Wrote search warrant for Londonderry arson investigation case (to be reviewed by SA).

Assist Sgt Albright with traffic stop during NIU Detail- 170 bags of Heroin, \$6500 cash recovered.

Authored Search Warrant for cell phone in child porn case.

Sex Assault continued follow up at Putney Sunoco, multiple victims.

Embezzlement – Peru – Employee has been stealing funds from employer for at least eight months. \$8,000.00 stolen thus far. Employer is looking further back into financial records. Interview with victim at his residence.

Prison Assault – SSCF – Inmate/Inmate. Interviews with offender and victim at SSCF.
Sex Assault – Westminster – Interview with victim at Rockingham Barracks.

Sexual Assault, victim is in the St. Albans jail and is reporting that he was forced to have sex at gun point in Bethel years ago.

Alleged child pornography possession by an employee at Southeast Correctional Center (ended up being false).

Death investigation – 36 yr old male - exposure leading to hypothermia due to intoxication. Non suspicious.

Bomb Squad Assist to Capital Police for Budget Address.

Death Investigation Suicide, 26 year old male in Rochester, VT (mental health history).

Interview assist at DHMC for B1 BCI shooting incident.

New Case possible sex offense report by Norwich University Student who was traveling with male back to NY victim interview scheduled for 01/26/16.

TOPS

Assists to A3 on crashes; Assist to TF on stop and seizure of heroin and cocaine and SW; Statehouse security.

Major Crime Unit:

Follow up interviews for Schneider Homicide (Greensboro).

Follow up on Burlington OIS investigation.

Deposition at the Caledonia County SA's office.

Follow up on Brattleboro homicide- video evidence review with NYSP, search warrant for def.'s phone.

CRT call for fatal crash. Worked on reconstruction for case.

Follow up on Hart Homicide Investigation- cell phone records review, meeting with NIU
Johnson homicide: converting material to digital for preservation, return personal effects to family.

ICAC/OCME:

Continued forensic examinations on several state and federal child exploitation cases.

Assisting VSP Derby with an Embezzlement case.

Assisting Barre PD with a domestic assault case.

Assisted VSP New Haven with a 10-50F.



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Justin Johnson, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Justin Johnson

DATE: January 29, 2016

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Issue Updates:

Roxbury Fish Hatchery: There is a meeting next week to make strategic plans for updating plans, bidding & start construction in 2016.

AG & ENV LAB: The Lab Management had two important meetings last week. They are finishing up their strategic plan, and they are reviewing the floor plans we supplied last week. We will be meeting with user groups all day on Friday, January 29th. Management is also considering these tasks:

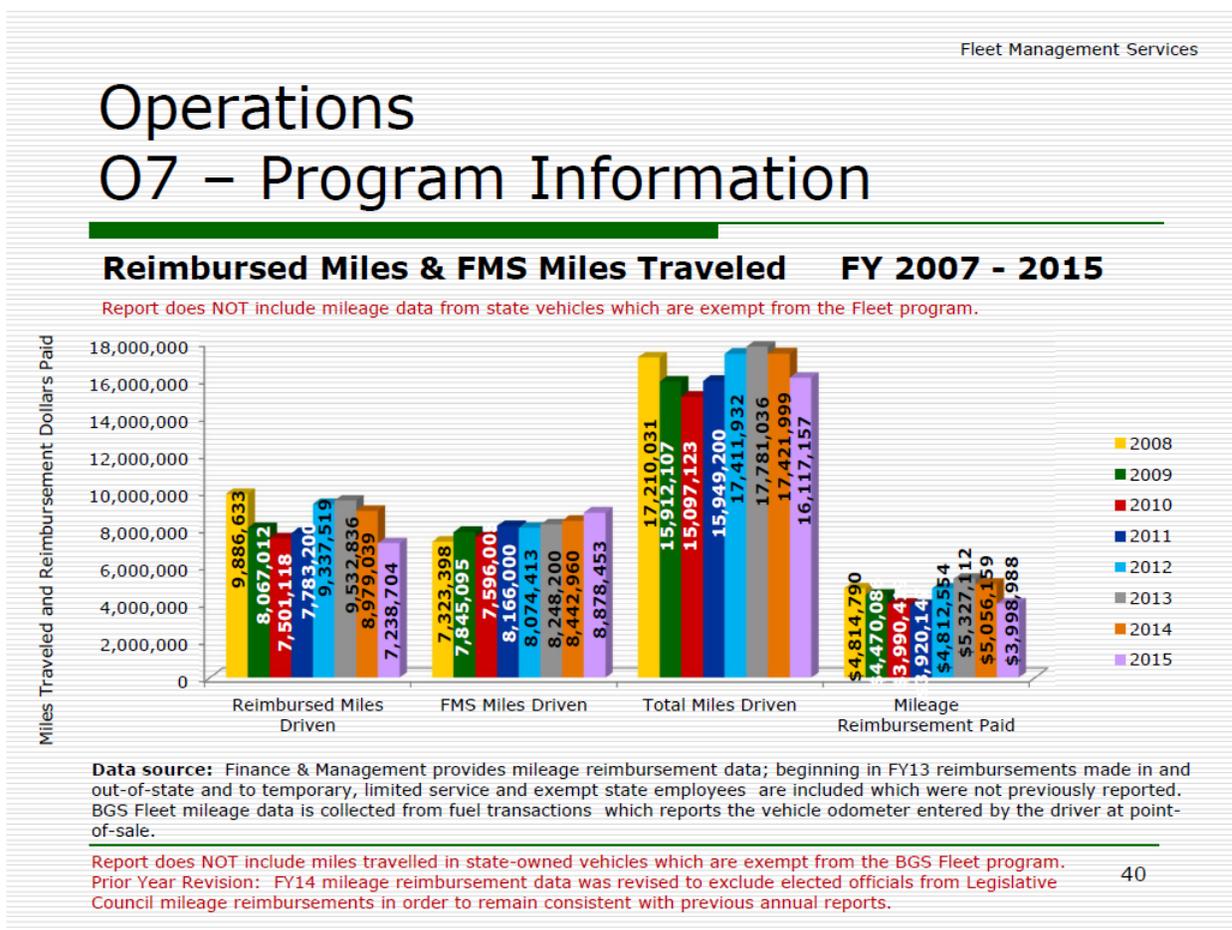
- Building safety and quality assurance: should these continue to be a lab staff person's responsibilities, or should a specialist be hired or retained? It makes sense for this person to be involved with design and construction.
- Waste management plan: The director is asking that a consultant be hired to help them with this required document.
- Hazardous Waste Handler ID.

We had a favorable 1st hearing with the Waste Water Commission for Randolph. The 2nd hearing is tentatively scheduled for February 19th. We are meeting with the DRB on a preliminary basis to present the project on January 26th. We are submitting the zoning permit application this week, and that first official hearing is scheduled for February 23rd.

In preparation for the Town hearings, we shared the new site plan with our contact list. We also had some perspectives made of the new building. The wood specialist is developing a local wood finish for the conference room and the main stairway. They are also developing a detail to use a structural wood mullion throughout the building.

Barre Courthouse DCF Move: The contractor has opened bids for demolition, plumbing, mechanical, and electrical. Framing and Sheet rocking will be opened this week. Construction started on January 24th. Work hours are 4:30 pm to 7:00 am, typically Sunday through Thursday. The building occupants have been notified. DII held a prebid for the data and voice cabling last Tuesday and will soon be starting their work. Demolition has started on the 2nd floor and the unoccupied side of the 4th floor.

Fleet Mileage Reimbursement Report: In FY 2015, the State reduced its mileage reimbursements to State employees by more than 1.7 million (1,740,335) miles. This reduction, coupled with the lower reimbursement rate offered when a State vehicle is available, resulted in mileage reimbursement savings of a little more than \$1 million dollars in FY 2015 (\$1,057,171). As was expected, Fleet vehicles absorbed some of the State travel previously paid through mileage reimbursement; however, fleet vehicle travel only increased about 500,000 miles (435,493) over FY 2014 levels. In FY15, State travel in personal and fleet vehicles was reduced by approximately 1.3 million miles (1,304,842).



State House Lawn Ice Rink Proposal: The applicant has met for a 2nd time with the Capital Complex Commission. It has been indicated they have withdrawn their application for this year and have plans to reapply next year. DWF needs to update the additions to the Conditions document from the discussion of January 12th with MJO/DSS/JWL.

FINANCE AND MANAGEMENT

- Commissioner Pallito testified in front of the Senate Institutions on Wednesday about the financial benefit of closing the St Johnsbury Work Camp.
- Deputy Commissioner Ferland updated the Senate Institutions Committee on the status of the VISION upgrade.
- Two Budget Analysts, Aimee Pope and Heather Campbell, gave their notice this week that they have accepted new jobs. Aimee with the Department of Human Resources and Heather with CGI.
- An offer is about to be extended to Jennifer Dill for the Change Management Director position in Financial Operations. Jennifer is currently working with CONOCO PHILLIPS and is a resident of Burlington VT. We are waiting on approval from DHR for Hire into Range authority before an offer is officially extended.

HEALTH CARE REFORM

No report.

HUMAN RESOURCES

Legislative/Policy Update:

Testified before Senate Economic Development on H. 187 (paid sick leave). Testified that financial impact to state if temporary employees were allowed to accrue sick leave would be negligible. After consultation with Commissioner Pallito, informed Committee that no new appropriations would be required to cover the cost (no cost in FY17, about 60K per year across state government thereafter). This analysis was part of JFO fiscal note. Committee voted bill out 5-0. Sen. Mullin will report bill.

Phishing scam lead to 67 state employees compromising their employee information, including W2s, personal information and direct deposit information. Fielded several press requests regarding this incident (VTDigger and WCAX). DHR worked closely with DII and the Tax Department to address the issue and contact all affected employees. Also coordinated with Sarah London and AGs office to meet our statutory reporting requirements for compromise of confidential information. Moving forward will be working with DII to develop a protocol for addressing such situations as well as looking at ways to enhance security of the system.

Significant Meetings/Events:

- National Life has decided to make their campus smoke free. This hasn't been widely communicated yet. Smoking won't be permitted on any part of the campus, which will leave the town road as the only viable location for smoking. We will work to communicate this with VSEA committees.
- Collective bargaining - Labor post hearing submissions provided to fact finder. Waiting on fact-finder report. VSEA non-management unit is still requesting 4% increase in each of the two years of the contract with supervisory/corrections requesting 3% in each year. This in addition to other requests would have a new money impact over the two-year contract of \$68 million.

- Recruitment dealt with a multi-day system down situation (due to phishing scam) with great efficiency. More than 170 job openings were extended, hiring manager notified, applicants contacted. Used Twitter and Facebook to get the word out that we were up again.

INFORMATION AND INNOVATION

Significant Events/Meetings:

Last week's email phishing scam has been contained and we are in clean up mode. It appears that 68 state employees had their W2 information downloaded by someone outside the state. VTHR is in the process of contracting to provide those employees with Credit Monitoring. Frank provided the information that the FBI needed with respect to our log files and a copy of the phishing email. FBI is reviewing and will let us know if they need anything else, but at this time they have what they need.

In the past week there have also been 2 other phishing emails, but they were not broadcast widely. They were more targeted and both individuals did not click through but did report them to security.

An FYI on the Fish and Wildlife PCI Forensic review - the hard drives are with Security Metrics in their lab and they completed the deep file indexing that will allow them to see if there has been anything malicious on the drives. Initial report is that they have not found anything suspicious but have a few more days of work before they make a final report. I am continuing to have a weekly call with John Booth, Jaye Johnson, a couple of people from F&W and TD Bank to keep them apprised of the progress.

Evolving Issues:

LIBRARIES

No report.

TAXES

Legislative Update:

Gearing Up for Tax Season: Refunds: Thus far we have not gotten much pushback on our message that refunds may be delayed. We are starting the crawl of refunding that will continue until we have a critical mass of employer W-2s, anticipated in the next couple weeks.

Budget: House Appropriations seemed satisfied with our level funded budget, focusing on our performance measures and generally giving us kudos on our IT project.

Telephone Personal Property Tax: Now both Sen. Ashe and Rep. Ancel have expressed interest in revisiting this declining source of revenue.

Misc. Tax Bill: We walked through the Department's sections of the bill with Ways & Means, encountering few questions or concerns.

TIF: We are investigating a possible overpayment to Burlington, and expect to have more information next week.

University Exemptions: As previously reported, there are thorny issues with both meals & room sales tax exemptions on campus (broad exemption) and property tax exemptions (narrow exemption) – unexpected results as business models change. On property tax, we have been asked three times in the past couple years to opine on the application of the property tax exemption when a university either leases or sells and leases back a property. In two cases we were able to say on the narrow facts that the exemption likely survived. The latest question however involves a rather complicated arrangement where the institution appears to be leasing back dorms from a for profit management company for financing purposes. We will advise them that this appears to destroy the exemption, although they are free to seek a formal ruling that they could appeal to challenge that result. At some point, as these arrangements evolve, the legislature might revisit the exemptions.

Operations Update:

VTax Conversion: We appear to have weathered what is anticipated to be the biggest crunch period of our entire four-year project – the first filing deadlines for meals & room and sales & use, at the same time as the launch of withholding and several other miscellaneous taxes. Our call volume spiked higher than anticipated – also experienced in MA which is on a parallel schedule. As explained below, the high call volume was partly explained by a higher than anticipated adoption rate for online filing – more use of our new system in the first three months than our legacy online portal. There was a somewhat higher degree of user error in this audience, which was compounded by the fact that taxpayers could not get through to our examiners in under five minutes as they are accustomed, and therefore resolution of issues was slower than optimal. The situation has resolved considerably at this point.

We successfully hit our numbers for sales&use and meals&room quarterly and annual filers registering to use MyVTax to file and pay by the January 25 deadline. Just three months into the project, we have more of these taxpayers using the new online portal than had filed online previously in our legacy system. As the deadline approached, we were seeing roughly 500 registrations and payments per day. On the due date, we processed 1800 returns online, versus 1100 last year.

This Phase also included the functionality for employers to upload W-2s through MyVTax. This was brought up last Wednesday, and in one week, we had 800 businesses use the site, as well as good response from the big payroll services that they will file well in advance of the Feb. 28 deadline. This is huge in terms of giving us vital data to ramp up refunding with high confidence against fraud.

The price we paid for this success however was several days of historically high telephone volume – nearing 2000 callers per day, when we can comfortably handle about 500-600. Our tax examiners went above and beyond in very stressful circumstances. The volume is falling, and we expect to have cleared any backlog of inquiries by next week.

What is important to takeaway is that the software itself is processing without glitches. The issues we saw had to do with either bugs in the legacy system as taxpayers transitioned, or user errors, particularly around our security protocols. For example:

- Filers used old forms, which meant that their payments cleared, but posted to the older periods associated with the forms, requiring manual override
- VTBizfile (the VIC legacy system) did not always accept seldom used credentials so that taxpayers could not retrieve MyVTax access code

- Taxpayers who received an access code by letter failed to register before it expired
- Taxpayers tried to send a two factor authentication text to a landline rather than choosing email

CONFIDENTIAL MEMORANDUM TO GOV. PETER SHUMLIN

From: Jessica Gingras, Director
Date: January 29th, 2016
RE: Boards and Commissions Update

Our next round of appointments will be soon – January 31 and Feb 29th are popular appointment dates, so I am working through them but it is taking a bit longer than expected because of work with the Blue Ribbon Commission/RFP work.

Refugee Update

Adam Greshin and Kesha Ram reached out to me and wanted to discuss some issues related to refugee resettlement. They invited myself, Denise Lemoureux, Mayor Louras, and Amila (Refugee Resettlement Program) to Adam's house for dinner to discuss their thoughts on bringing more refugees to Vermont. Kesha would like to increase the number of refugees we take each year to over 430 (an annual increase of 100 refugees) and Adam wants to resettle/move existing families in more rural areas of the State. Mayor Louras told Denise and myself that he has discussed his desire to move Syrian families to Rutland, and that he was given a "verbal commitment". There are a few issues with what Louras, Kesha and Adam are trying to do – here are some of the obstacles:

- Vermont does not get to decide how many refugees we take in every year – the number of total refugees is determined by the budget of the Federal office. Assistance program funding has been cut in recent years, so the number of total refugees taken in nationwide has gone down. However, given your position and how vocal we have been about allowing and encouraging refugees to come here – I wouldn't be surprised if we see an increase in the number of people Vermont gets assigned each year – as the willingness of the location to take refugees is a consideration when placing them. Regardless, it will likely not be over 100, and unless funding increases, there is little-to-no-chance we would get that many.
- Greshin wants to create a program to move refugees to rural areas (I am guessing because he wants more workers at his ski area) – however, the resettlement office is centrally located in Burlington for a few key reasons: public transportation, jobs, and the availability of housing. Moving families to more rural areas would mean having to open support offices, paying for those offices, and finding volunteers to staff them. Amila does not have the funding from the Federal program to do this – and there are not state dollars available either.
- Mayor Louras indicated to Denise that we verbally committed to providing funding to Rutland to build more low-income housing, and he ONLY wants Syrian refugees (200 people, he said) – which is impossible and unreasonable - along with the fact that we don't have a couple extra million just lying around – the State does not get to decide where our refugees come from. I told the mayor we will continue to support his work and plans, and that I am a resource if he needs me – but that's it.

Rather than attending the dinner, I offered to host a meeting at the office discuss both their ideas and the obstacles we are facing currently. Although everything I articulated above has been told to Greshin and Kesha, both of them are focused on shifting the conversation. Amila is a little overwhelmed by the attention I think as well because she does not want to shift away from the good work of the resettlement program and create more pressure on state resources – we don't want that to happen either.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: James Giffin, Interim Commissioner
Date: January 29, 2016
Re: Weekly Report

Vermont Department of Liquor Control

Legislative Issues/Contacts/Updates: Testified before House Ways and Means on Friday on the fee bill. They seem to want to be helpful on reducing the different number of fees associated with the various Statutes. Although I was supportive of this, I cautioned that it should be done in concert with the various constituent groups, and that it will take time.

I was asked to testify at the Senate Economic Development, Housing and General Affairs on the Marijuana bill. My testimony was limited to how we regulate alcohol and why.

Bills –

Bill Goggins testified on S.217 requesting a lot of staff work to be done to give information to the Secretary of State's Office on the cost of licensure. We requested to be taken out of the bill.

Fee Bill – We need to go back and make the F&M spreadsheet more presentable and correct errors in it and language. I will go back next week once that is done. Jim Harrison asked about some adjustment in it and I told him would take it under consideration.

H. 526 – General Housing and Military Affairs - Appointment of the Commissioner. Seemed to go fine in House Committee on General, Housing and Military Affairs

H.572 – General Housing and Military Affairs - Would move DLC investigators to DPS. Does not appear to be support in the Committee and not identifying what problem that needs fixing. Commissioner Flynn and I have talked and he has not issues with DLC investigators and has his hands filled with marijuana.

Press Issues/Releases/Contacts: I met with Nancy Remsen who had a variety of questions about the Department and what has changed in the last eight months. Not sure if she has an angle for a story or just updating changes. I'm sure she will be camped out for Patrick Delaney once he arrives next week.

Significant Events/Meetings: Completed speed interviews for Deputy Commissioner and narrowed the field to five people. I invited Lawrence to the next more formal interviews.

Met with Representative Pierce on the Appropriations bill. Appropriations wants an update on the department in addition to traditional budget information.

Summary of Key Department Activity:

Agency Issues: The Agent in Bradford notified us they will close February 29th. I have notified the local legislatures and will be working with the Board on finding another Agent. It is unlikely we will have one ready by March 1st.

The Agent in Arlington is being sold. This may take place on February 1st if they can get their paperwork in for approval.

Staffing: - Nothing noteworthy.

IT POS system: Nothing noteworthy.

Warehouse: Nothing noteworthy.

Enforcement: Nothing noteworthy.

Commissioner's Commentary: Looking forward to Patrick starting next week and moving forward on the recruitment of a Deputy. The start of the Legislature has consumed a significant amount of my time. I will be working with Patrick to get him up to speed and we will probably be jointly testifying for a while.

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To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Jan 29, 2016
Re: Weekly Report

Status of Governor's Priorities: .

We are automating some sales and inventory reporting directly to lottery agents so we no longer need to assemble this data for them

Legislative Issues/Contacts:

none

Press Issues/Releases/Contacts:

none

Significant Events/Meetings:

Multi-State Lottery Board meeting in St Louis occurred on Wed. See my comment below.

Evolving Issues:

none

Summary of Key Agency Department Activity:

Continuing our enhanced use of the new lottery website, this week we are enabling our agents to have access to their sales and inventory reports through downloadable excel files. Prior to this they were only able to print thermal receipts from their in-store terminal and type the numbers into excel or other accounting software. Lottery staff did this for some chain store accounts. Now with their own access we will discontinue that work and repurpose the hours elsewhere.

Executive Director's Commentary:

The Multi-State Lottery Assoc. (MUSL), which has each state's lottery director as board members, has been under industry pressure and scrutiny due to the Hot Lotto fraud case in Iowa and stories about the status of the Exec. Director of MUSL. Because MUSL manages the Powerball game which recently had a \$1+B jackpot there continue to be national stories about what we are doing and how this organization is run. MUSL has incurred significant (for the MUSL budget) additional legal and consulting expenses in dealing with the trial and thorough evaluation of security and drawing processes. The Exec Dir was put on admin leave in Oct and we expect to negotiate an end to his service soon. Please contact me if you need to hear more about this.