

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

**Sent:** Saturday, January 31, 2015 2:54 PM

**To:** GPS

**CC:** Allen, Susan; Johnson, Justin; London, Sarah; Richards, Alyson; Coriell, Scott; Miller, Lawrence

**Subject:** Weekly Reports - Executive Privilege 01 30 15.pdf

**Attachments:** Weekly Reports - Executive Privilege 01 30 15.pdf; ATT00001.txt

A few notes/highlights

# WEEKLY REPORTS

Checklist  
1/30/15

Elizabeth Miller/Alyson Richards

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

TBD

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

Sue Allen

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

Sarah London

- Department of Public Safety – Keith Flynn (**will receive Monday**)
- Agency of Administration – Justin Johnson

Susan Spaulding

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

To: Governor Peter Shumlin  
From: Patricia Moulton, Secretary - Agency of Commerce and Community Development  
Date: January 30, 2015  
Re: Weekly Report

I asked her to  
check with  
Tax

LEGISLATIVE ACTIVITY

- Pat has a new idea for an additional change to VEGI to help grow the manufacturing and information technology. I'll be meeting with Liz Friday morning to discuss. It will require legislative change, it is revenue neutral, and we have time to get it in to the economic development Bill house commerce and senate economic development are drafting. This new VEGI idea will help with GW Plastics, Mack Molding expansions as well as many others.
- **Vermont Strong Scholars:** Lucy testified in House Commerce along with Tom Little and Marilyn Cargill about this program. Aly was also in the room. In addition to providing background and review of the legislative interim report, Lucy introduced the legislative changes that we would be seeking. An issue which will likely resurface is the idea of requiring courses of study or majors as a qualifying criteria for the program. This is the: "English majors can end up as valuable employees in tech jobs---what about them? Employers need well rounded people." Lucy is working with David Hall to draft the changes for the committee's consideration.
- **Fee Bill for VCGI:** Lucy testified in House Ways and Means with David Metraux on language that will authorize ACCD to continue with VCGI's billing practices for data and services that they provide above and beyond the free data and services required by statute. VCGI currently bills entities within and outside of state government. This income is important for ACCD to capture in order to minimize the amount of additional general fund needed for the operations of this division.
- **Water Quality:** Lucy, along with Secretaries Ross, Minter, and Markowitz gave a joint presentation open to the full House and Senate on TMDL water quality issues. Lucy focused on the economic impacts of a clean lake with special attention on our Tourist industry.
- Ken Jones gave a presentation to the House Commerce and Economic Development Committee on the **economic impacts of EB-5 related investments in the Northeast Kingdom.** The bottom line of the presentation is that the recent \$250 million investments at Jay Peak has made measurable differences in employment, income and tax revenues. However, even with these improvements, there is no population growth so that there is no increased pressure on housing, education or transportation. Future investments may result in some population increases but these will only back fill for baseline population losses in both school age and traditional working age populations. The committee heard these messages and was somewhat surprised about what it takes to turn the Kingdom economic ship around.
- **Testimony** in House Corrections and Institutions regarding DHCD's request in the Capital Budget. Few issues. They did ask about the Preservation and Barn grants which were zeroed out this year along with all the grants in the Capital Bill (economic development, agricultural fairs, Arts Council, etc.). Noelle stated that we understood the pressure on the budget and that this was a 'pause' for two years and we would maintain momentum by highlighting results and finished projects in those two years. But the Committee strongly feels that these small grants are important throughout the state.
- **H.25 - A bill relating to Natural Burial Grounds:** Reviewed in House General, Housing and Military Affairs this week, this bill is in response to a growing movement in Vermont for green or natural burial grounds and seeks to enable a landowner to designate his or her property for use as a natural burial ground. Jess monitored the testimony this week. Before the hearing, Noelle spoke to Chairperson Head to provide a heads up on our concerns about how some provisions might impact older burial sites. Chairperson Head noted that there is a lot of interest in this, she did not think there would be much opposition and wanted to do something as this was the third biennium that this issue had been raised. However, during testimony, questions around changes to tax status, water quality and health implications and other issues were raised. DHCD will do a bill review and give a heads up to Dept. of Tax, Health and Environmental Conservation. By the way, there would be no markers on these graves.
- **Municipal Plan Changes:** The Vermont Planners Association (VPA) is interested in changing the requirements for municipal plan updates from 5 to 10 years and approached Rep. Ellis to draft a bill. Noelle met with her to lay out the pros and cons that CP+R heard during the outreach and surveys over the past several years. There is support by many local and regional planning organizations, and was a recommendation in our 2013 Act 59 report

SWC

due to the support from those we surveyed. However, it was noted that a few RPC's were strongly opposed to this change and had beaten back a similar proposal in 2011, so it was likely that the Department would be neutral on this one.

- **Renter Rebate Report:** On behalf of Housing Council, Jen presented the *Report on Vermont's Renter Rebate Program* to the Senate Finance Committee. The Committee spent the week on education finance reform and part of an afternoon on renters.
- **House General and Waterbury:** Accompanied the House General, Housing and Military Affairs Committee on a field trip to Waterbury. Toured the CDBG-DR funded South Main Street Apartments (formerly Ladd Hall) which is under construction. When complete this spring, the building will bring 27 new units of housing to Main Street to replace housing lost in Tropical Storm Irene. Formerly a part of the State Office Complex, the building was sold by BGS to the Central Vermont Community Land Trust and Housing Vermont which are rehabbing the historic portion of the building and adding a large addition to create new, perpetually affordable apartments.
- **Mobile Home Park Bill:** With help from Dale and Arthur, worked with Rep. Botzow and David Hall of Legislative Council on a new draft in advance of the House's bill introduction deadline on Friday. Based on our feedback, the bill expands the Department's enforcement authority over habitability and lease terms but no longer would require us to create a system for licensing mobile home parks. The draft also makes the failure to maintain the park in a safe and healthy way a violation of the state's consumer protection laws giving enforcement authority to the Attorney General, as well. A formal bill review will be done once the legislation is introduced.

### PATRICIA MOULTON, SECRETARY

**AIV manufacturing meeting:** I attended a lunch meeting Thursday sponsored by AIV to discuss manufacturing in Vermont. Phil Scott open and explained he is continuing his "Vision to Action" pitch tours in Rutland on February 9, and Franklin County on Feb. 16<sup>th</sup>. He's planning ones in Lamoille County and Northeast Kingdom. He's invited to do these pitches in these counties. He also indicated he'll be issuing press releases weekly about pitch ideas that have translated into legislation, and other "positive effect" legislation. We also heard from a representative of the National Association of Manufacturers (NAM). NAM and AIV are cosponsoring a "dream it, do it" program in career exploration around manufacturing in schools. Not much detail on this program, but it should they issued a press release Thursday. Janette Bombardier was on a panel about issues confronting manufacturing on the national, state and regional levels. Janette spoke of state issues and mentioned her concerns for workforce, infrastructure, legislation that impedes their ability to do business and energy.

**The Vermont Cannabis Collaborative:** I attended a meeting Wednesday of the Vermont Cannabis Collaborative. This collaborative is headed by folks like Hinda Miller, Willa Rapp, Alan Newman, Kaley Freeman (assistant professor of surgery and pharmacology at UVM medical center), Dan Cox of Coffee Enterprises and David Bradbury. Their approach is "common sense commerce". They seek to make Vermont the East Coast Ctr. for cannabis innovation, research and entrepreneurship. They are not about legalizing marijuana, but rather about doing the research and clinical trials to maximize the innovation potential of cannabis. They think legalization is inevitable someday soon and let's get ahead of the branding by putting Vermont at the forefront of research and innovation in this sector. They cite Vermont's history of regulatory changes that support sectors like captive insurance as well as the collaborative initiative and infrastructure of the farm to plate initiative as examples of how Vermont can brand itself for the development of a sector. They cite this is how we can get ahead of the curve, and the position ourselves in a positively branded way versus simply legalization. I was compelled by the discussion and the opportunity for innovation and entrepreneurship. They cited existing examples of companies that could grow from the development of research and innovation of cannabis here in Vermont. I admit I like branding ourselves as an innovation and entrepreneurship state in the sector vs. the "Green Mountain high" potential of legalization. I'm going to stay in touch with their work. I did not volunteer to get involved although they called for folks to get involved. Legislators in the audience included Janette White, David Zuckerman, Adam Greshin and Becca Balint.

**Loss of an employee.** It has been a difficult week for much of the Agency due to the death last weekend of Michael Osborne. He has been getting cancer treatments for the last year and a half but had a number of other complications. Mike did financial, administrative and human resources work for us for the last eight years. He had 19 years in State service. Memorial services are Monday and many of us will be attending. This is the fourth death of an ACCD employee in the last two years.

### LUCY LERICHE, DEPUTY SECRETARY

Lisa LR

- **ACCD/ANR/VTRANS IT Collaboration:** Agency leadership met with IT heads of these agencies to kick off our IT collaboration. We brainstormed a list of things to explore that could help all our agencies save money, time or improve quality of service. David Metraux is heading up this effort for ACCD. Stay tuned.

**KEN JONES, ECONOMIC RESEARCH ANALYST**

- Ken has completed the economic impact analysis of dairy on the Vermont economy. This information was presented at the Farm Show on Thursday. Ken will be interviewed by WCAX on Monday.
- The VEGI incentive program bases incentive payments on economic growth above baseline conditions. The baseline for these calculations has not been changed in several years. Ken is working with the Joint Fiscal Office to revise the background growth rates. The result of this project will most likely be a reduction in the background growth rate resulting in slightly higher incentive payments for most applicants.
- Ken has completed the 2013 Tourism Benchmark study that shows increases in tourism based revenue but flat numbers of visitors. However, visitors are spending more. This information is the base for current discussions on future tourism marketing. Megan is meeting with Scott Coriell on Friday to discuss how to best release this information.

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

- **New Business:** Met with Maryland financial advisor Nathan Irons who is looking to start a new B-Corps life insurance company and considering locating in Vermont. Met with recruiting team of Fred Kenney and Kiersten Bourgeois. Irons had a good meeting with Kaj Samson of DFR and is ready to move quickly. Lisa will be following up and connecting him with VCET, Fresh Tracks and other potential investors although he appears to have good financial resources.
- **Power of the North Conference:** After multiple efforts to get the Quebec economic development partners to commit to bringing renewable energy and efficiency businesses to Vermont for the Power of the North Conference, DED proposed that for this first event we limit it to one day and have businesses set up booths to exchange information during breaks and lunch hour.

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

- **Hayward Tyler – Colchester:** Met with the company at their request to explain Expotech. They are at a critical stage of development to try to diversify their markets utilizing their core competencies. Nuclear has been primary, and new international markets may still offer potential. They see desalination plants as a possible growth area. Follow up meetings may be required as key personnel will now need to be involved in the decision to proceed.
- **Airshark:** This startup company provides unmanned aerial vehicle surveillance services for utilities, construction sites and the like. They are raising funds and have yet to establish a headquarters in Vermont. It's a fascinating technology and we were able to provide a quick overview of available programs and services. We will continue to assist.
- **Butternut Mountain Farm – Morrisville:** Business is strong and the company is reaping the benefits of their newly expanded facility. They are pursuing options for additional space in Morrisville to meet increasing demand. They are interested in some future training assistance. A full review of areas of assistance was well received and appropriate referrals will be made.
- **MSI Group – Morrisville:** The company is doing very well working on strategic plans to use a 60,000 sf facility on the Morrisville property and the Buck's Furniture facility they purchased. The plan is to turn the latter into a mixed use property with tenants leasing space. The site locator tool was introduced to them. Full time employment is at 190 and growing. Their focus is now on developing business in aerospace, medical technology and fitness -- and to expand their logistics business. They received a VGTP grant to attend AeroMart in Montreal. Appropriate referrals will be made.
- **Boyden Farm – Cambridge:** A visit was requested to review various areas of assistance. Mark is developing a new healthy beef breed and has applied for trademarks to make it proprietary. Business is good and bad with high demand for his products, but also very high beef costs. Being "non-GMO" is becoming huge in the marketplace. He needs assistance implementing a new enterprise accounting system, and LEDC will follow up with appropriate referrals.

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

- In coordination with the **Forests Committee** of the **Working Lands Enterprise Board**, currently helping to plan and make invitations to a series of **Value Chain Workshops** for targeted sub-sectors in the Forest and Wood Products industry. March 9<sup>th</sup> in Barre will be focused on furniture and wood products; March 12 in Richmond will be focused on the construction industry. Additional value chain workshops will focus on wood energy and enhancing the value of Vermont's forests, with dates and locations to follow. The goal of these workshops will be to identify opportunities for multiple firms to work together to respond to emerging market opportunities, and to identify any gaps and barriers that may exist to effective cooperation.

**FINANCIAL SERVICES ♦ Dan Towle, Director**

- **World Captive Forum:** Dan Towle, Director of Financial Services, will be attending WCF along with Dave Provost of the Captive Insurance Division. The state will be exhibiting and speaking at this event. This conference brings together an international attendance and has proven to be a very beneficial conference. One of 2014 new captive insurance companies, MasterCard was prospected at WCF last year.
- **Risk & Insurance Management Society (RIMS) Conference Preparation:** Dan reports that a large contingency of Vermont's Captive insurance community will be joining the State of Vermont at RIMS. RIMS is the largest insurance conference in the US with upwards of 20,000 risk management professionals attracted to the host city with approximately 10,000 registrants. Dan coordinates efforts of both state employees and service providers at the conference. The state has exhibited at this conference for nearly 30 years, which typically yields significant prospects.
- **National Automobile Dealers Association (NADA):** Dan attended the NADA conference last week held in San Francisco, CA. The auto dealer sector has potential to be a growth area for captive insurance as it is still underdeveloped when it comes to captive insurance. Vermont has always had the manufacturing sector of the automobile industry, but has just started to grow the dealer sector. The Vermont Automobile Dealers Association formed a Vermont Captive in 2014. The conference was enormous with over 20,000 attendees.
- **Ophthalmic Mutual Insurance Company RRG (OMIC):** Dan met with President & CEO Tim Padovese while in San Francisco. OMIC is one of the country's largest RRG and has 40% of all ophthalmologists nationally insured through their Vermont RRG. Dan reports that OMIC is still very happy with the State of Vermont. OMIC has been very supportive of Vermont and Dan often uses his relationship with OMIC to provide important references for prospects.

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

**Silo Buster:** Procurement Technical Assistance Center (VT PTAC) is currently working with Buildings and General Services (BGS) to host educational workshops on the subject of Vermont businesses working directly with the State of Vermont. BGS and VT PTAC staff will partner in several 2 hour workshops hosted around the state in the upcoming months. Stay tuned for more details.

*Scattered*

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

- **Von Bargen's Jewelry:** Beth Demers spoke with Jason Thom, owner, of the Springfield based family jewelry store. The company has recently opened a new location in Stowe and brought on a few new jewelers. To assist with this expansion, Jason spoke to Beth about how the Vermont Training Program (VTP) could assist with the cost of employee training. After giving an overview of the VTP, Beth and Jason agreed to meet in February once he has had some time to outline employee training.
- **Ironwood:** Beth Demers spoke with Eli Gould of Ironwood Brand in Brattleboro. The Timber/Mill/Design/Build company was recently awarded a loan from the Windham County Economic Development Program. Ironwood will also be hiring a number of new employees and is exploring a VTP grant application. Eli will schedule a face-to-face meeting with Beth to discuss the program further.
- **Mansfield Heliflight:** The Vermont Training Program approved an employee training grant for Mansfield Heliflight for the maximum amount of \$26,210.00. Funds will assist with employee training related to company moving into the fixed wing charter service.
- **Bouchard Pierce:** The Vermont Training Program approved a grant for Bouchard Pierce for the maximum amount of \$1,000.00. Funds will assist with employee training related to electric and motor controls.

*Thing I mention this week.*

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: Commissioner MacKay and Deputy Commissioner Hollar: Deputy Commissioner Hollar**

- **VCDP Applications:** Worked with Josh and his team to finalize reviews of \$2.7 million in applications for the February 12<sup>th</sup> Board meeting. Because we have only approximately \$1.25 million to grant in this round, the analyses have a particular focus on the readiness of each project to proceed and the implications if not funded until later in the program year. The Board will also review several disaster recovery projects.
- **Senator Leahy and CDBG:** With Josh, prepared a list of VCDP and CDBG-DR projects that could be the focus of awards or ribbon-cutting events in 2015. Reviewed with Senator Leahy's staff from the Montpelier and DC offices. Will work with the Governor's Office on the same.

Scott FY1

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

- **Downtown Board met and:**
  - Designated Fairlee Village Center
  - Renewed Jericho Center Village Center Designation
  - De-designated Orwell Village Center
  - Reviewed and scored a sample application in preparation for the upcoming round of Downtown Transportation Fund Grant applications
  - Welcomed Michele Boomhower, VTrans' new designee (Replacing Chris Cole)

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

**State Archaeologist**

- We readdressed the need to find a resting place for the War of 1812 soldiers excavated during Burlington's North Street Redevelopment Project, and for potential burials uncovered during future construction or other improvements in the area.

**State Architectural Historian**

- **National Register of Historic Places:** Historic Preservation consultant Lyssa Papazian has been hired by BGS to research and prepare a National Register nomination for the former Vermont State Hospital complex in Waterbury. This project is one of the mitigation requirements to address the adverse effects of demolishing several historic buildings at the complex. Devin will work closely with Ms. Papazian to ensure the nomination is completed in a timely manner.

**Environmental Review**

- **Fairlee:** Jamie joined Dale Azaria to meet with Don Newton of Newton Enterprises and his counsel Paul Gilles. Mr. Newton is appealing the findings of the District Commission regarding an application for Land Use Permit under Act 250. The case is currently in Environmental Court, but the parties continue to seek resolution and avoid a trial. Mr. Newton has been ordered to restore the front entryway of a historic building he owns on Route 5 and uses for numerous commercial purposes. At the meeting, Mr. Newton brought to our attention new information regarding previous alterations on the building. The Division is looking into this material and will respond to Mr. Newton.
- **Swanton Municipal Water Project:** Scott had several meetings with engineers from Aldrich + Elliott PC (A + E) and the University of Vermont Consulting Archaeology Program (UVM CAP) concerning the Town of Swanton new water main project. UVM CAP completed Phase III data recovery excavation last fall on a large Native American site and an early historic farmstead identified along the Missisquoi River. The Native American site contained deeply buried components and the data recovery program was predicated on shallow burial of the water pipe to limit the extent and cost of the Phase III excavation. However, A + E neglected to include over 1000 ft. of the proposed alignment within the site area in their planning for shallow pipe burial. Since more expensive insulated pipe will be required in shallow burial areas, this oversight had significant cost implications for the project. The meetings resulted in an agreement to avoid any additional archaeological site impacts by using conventional pipe placement at shallower depths with less expensive rigid board insulation cover over much of the affected alignment. Some additional archaeological investigation will be required in the eastern section of the floodplain segment to clarify the depth and archaeological content of buried surfaces identified by previous work. Much of the cost of the additional work which will occur this spring can be covered by the existing archaeological budget. If necessary, the cost of insulated pipe in the remaining segment will not result in any significant cost overrun.

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

- With nearly all mobile home parks now registered, Arthur was able to accurately calculate some of the statistics for 2014. The State Median Lot Rent of \$315 represents a \$5 increase from 2013. The vacancy rate decreased from 4.9% to 4.4%.
- Also received this week was the Shelburnewood MHP Notice of Intent to Negotiate petition giving the fledgling cooperative until May 29, 2015 to pursue the purchase of the park from Antonio Pomerleau.
- Shaun attended a hearing in House Committee on General, Housing and Military Affairs regarding protection language in the Fair Housing Statute. The Vermont Human Rights Commission is concerned about an apparent technical error that occurred in 2013 when some consolidation of statutory language was undertaken. The VHRC is suggesting that language be re-introduced into VT state statute in order to maintain our status as being “substantially similar” to the Federal fair housing and employment protections: a status that ensures federal funding for housing and employment discrimination investigators. The Administration supports the change.

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

**New Marketing Partners:** Megan, Steve and Pat met to discuss recruitment of new marketing partners to replace Cabot. Pat and Megan will be meeting with Burton next week and we are going to target Subaru New England and Darn Tough Socks as well as some of the resorts and regions that have some money to spend. The Vermont Convention Bureau has agreed to work with us as they spend their marketing fund that has been accumulating over the past year, collected through a voluntary \$1 per room fee from several of its members.

**Steve Cook, Deputy Commissioner**

- **Vermont Sugarmakers Association Annual Meeting:** Cook presented at the Sugarmakers Association annual meeting on Jan 27<sup>th</sup>. The topic covered this year’s spring maple advertising campaign. Cook presented the plan for this year as well as creative that will be used to promote Vermont Maple Open House Weekend and the Vermont Maple Festival. This year DigInVT.com is partnering in this campaign, bringing the total budget to \$10,000.

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

**ITS/ConnectVermont**

- Participated as panelist for TSMO Traffic Signal Operations Engineer interviews.
- Attended meeting to close out VTIS500 project with audit.
- Discussed with ME concepts for US DOT funding opportunity for pilot project of connected vehicle road weather management applications.
- Discussed with NH and FirstLight installing fiber infrastructure in I89 median from Lebanon bridge to Exit 20 and maybe on to Exit 19 to support ITS infrastructure (Smart Work Zone, VMS, etc.) for the upcoming Lebanon/WRJ 89 bridge construction project.

**Future Goals**

- Attend ITS New England Bylaws Committee meeting.
- Attend LANDesk Request Support training webinar.
- Attend Vaisala Winter Weather Management Practices Utilizing RWIS webinar and present VTrans strategies.
- Attend meeting with UVM TRC and SP Traffic team to discuss possible collaboration projects.
- Attend Commercial Vehicle and Freight Mobility Forum conference call.
- Attend ITS America Safety Forum call to discuss the role of digital infrastructure for road vehicle automation.
  - Plan for Tri-State MATS Techie meeting.

Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report - Weeks Ending January 23 and 30, 2015

FH  
SVC

Legislative VDOL presented briefly in House Commerce on our WC rate in the Fee Bill. We are asking to keep the same rates: 1.45% of premium for policy-covered plans and 1 % of self-insured losses. The fee is used to run the VDOL WC Division and provides a federal match for Project WorkSAFE. NCCI is projecting a decrease in the loss costs and assigned risk rates (which would be a good thing to publicize to Vermont employers, as soon as the Dept. of Financial Regulations finalizes their approval). The Commerce Committee will support VDOL in the Ways and Means review. Rep. Scheuermann voted yes but asked what WC bills VDOL would offer. She announced her plan to offer a bill requiring VDOL to use the IRS test to determine "employee" vs. "independent contractor". House Commerce heard from Frank Cioffi this week, who discussed retention and recruitment strategy due to an aging workforce, particularly in IT, advanced manufacturing and health care. He discussed Champlain College's internship program. VDOL was asked to report on job vacancies, reverse engineering/training, ability to engage unemployed, as well as students.

Unemployment: Tracy Phillips and Mat Barewicz presented on the UI Trust Fund to both House Commerce and House Government Ops. Our report is filed on the legislative webpage, but in summary, we have about \$146M in reserves. For the week ending 1/24/15 we took 2,711 calls. We paid 6,780 claimants during the week ending 1/24/15 compared to 6,852 for the week ending 1/17/15. We processed 80 Mass claims for week ending 1/24/15 (Rock of Ages 1, Ethan Allen 59, VEMAS 15, Granite Importers 5, and conducted 1 Rapid Response. UI is working on Vendor Selection (from prequalified list) for the Misclassification Outreach project; UI filed a Proof of Claim against the Austine School which filed for bankruptcy on October 11, 2014. The employer was a "reimbursable employer" and claim seeks to recapture unpaid UI tax for substantial UI benefits paid out by VDOL.

Workforce: State Workforce Investment Board: We are working very closely with Frank Cioffi to set the agenda for the February 12<sup>th</sup> SWIB meeting (1-4 at Cap Plaza). Michele Kupersmith did the WCAX segment on Career Tech Ed, which heavily featured Bob Travers of Essex CTE. Michele notes that Tim Smith of Franklin County gave stats at the AIV meeting this week about 1<sup>st</sup> year dropout rate from college of the students from Franklin County. Janette Bombardier spoke on workforce issues, and critical need for IBM and GF is 2-year degrees in mechanical and electrical tech and applied math. Rapid Response will be held on 2/5 for Apollo Diner, Milton. We also did a RR for Staples staff in St. Albans. Sears in University Mall is rumored to be closing. We are hosting job fairs at the Burlington district office for: UVM Medical Center, Lowes, State of Vermont DHR and Price Chopper. Vermont Health Connect asked us to assist in answering health care questions during the last few days of January. The NEK Workforce Team met with QBurke to discuss staffing, recruitment and training for the new lodge in December of 2015. Vermont Yankee: There is a minor issue with how VY reported their mass layoffs to VDOL (not reporting workers who transferred to other plants). VDOL staff is working with VY employees on their TAA/TRA benefits. Morgan reported that Dave McElwee said more VY employees are considering relocating to work at other nuclear power plants due to the wages of the other jobs in the area; also noted local residents are openly criticizing the award recipients chosen for economic development money.

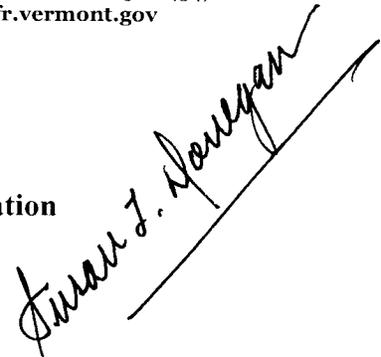
Legal: VOSHA Citation to Albany, NY-based Janitronics, Inc. not having MSDS sheets at Bennington Energizer plant; fine was \$965.00. VOSHA Review Board upheld citation against Sisters and Brothers, Inc. for failing to provide fall protection on a roofing job; penalty \$2,100.00; and affirmed citation against Milton Building Supply for a myriad of safety violations including unguarded bench grinders, live exposed electrical wires, and faulty or damaged electrical cords; anticipating penalty of \$5,100.00.

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

For consumer assistance:  
[All Insurance] 800-964-1784  
[Securities] 877-550-3907  
[Banking] 888-568-4547  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

**CONFIDENTIAL and PRIVILEGED**

To: The Honorable Peter Shumlin, Governor  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: January 30, 2015  
Re: Weekly Report



**Securities Division:**

Commissioner Susan L. Donegan and members of the Securities Division staff met this week with the lawyers for the Jay Peak EB-5 project AnC Bio. They reviewed the elements of the project and asked questions to clarify details of the private placement memorandum (PPM) and discussed a possible timeline for the project. The Securities Division has scheduled a conference call Tuesday, February 3 at 10 a.m. with the Securities & Exchange Commission's Miami office to discuss the SEC's inquiry into the Vermont project.

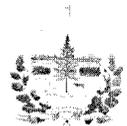
FBI

**Banking Division:**

The Windsor County South Credit Union in Springfield was robbed Wednesday at about 11:45 a.m. Springfield police and Vermont State Police responded to the 911 call; Springfield police are leading the investigation. So far, police know that two people were involved; the person who entered the credit union and another driving the get-away car. Video from a nearby business recorded the vehicle and a Vermont State Police car's on-board camera also has tape identifying the car. Police have narrowed the search to two vehicles. The amount of money taken was \$2,701 and the credit union's depository insurer, the NCUA (similar to the FDIC for banks), has already mailed a check for the full amount minus the deductible to the credit union. No customers suffered any losses and no one at the credit union was injured during the robbery.

**Legal Division:**

The Vermont Supreme Court reversed a superior court order in the Ambassador Insurance receivership case, which had ordered a cutoff date for filing final proofs of claim. As a result, the claims process has been reopened indefinitely. Ambassador was a Vermont domiciled property and casualty insurance company with headquarters in New Jersey when it was seized in 1983 by DFR as the result of insolvency. While claimants initially received partial payments, the company was recapitalized by a successful suit against their accountants and all substantiated claims have been paid to date.



**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Greg Smith, Executive Director, VT Lottery**  
**Date: Jan 30, 2015**  
**Re: Weekly Report**

*Classic understatement*

**Status of Governor's Priorities:**

none

**Legislative Issues/Contacts:**

Appeared before House Ways & Means about Misc Tax Bill for Lottery profits supporting VT Vet Home. The Comm does not view the Lottery in a favorable light from my experience. I used the time to speak positively about the consoles, games, player demographics, competing products (break opens), and our good work with Problem Gambling. Comm Reardon advised me to speak only to lottery & sales and that he would cover the policy aspects.

I also met with Rep. Pearce, my Hse Approps Liaison to review budget in advance of full committee. No issues raised.

Saw bill H70 for a casino in VT was assigned to Hse G,H & MA. No contact has been made with Lottery Comm but it appears we would play an important role. Maybe this stays stuck to the wall.

**Press Issues/Releases/Contacts:**

none

**Significant Events/Meetings:**

none

**Evolving Issues:**

none

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**Summary of Key Agency Department Activity:**

Working on sales and marketing strategies to maintain positive sales growth and better coordination in media platforms (tv, social, web).

**Executive Director's Commentary:**

*hmm.*

I just read the employee survey results and took one on the chin from my dept. We had a "bare all" meeting with the whole staff about 15 months ago and I made some commitments to improve some of the key negatives, but some of them are showing worse results. I reached out to HR for some assistance in digging deeper.

We just sent notice of a claim for contractual damages to our gaming vendor, Intralot, stemming from the poor quality of programming work that was done in Oct & Nov. The total claim is for approx \$45K. Our intent is to hold their feet to the fire on their programming work because we are in business with them until June 2018.

**Executive Privilege**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Sue Minter**  
**DATE: Friday, January 30, 2015**  
**SUBJECT: VTrans - Confidential Report to the Governor**

**NOTES FOR GOVERNOR**

**Legislature**

Budget: Following the EBoard meeting we are developing strategies to address our TIB downgrades for both FY15 and FY16. Our approach to the FY15 (\$2.5M) downgrade is to move this to FY16 through a cashflow transaction, essentially short term TF borrowing (through FY15), from the Town programs, but refilling in FY16. This way we combine FY15 and FY16 downgrades into a \$6.4M problem to solve in FY16. While we have several approaches in mind that would be significant cuts to state-funded programs (including paving/leveling or Town Programs) and/or project delays, we know that Rep. Brennan maybe interested in establishing a floor for the TIB that would solve this budget problem, and also give us (and the Treasurer) more certainty in the future. The Treasurer explained that our TIB Bonding capacity has declined significantly because of the downgrade. Knowing we may need to consider bonding for our final phase of the Rutland-Burlington rail project, we really want to support stabilizing the TIB. yep.

Water quality and stormwater management is another key issue for transportation, and we have made presentations to the "Vermont Caucus" as well as the House Ag, Water Resources and Transportation committees; Senate is next.

Driver privilege cards: The media around the fraud investigations has members in both House and Senate concerned about the driver privilege card legislation. Commissioner Ide is working to quiet legislative reaction by clarifying that fraud is an issue we deal with on a daily basis and these are not significant numbers. Frankly, a benefit is that the media likely helps reduce the undocumented people who may be coming to Vermont to (fraudulently) get IDs. Investigations are ongoing, but Rob has clarified that at least 10 people from the same Bennington address are, in fact, legally living there.

I-91 Brattleboro bridge: As a follow up to our conversation, I have communicated with our Chief Engineer, who will be meeting with the Contractor (Feb. 5<sup>th</sup>) to push them to speed up their project (and will mention this as a message from "the top"). As you

know, this is a large complicated project which is in the hands of the contractor, who we oversee. Our team is also concerned about slower-than-anticipated progress. I plan to visit the project in the not-too-distant future and will report back.

## NOTES FOR STAFF

DMV and Diversity Training: Today we are holding a training for DMV counter staff (including the Commissioner) to address multicultural competency. As a response to the accusation of “entrapment” from undocumented advocates, we want to ensure we are working hard to reduce potential biases from DMV staff who may be unaccustomed to working with people from different cultures.

EMAC reversal: Our team was pretty discouraged by the last minute reversal of MA’s request for assistance last night. They had spent several hours reviewing available assets (people, equipment) and planning for mobilization. (On the up side, we know we can mobilize quickly when needed.) Not sure how we avoid this sort of reaction, but I will be reaching out to DEMHS to improve communications and expectations around EMAC requests. I will also reach out to the newly appointed Secretary of Transportation (who turns out to be an old friend from Boston – Stephanie Pollack).

Aviation: We have received a request for letters of support for Stowe Aviation’s EB-5 request before the USCIS. I will send a letter and will also advance for the Gov’s consideration via Aly. The Stowe/Morrisville airport is seeing record visits, with almost daily charter operations bringing second homeowners and skiers to the area. Meanwhile, our aviation director is meeting with business leaders from various ski areas to discuss economic development opportunities for ski areas.

DLS Amnesty Day Planning: We are working with TJ on a March 20<sup>th</sup> Amnesty Day, and with the legislative leaders (Sears and Grad) to hold a hearing around the same date to bring more awareness to this problem. Aiming to be able to announce a statewide Amnesty Day, but want to carefully review the implications of such an effort (ability of judicial bureau to manage; budget implications of lost fees, etc.). Also envision a longer term effort to reduce the number of (not traffic-related) activities that result in DLS. Senator Sears has indicated he would Chair a summer study committee on this.

CA Conference: My visit to LA was a great opportunity to learn about energy transformations, including the transportation sector. In addition to moderating a panel on transit and rail, I pitched investment in Vermont as an “incubator” for innovation. Made good connections for EV charging stations (BMW is entering this market on the west coast); rail cars (Japanese rail industry wants expansion in US); and innovators for demand response (Uber-type) travel. I am exploring how APPs and cell technology can help us address rural transit challenge.

Plow Routes: I thanked the Gov. for defending our plow drivers last week in the pre-storm media on WCAX. Given the questions he received, I wanted you to see how we stack up against ME & NH. Note this is a 5-year-old chart. We will update.

		NHDOT		VTrans		MaineDOT	
Total Number of <b>Lane Miles</b> for Snow & Ice Control (exclusive of Turnpike)		8,257		6,511		8,467	
Total Number of Plow Trucks (1 ton and up, not incl. Turnpikes)		619		275		424	
<b>Number of Snow &amp; Ice Control Lane Miles per Plow Truck</b>		<b>13</b>		<b>24</b>		<b>19</b>	
Total Number of Employees for Highway Maintenance		752		440		874	

You can see we do have more miles to plow per truck. A few years ago we calculated the cost to add more trucks to essentially double the fleet and cut the plow routes in half. The cost was \$56 million in initial capital investment and another \$39 million in ongoing operational cost (2011 dollars). As I told GPS, we just don't have enough people (620,000) to raise the funds to pay for the services Vermonters want in the middle of a storm. That said, I often hear that our roads are "better" in winter than our neighbors...

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

**To:** Peter E. Shumlin, Governor  
**From:** Hal Cohen, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** January 29, 2015

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Highlights:

**AHSCO:**

Systems Approach to Reducing Homelessness Proposal pg. 2

Collaboration for Firewood For Low Income Vermonters pg. 2

**VDH:**

Health Department Tuberculosis Response Update pg. 3

National Survey on Drug Use and Health Report Updated pg. 3

**DOC:**

Meeting with Senator Sears pg. 4

CHSVT Continues to Attract Media Attention pg. 5

**DCF:**

GA Bi-Annual Report pg. 5

**Secretary's Message**

I began testimony for AHS on the FY16 budget with testimony in front of House Human Services this week. I presented a global overview of the AHS budget changes and five of the Commissioners followed with more details about each of their budgets. (DOC is not within the HHS purview.) The reception from the Committee was generally positive. I will be testifying on the FY16 budget at HAC next week. DCF has been testifying all week on S.9. We are, along with your staff, working to build a relationship with key legislators (Sears, Ayer and Pugh) that will enable us to take discussions and edits to the bill off-line in hopes of getting to consensus.

I received the data from our employee engagement survey data. In comparison from 2013 to 2014, AHS Central has increased their scores substantially related to "I am satisfied with my job" from 63.2% Strongly Agree/Agree in 2013 to 83.9% in 2014. In addition, "Morale within my department or agency is good" increased from 31.7% Strongly Agree/Agree in 2013 to 58.4% in 2014. Overall in AHS, participation for the Agency increased 46% from 2013 to 2014. These encouraging results are consistent with my experience in my first few weeks in the office and I do see strong morale and commitment to the work from the staff.

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

#### AHS to Submit an Application to the Harvard Social Impact Bond Lab for Technical Assistance

AHS participated in a planning meeting to discuss exploration of the Pay for Success (PFS) or Social Impact Bonds (SIB) model for financing services in Vermont. After an exhaustive discussion, AHS agreed to submit an application to the Harvard SIB Lab for technical assistance and support for a thorough assessment of Vermont's ability to take advantage of the PFS model.

good

#### Systems Approach to Reducing Homelessness Proposal

The AHS presented at the Vermont Coalition to End Homelessness, Vermont Housing Council and Vermont Housing and Conservation Board this past week on a systems approach to reducing homelessness in Vermont. AHS is encouraged by results from a survey launched last month by AHS and the DCF Commissioner's Office to gauge local support for the four point national strategy to end family homelessness. Among over 100 respondents in local continuum of care groups: 85% supported or strongly supported, 15% were neutral and 0% opposed. This is remarkable, as there is often great divergence of opinion on the best approach to addressing homelessness. AHS, DCF and the local Continuum of Care are moving steadily forward in building support for a comprehensive strategy to reverse Vermont's upward trend in homelessness and to address low rental vacancy rates across the state.

#### Quarterly Meeting for Strengthening Families Project

In Rutland, the local team from the Parent Child Center and Family Services participated in the quarterly meeting for the Strengthening Families Demonstration Project. This meeting focused on the nexus between domestic violence and child safety. Strategies for using the expertise of the DV Specialists within Family Services were outlined as well as ways to share information in timely and appropriate ways.

Scott → press ?

#### Collaboration for Firewood For Low Income Vermonters

The first 60 of a potential 250 cords of log-length firewood were delivered to the North East Regional Correctional Center (NERCC) this past weekend. The wood comes from the Coventry Airport expansion and was part of an RFP process developed by the Agency of Transportation (Airport Projects Division) and the Field Services Division of AHS. The wood will be processed into stove/furnace length by the NERCC Work Camp crew and will be distributed in collaboration with Northeast Kingdom Community Action (NEKCA) to low-income eligible residents of Caledonia, Essex and Orleans County.

#### Substance Abuse ACTION Group Community Meeting

The Springfield Project ACTION group, which formed out of the Governor's Opiate Forum, invited town, human service, medical, law enforcement and education leaders to a large meeting last week to get them to take part in the work they have fashioned after the VISION program in Rutland. Personal invitations were extended and over 50 people attended the meeting including representatives from Leahy's, Welch's and Sanders' offices, signing up to participate in task forces and support the work of this group.

#### 1115 Waiver Consolidation Financial Implementation

With the agreement last week with CMS on the waiver consolidation, financial staffs from the AHS and DVHA plan to meet to discuss the implications of this consolidation. Included for discussion in this meeting will be the changes to appropriations and reporting, among other items.

### OAPD - 75/25 Match for HAEU Positions

An initial planning meeting was held between the Health Care Operations, Compliance and Improvement and the Fiscal units to discuss the next steps for developing the OAPD document to apply for the enhanced match to maintain HAEU positions beyond June 30, 2015. A core team, which includes staff from the above mentioned Central Office units, DVHA and DCF, will meet this Thursday to continue the work of developing the OAPD to be submitted for review and approval as soon as possible. If the OAPD is approved, the funding will allow for the continuation of the HAEU positions that will continue the work of addressing the backlog of Medicaid renewals.

On a related note, a conference call with the Secretary of Administration, Department of Human Resources and Finance & Management was held this week to discuss the end date of these HAEU positions. The Secretary of Administration's office understands the needs of maintaining these positions beyond 6/30/2015 but, assuming the OAPD is approved, we will need to find the state match to continue these positions.

Justin

### Vermont Department of Health (VDH)

#### Health Department Tuberculosis Response Update

- Staff administered TB skin tests to the highest risk students and employees at the school on January 26.
- An onsite skin test clinic was held at the child care center on January 27.
- Follow-up clinics to evaluate the skin test results will be held on January 29 and 30.
- A second round of testing will be conducted in 8-12 weeks to insure that any subsequent infections have been identified.

#### National Survey on Drug Use and Health Report Updated

VDH has updated the National Survey on Drug Use and Health Report to reflect the 2013 data. The biggest changes occurred for Vermonters ages 18-25:

- Past 30-day binge drinking fell from 50 percent to 45 percent;
- Past 30-day marijuana use fell from 33 percent to 29 percent, and;
- Past-year prescription pain reliever misuse fell from 12 percent to 9 percent.

Vermont had one of the lowest rates of pain reliever misuse among the states for all age groups. Also, Vermont has one of the highest past 30 day marijuana use rates among the states for all age groups.

#### Ladies First Expands Promotes Services to Reduce Chronic Disease

Ladies First continues to expand year-round opportunities for members of the group to improve their physical fitness. This month, the program established partnerships with fitness centers throughout the state to provide free health memberships to Ladies First participants. The fitness centers will track member participation and supply data to the program. With the addition of new services, the program is planning to reach out to all eligible Vermonters as VDH continues to prioritize efforts to reduce the risk of chronic disease. In 2014, 89% of members also had at least one risk factor for cardiovascular disease, and more than 60% were overweight or obese.

### Department of Mental Health (DMH)

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

The hiring and training process continues to move towards higher utilization of the 25-beds.

WCAX will be filming the inside of the Vermont Psychiatric Care Hospital for an upcoming story. They may also talk to some of the staff which the Department will identify for them. WCAX is also looking for emergency room patients who want to talk about their stays. The story should air sometime early February.

#### Improving ER Movement

The DMH continues its work with hospitals and DA's and the Department's Care Management Team is improving movement from ERs to the appropriate level of care. There are still a few outliers that are difficult to place in a timely manner.

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

##### FY16 Budget testimony in House Human Services

Testimony well-received. Provided scorecard examples and performance accountability measures. Provided overview of ups and downs. Asked about most controversial areas. DAIL Commissioner identified Developmental Services initiatives, a cut to a grant for the VT Association for the Blind and impact on adult day providers as areas of interest to advocates so far.

##### FY15BAA in Senate Appropriations

As in the House, the \$900,000 down in FY15 dollars for seniors with moderate needs sparked the most interest. An increase of 250K in lease costs prompted Senator Kitchel to digress into worries about the cost of retuning to Waterbury.

##### Increased scrutiny of Developmental Services delivery system reveals more areas of concern

Rutland Mental Health Services (RMHS) Board is proceeding with independent review of management practices.

##### ABLE Act may be gaining traction

The ABLE Act of 2014 was signed into law by Obama in July. It allows for the establishment of tax-exempt savings account for individuals and parents of persons with disabilities who acquired their disability before age 26. Akin to a 529 College savings program, it allows for accumulation of up to 100K in savings WITHOUT negatively impacting eligibility for Medicaid benefits. Also, unlike trusts, the person with the disability can also add to the account promoting more self-sufficiency and self-respect. Karen Schwartz for the DD Council and Nicole Leblanc from GMSA informed me Rep. Marcotte has agreed to introduce legislation to enable these accounts to be set up in VT.

SUE

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

##### Meeting with Senator Sears

DOC will meet with Senator Sears this week to discuss the DOC's 2016 Budget and the Home Detention/Confinement proposal. Senator Sears is concerned this proposal mandates the direction of the Criminal Justice System. The good news is that even without this proposal; the DOC has already attained its SFY 2016 bed count due to the recent drop in detention. Plans are to drop the OOS number to 371 next week and then possibly to 341 at the end of March. The DOC has 400 budgeted in SFY 2016, which if the USMS brings more of their inmates, the Department should be very close to target. Additionally, the DOC is working very hard internally to address the "inmates held for lack of housing" issue to possibly further reduce that number during SFY 2016. That said, without this proposal, there is no protection that the numbers will not rise again in the future.

F11

CHSVT Continues to Attract Media Attention

The CHSVT budget proposal continues to attract media attention due to the proposed elimination of all field and several facility sites for SFY 2016. As of now, WCAX is working on a story highlighting work in the school system, including CHSVT. Dave Graham is working on a story regarding the cuts to CHSVT and Ric Cengeri of VPR would like to have Wilhelmina Picard on VPR this Friday at noon. Commissioner Dupre has let Ric know that DC Lisa Menard (Wilhelmina's supervisor) would like to join her. VPR has not responded as to whether they plan to go forward with Friday's interview, they did not anticipate having Lisa join them. DOC is in contact with Sue Allen on this issue.

Springfield Superintendent – VSEA

The VSEA Leadership met with DOC leadership this week to express concerns regarding information that they have received of the superintendent of Springfield's treatment of certain staff members of the facility. The DOC, with legal counsel, will follow up on this information to see if it is true as reported. If so, this may necessitate a change of the Springfield superintendent. The Department will keep you posted as this unfolds.

Justin F-11

DOC Staffing Study

This week, the DOC received the draft report regarding staffing needs within the DOC correctional facilities. DOC is making a few edits with the contractor and will issue the report to the General Assembly on February 15, 2015 and follow up with recommendations to the General Assembly on March 15, 2015.

Justin/Sue

The report calls for an additional 28 positions to staff posts that are not currently covered, and 28 positions to fill posts that are currently operated on either overtime or temporaries. The cost of these 56 positions is in the \$3m range. DOC is determining how much of this can be offset with either temporary or overtime savings. DOC may be able offset some of this cost with out of state savings. DOC will send any reports through AHS and AOA before the General Assembly.

Population:

The department's incarcerated population averaged 1,968 for the previous week. The male population averaged 1,810 with 318 being presentenced. The female population averaged 159 with 33 being presentenced.

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

GA Bi-Annual Report

This report is in accordance with Act 50 of 2014 which reports on demographic data, client data, shelter/motel usage, primary causes of homelessness and average lengths of stay in emergency housing. Highlights include an increase in community support for warming shelters; ESD now receiving health inspection information on the hotels from VDH; slightly fewer cold weather nights in 2014 than in 2013; and the top two reasons of homelessness statewide is found to be chronic homelessness and domestic violence/child abuse.

Family Services Division Labor Management Meeting

In December 2014, AHS Acting Secretary, Harry Chen received a petition from DCF Family Services employees across the state. Among other things, the petition demanded that workload issues be addressed and that "scapegoating of social workers" end. Following that, a Labor-Management

committee was formed. That group will meet for the first time this week, at VSEA headquarters in Montpelier. Deputy Commissioner Cindy Walcott and Operations Director Karen Shea will attend.

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

#### **Pharmacy Benefit Management (PMB) Update**

Continued improvements are occurring. Accepted claims are at 61.3%, Rejected claims are 38.7% (above historical average). The most common rejects are Drug Utilization Review Error. Additional rejects are caused by 3rd party payer, Prior Authorization required, refilled too soon and Plan limitation exceeded.

Inbound calls are answered at a rate of 74%; those that go to voice mail are returned by end of day (time permitting) or first thing in am.

DVHA is receiving positive feedback and less operational concerns from providers and pharmacies.

#### **Licensure of Behavior Analysts providing Applied Behavior Analysis**

DVHA is currently working on a Medicaid benefit design that will assure successfully meeting the requirements of ACT 158. This ACT intends to expand public and commercial insurance coverage for the diagnosis and treatment of early childhood disorders, including autism spectrum disorders (ASD) for the treatment of applied behavior analysis (ABA) supervised by a nationally board certified behavior analyst (BCBA).

DVHA supports licensure of this profession due to the protection it will provide to the vulnerable population needing ABA services and to the profession. This is particularly important due to the nature of these services and how ASD can be characterized by challenged communication skills and severe emotional issues resulting in aggressive behaviors. Adequate clinical oversight and controls that are regulated and monitored through a state regulatory body is the preferred safeguard mechanism.

In its recently published sunrise study, OPR recommends regulation of this profession through certification rather than licensure. Certification of this profession will not provide a sufficient amount of protection to children and families needing ABA services. Certification is a voluntary process that a regulatory entity grants to an individual who has met certain prerequisite qualifications. Certification does not establish a “Board” that will specifically oversee the on-going regulation of this profession including rules and regulations, adjudication of complaints against professionals and imposing disciplinary sanctions when necessary.

Next Steps: DVHA is working with legislative council in drafting a parallel bill for licensure of behavior analysts to be introduced during the current legislative session. If the profession is not regulated through licensure, DVHA will need to proceed with a State Plan Amendment submission for an ABA benefit that does not include licensure of the provider type.

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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 30, 2015

**Secretary's Top Issues**

**Vermont Farm Show**

- The Vermont Agency of Agriculture played a significant role in the Farm Show at the Champlain Valley Fairgrounds from Tuesday – Thursday. Secretary Ross spent much of his own week there, meeting with numerous agricultural groups and showing support for the industry as a whole. Secretary Ross met with the VT/NH Christmas Tree Growers, the VT Beekeepers Association, the Vermont Maple Sugar Makers Association, the Vermont Organic Farmers Association, the Vermont dairy industry, and the Vermont Beef Producers Association.
- The Agency of Agriculture won the Capital Cook-Off, an event as part of “Consumer Night” This annual cook-off was “Lake to Plate” themed, with teams representing the Agency of Ag, the House Ag and the Senate Ag committees.

**Farm to School Awareness**

- AAFM's Agriculture Development team organized an event celebrating the Farm to School movement in Vermont. Secretary Ross participated in this event with Secretary of Education Rebecca Holcombe and Commissioner of Health Dr. Harry Chen.

**Water Quality Press-Conference in St. Albans**

- The Vermont Agency of Agriculture, in collaboration with the Department of Environmental Conservation and the Office of the Attorney General, hosted a press conference in St. Albans to address water quality issues.

**Donkey carcass potentially showing signs of anthrax**

- State Veterinarians Haas and Mehlenbacher communicated this week with an accredited veterinarian who treated a donkey with signs potentially consistent with anthrax. Diagnostic sampling of the donkey and carcass disposal options were discussed.

**Planning for rollout of new USA Food Safety database software**

- FSCP Division Director, Kristin Haas, participated in a strategic planning meeting regarding the USA Food Safety database implementation plan. The software will support the dairy regulatory program and associated laboratory functions and is expected to go live mid-March 2015.

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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 30, 2015

**Status of Governor's Priorities:**

**Legislative Activities and Issues**

**Legislative Report**

→ Sue . . .

**January 22, 2015**

**House Agriculture and Forest Products**

Director of Vermont Specialty Food Association Jim Harrison and President of the Board Jack Gilbert were introduced to the House Agriculture and Forest Product Committee. Mr. Harrison gave a brief overview of the success of VSFA over the last year, namely highlighting the Vermont presence at the Summer Fancy Food Show in New York City. He also praised the work of the legislature through the development of the Domestic Export Program and the impact it would have on specialty food businesses in the state.

Jack Gilbert, President of VSFA and also founder and CEO of Gringo Jacks was there to give a business perspective on the impact of VSFA and the Domestic Export Program. Jack gave a brief history of his company and noted how VSFA helped him get his product out of Vermont and the Domestic Export Program helps promote the VT brand. He noted how VSFA is nationally known for being a very impactful, smaller organization that represents great companies and products.

Rep. Purvis asked Jack Gilbert what his greatest regulatory challenges have been. Jack replied that FSMA and Distributor/Buyer relationships have been his biggest challenges as a specialty food producer. Rep. Smith was very interested in learning more about Food-Export Northeast and how the state assists businesses in international and domestic exports. Rep Purvis noted how large conglomerates can really impact the supply chain referring to the success Switchback Brewing has had with Costco and their selective purchasing program.

**January 23, 2015**

**House Natural Resources and Energy**

H. 40- Renewable Energy Standard and energy Transformation Program  
PSD presented the summary: Energy Innovation Program. This would replace SPEED, keeping the same goal(s).

- take account of net metering, and
- a "do something" requirement "...for utility-led or utility-partnership projects that reduce customer fossil fuel consumption and save money, such as weatherization, biomass heat, cold-climate heat pumps, etc."

The bill encountered a lot of questions about RECs, and the PSD responded with a summary of RECs in New England states. One item in the bill appears to clarify that GHG reductions that are not part of the electricity displaced by a renewable energy project, would not be a part of the RECs. I.e. RECs are only for the environmental attributes of the electricity displaced.

**January 27, 2015**

### **Senate Agriculture**

Presentation of a report on NEONICOTINOID PESTICIDES; SAFETY AND USE

The Secretary of Agriculture, Food and Markets evaluated whether the use or application of the pesticides imidacloprid, clothianidin, thiamethoxam, dinotefuran, or any other member of the nitro group of neonicotinoid pesticides is safe and not harmful to human health or the health of bees and other pollinators in the State.

- The report addresses the importance of pollinators in the success of agriculture, and the maintenance and improvement of biodiversity.
- The Agency is proactively involved in establishing a pollinator health protection policy at the federal level, as well as actively investigating and researching potential pesticide exposures and impacts to honey bees (*Apis mellifera*) in Vermont.
- The report outlines the work the Agency is actively involved in addressing pollinator health, pesticide labeling, development of national guidance for managed pollinator protection programs, and other possible work to decrease pollinator exposure to pesticides in Vermont.

**January 28, 2015**

### **Senate Natural Resources**

#### H. 35- Water Quality

Walk through of H.35 water quality bill

Very concerned with removal from current use – would not support that provision

Want more information on agency of ag powers to remove animals from farm – difference between WQ, disease and animal wellbeing issues

Mike O'Grady still concerned with Agency of AG appeal provisions

### **House Agriculture and Forestry**

#### H.52 Poultry Exceptions

Randy Quenneville

- discussed history of the 1,000 bird exemption- expanded in 2007
- discussed similarities of H.52 to existing federal exemptions and the current policy of only inspected and passed product allowed at retail
- discussed that Health Department might want to weigh in on uninspected at restaurants and that there are not many restaurants using the exemption.
- In addition, that while chefs express interest in the product, the owners and insurance companies are concerned about the liability.
- discussed the need for the facility, which is not clearly stated in the statute and that a licensing provision be included.

### **Water Quality Budget presentation**

Diane Bothfeld, Deputy Secretary

- Presented to House Ag 1/28/15 on general budget for water quality.
- Distinction between TMDL proposed funding and Agency FY 16 budget ask.
- Much confusion of sources of funding especially federal – does the Agency of agriculture control the federal money?
- Questions of why choose a fertilizer fee to raise money in TMDL budget – fertilizer part of the problem, well know program by distributors, have solid data and could implement very easily and very quickly if passed.
- Requested a separate hearing with Fish and Wildlife and Ag to discuss all positions requested for TMDL work.

## Senate Agriculture Hearing

### Miscellaneous Tax bill (Current Use)

Emily Brown Legislative Council reviewed the proposal in the Miscellaneous Tax Bill that impact the Current Use program. There are two elements to the proposal

#### Sec. 8- Use Value appraisal as 30 percent of fair market value for enrolled farm buildings

- land owners to pay 30% of fair market value of enrolled farm buildings.
- Currently, farm buildings are taxed at 0% of fair market value. The state doesn't collect education tax on farm buildings. The General Fund pays the municipal property tax to the towns. What meets the definition of a farm building and eligibility of enrollment are outlined in the law. It does not include the farm household but may include farm worker housing.
- This is a \$1.6 million savings in the General fund realized via a variety of ways.
- Under the proposal Municipalities collect 30% of the Ed Fund money, however this will be moved to the General Fund. FY 16 gets 30%, Then FY 17, municipal reimbursement is less-400,000 next year.
- With the collection of the 30% of tax this lowers the State's payment to the municipality in the subsequent year out of the general fund (this has to do with the mechanics of the reimbursement process).
- 1.2 million goes to general fund- but we don't know actual because there is a possibility that the buildings are overvalued. A property owner will pay 30% of the value, it is possible that property owners will grieve/appeal lister value, resulting in lower values, lower taxes assessments, lower savings.

#### Sec. 9 Moratorium

- This places moratorium on enrollment into the program for tax years 2015, 2016 and 2017.
- Would not affect land transfers when land and building already enrolled.
- Approx \$300,000 savings each year of moratorium, however this is speculative.

There are 466 applications in pipeline for the 2015 tax year, affecting parcels from 1 acre to 1,693 acres and 75 buildings. These applicants will not be able to enroll under this proposal.

John McLain consulting forester and Current Use Advisory Board Chair.

- He expressed concerns about immediately enacting the moratorium. In order to enroll in current applications were submitted in September and application fees paid. Forest management plans are another costs paid up front (\$500-\$5,000) for enrollment and these individuals already incurred these costs.
- People look at cost of doing business, individuals made business decisions last year- the moratorium is a deterrent and will affect people who have the expectation of enrolling their land this year. People may not be able to pay their taxes if they can't enroll, making that land ripe for development.

John. Myers Consulting forest Vermont Forest Product Association.

- The proposal fills a portion of the budget gap on the back of working landscape.
- The Legislature created this program to achieve tax equity and he finds this proposal "disingenuous".

Bill Moore Farm Bureau

- Policy goal of current use, is to keep the working landscape working. Moratorium affects the working landscape.
- Farm Bureau does not support any of the proposed changes to the Current Use Program including those in H. 35.
- Mr. Moore began to talk about the Water Quality proposal in H.35 to remove farms from the program that have unresolved violation of the accepted agricultural practices.
- The farm bureau does support the small farm inspection program, but the Agency should use existing enforcement tools.
- Enforcement that includes removal of a property owner from current use is not necessary, especially if used infrequently – why is it needed. Is there a cost savings if farms are ejected from program?

Steve McCloud, Vermont Traditions Coalition

- The moratorium will result in a loss of land in the working landscape
- Milk prices will dive. Farmers need to spend more to comply with water quality requirement. This is not the time to raise costs for farmers as outlined in this bill.
- This will impact working landscape business development.

Mike Snyder, Commissioner FPR

- It is a successful land conservation program, and the proposal gives the state time to look at the program..

- Should the current use advisory board statutes be repealed? “No.” The board makes recommendations concerning the management of the program. They have a role in setting the use value for ag land and forest land.

Sen. Zuckerman commented that the budget shortfall and the savings created through the proposal affecting the current use program is disproportionate.

State Veterinarian, Kristin Haas, provided additional information to leg. counsel member Cameron Wood at his request pertaining to the VAAFMM policies on raw milk compliance.

- Meat Program Rep met with House Ag committee to discuss H-52, a bill to establish a 5000 bird exemption in which producers could sell to retail stores. Concerns include the sanitary facility requirements and an unfair market advantage to those already working under inspection

### **Press**

- The Vermont Agency of Agriculture, in collaboration with the Department of Environmental Conservation and the Office of the Attorney General, hosted a press conference in St. Albans to address water quality issues.
- Secretary Ross participated in numerous media interviews at the Farm Show. Please see below for details.

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

- Assistant State Veterinarian attended a Food Safety Modernization Act focused meeting with other Agency staff and the Vermont Department of Health. The meeting was a good opportunity for food safety experts at the Department of Health to meet the Agency’s new Produce Safety Coordinator.
- Assistant State Veterinarian provided feedback on the Foundation of Law chapter of the NASDA Technical Working Group FSAM Operational Plan. Vermont staff is involved in writing this chapter of the overall plan. The chapter provides a process for a state to evaluate its food safety authority, or lack thereof, and implement regulations.
- Assistant State Veterinarian compiled notes from the recent Agency initiated Swine Health Task Force and identified areas of need and possible action items. The information was provided to the Task Force members who will work to determine priorities, reasonable deliverables, and who will spearhead individual tasks.
- State Veterinarian, Kristin Haas, participated in a quarterly meeting of the Endangered Species Committee as a representative of Secretary Ross. Topics of discussion of interest to VAAFMM included a review of the statutory amendments being proposed by ANR that pertain to the designation of critical habitat in VT; an update of the rule promulgation process for the listing of 3 pollinator species; an announcement made by Secretary Markowitz that she would like to designate June 2015 as the month that the outreach/education around the importance of pollinators in VT begins.

### **Evolving Issues:**

- Animal Health field staff were asked to consult on husbandry practices on an animal welfare complaint involving horses.
- State Veterinarian, Kristin Haas, continued to work this week with ANR legal counsel and Director regarding the transition of a relevant captive cervid facility from ANR regulatory authority to that of VAAFMM
- State Veterinarians Haas and Mehlenbacher communicated this week with an accredited veterinarian who treated a donkey with signs potentially consistent with anthrax. Diagnostic sampling of the donkey and carcass disposal options were discussed.
- State Veterinarian, Kristin Haas, communicated this week with Department of Health colleague Erica Berl regarding a human patient who has signs consistent with parapox virus infection, a disease which can be contracted through contact with infected sheep, goats and cattle. Further investigation of the animals that the patient was in contact with might be undertaken by state veterinarians depending on the lab results for the human patient.
- FSCP Division Director, Kristin Haas, participated in a strategic planning meeting regarding the USA Food Safety database implementation plan. The software will support the dairy regulatory program and associated laboratory functions and is expected to go live mid-March 2015.

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

## **Agricultural Development:**

- 1.) In response to an inquiry (“Water quality as a large priority in one section of government (Agriculture) yet deprioritized by another – Department of Public Service? Hypocrisy at a governmental level. Gas pipeline under lake Champlain is not for public good but for corporate profit (International Paper Company).”) received by Secretary Ross at a water quality meeting, Senior Agricultural Development Coordinator Alex DePillis responded in detail to Hannah Link regarding regulatory authority for water quality within the Section 248 energy permitting process, status of the dockets for the pipeline, the Agency of Agriculture’s role in those dockets, and the potential to use the pipeline for biogas (renewable natural gas) from farms.
- 2.) Senior Agricultural Development Coordinator Alex DePillis is monitoring H40, the energy bill. On Friday 1/30/2015, DePillis and Deputy Secretary Diane Bothfeld will be meeting with As Hopkins from the PSD, to review provisions of the bill relevant to farm energy, especially farm methane projects.

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

### **Meat Inspection:**

- The Agency of Agriculture is providing extra coverage for the federal plants under the cross-utilization program as USDA continues to struggle to fill open federal inspector positions within Vermont.]
- The Agency of Agriculture is handling many request ranging from remodeling of retail stores under new ownership, questions concerning the regulations surrounding rabbit slaughter and regulations connected with curing and smoking and on-farm slaughtering
- One State inspected plant has transitioned to Federal Inspection for one day per week in order to facilitate out of state sales, the other four days of the week the plant will continue to operate under State Inspection
- Fielding concerns from inspected producers concerning point of purchase materials with claims that are not substantiated on the official label
- Starting to hear from Inspected producers with major concerns with about the proposal of H-52
- Met with a producer in Rochester concern in development of an inspected processing plant

### **Animal Health:**

- Animal Health field staff assisted with manning the booth at the farm show. Staff engaged with farmers attended the show and issued official identification and provided information about poultry and livestock health.
- State Veterinarian, Kristin Haas, participated in a conference call of the New England States Animal Agriculture Security Alliance this week. Haas is responsible for planning a New England regional emergency preparedness exercise involving Foot and Mouth Disease vaccination and deployment of the National Veterinary Stockpile; plans made to date for the exercise were discussed on the call.
- The Animal Health section ordered non-official slaughter-only backtags for cattle this week in order to gain compliance with the federal Animal Disease Traceability rule. These backtags will be applied to cattle in slaughter channels that already have another form of official ID in place, thereby eliminating the circumstance where dealers are applying two forms of official ID, a violation of the federal rule.

## **Agricultural Resource Management:**

### **Vermont Nursery and Landscape Association Winter Meeting**

Tim Schmalz attended the Winter VNLA meeting on Tuesday January 27, and presented a talk on pests and problems observed in 2014, and those likely to be present in 2015. Topics covered included hemlock woolly adelgid and the status of the quarantine, the potential impact of elongate hemlock scale, status of emerald ash borer in New England and New York, and a variety of regulatory and statutory concerns relevant to the nursery and landscaping industry in Vermont. Also discussed were the upcoming revisions to the endangered species rule (which will list three species of bumblebee and tuliptree, a minor but valuable horticultural species), and the neonicotinoid pesticide report presented to Senate Agriculture on Tuesday morning.

### **Attorney General Rule Hearing on Act 120/GMO Labeling**

The Attorney General held a public hearing on Tuesday, January 20 in the State House, in their continuing effort to develop and implement rules as required by the GMO labeling law, Act 120. The hearing began at 5 pm, and was attended by a variety of interested legislators, regulators, citizens and industry stakeholders. A single citizen offered verbal testimony during the hearing. Her testimony included statements of support for the law and intent of labeling, but she did not offer substantive comment on the content of the draft rule, except to say it was important work and therefore the Attorney General should proceed. The hearing adjourned at 5:30 pm.

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

- Staff attended the water quality press release in St. Albans.
- Staff are drafted and sent two Education and Outreach Grants through the Farm Agronomic Practices (FAP) Program to support a conference and workshop providing educational opportunities to farms, service providers and the general public related to improving water quality impacts from agriculture.
- Staff reviewed LFO annual reports and summarized fertilizer usage on LFO cropland.
- Staff are continuing to process LFO permits and permit amendments for several farms.
- Staff are drafting reports and memos related to inspections and enforcement cases.
- Staff are coordinating enforcement efforts for several ongoing and future enforcement actions on MFOs and LFOs for water quality compliance concerns.
- Staff are continuing to work on the USA FoodSafety water quality database. This includes database testing, development and data migration.

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

- Staff worked on the CREP FY2014 annual report to FSA
- Staff continued working with Partners for Fish and Wildlife on answering questions from planting contractors, evaluating bids, discussing bids with landowners, and notifying selected contractors of winning bids.
- Staff processed field data gathered for planning CREP projects in ArcMap.
- Staff prepared draft CREP maps and estimates for a presentation to the Vermont Land Trust (VLT) and a SFO in Colchester.

Staff met at a Small Farm Operation in Colchester with a representative of the Vermont Land Trust, a SFO renting VLT's farm, VLT board member, UVM Sustainable Ag Grazing specialists, representative of Winooski Valley Park District, and USFWS Partner's staff, to discuss draft CREP proposal for farm as well as recent efforts to create shrub hedges for goat browsing.

## **Pesticide Program**

The Agency received a public records request from Alex Nuti-de Biasi, Managing Editor of the Journal Opinion in Bradford for records associated with the Agency's July 2014 investigation into alleged pesticide drift associated with the treatment of pumpkin fields in Bradford with a fungicide containing the active ingredient clomazone. The request has been fulfilled and the records mailed out on 1/29/2015.

## **Secretary's Comments:**

- Secretary Ross spent much of the week at the Vermont Farm Show, meeting with numerous agricultural groups and showing support for the industry as a whole. Secretary Ross met with the VT/NH Christmas Tree Growers, the VT Beekeepers Association, the Vermont Maple Sugar Makers Association, the Vermont Organic Farmers Association, the Vermont dairy industry, and the Vermont Beef Producers Association.
- Secretary Ross participated in numerous interview with the media this week including:
  - Press conference in St. Albans with DEC and AG's office.
  - Vermont Public Radio (Vermont Edition) show with Commissioner David Mears of DEC.
  - Interview with Mark Johnson on WDEV radio.
- Secretary Ross participated in the Vermont Sustainable Jobs Fund board meeting.
- Secretary Ross met with and Deputy Secretary Bothfeld met with the Senate Finance committee to discuss Current Use.
- Secretary Ross participated in a Farm to School awareness celebration at the State House with Secretary of Education Rebecca Holcombe and Commissioner of Health Dr. Harry Chen.

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

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

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** January 30, 2014  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Keurig and Clean Water:** Deputy Secretary Martin and Commissioner Mears participated in a productive meeting with Keurig, University of Vermont, the Agency of Agriculture, Food and Markets, the Nature Conservancy and Alyson Richards of the Governor's Office regarding the nature of the evolving concept for the way in which the funds from Keurig will be spent. The focus of the meeting was on the challenge of determining how to establish the Clean Water Fund and spending priorities to accommodate Keurig's goals. Further discussions are planned and we will bring the results of those discussions into the legislative conversation.

**NRB Transition:** I have had many conversations with members of the environmental community about the transitions at the NRB. There was wide agreement that this is positive – and the Jon will be a good change. I understand that this is also the feeling of most of the district coordinators. I have addressed a few legislators interest in the budget language about consolidation and let them know (truthfully) that the language was a surprise to me – but came out of early conversations about ways we could save money in the program by having ANR pick up more of the back office functions. There was also an understanding that it made sense to have greater accountability and improved coordination so long as there was no interference with the quasi-judicial functions. Jon has already met with Ron, other NRB staff leadership and he is reaching out to legislators and various stakeholders. I anticipate that this will be a smooth transition.

**LiDAR Mapping Award Received:** The Vermont LiDAR Mapping Initiative received an award letter of \$130,985 from USGS. The VT LiDAR Initiative partners who contributed match and writing support for the proposal include VTDEC, VTANR, VTrans, VCGI, and NRCS. Funds will be used to map parts of the Lower Connecticut River watershed in Windham

County (specifically 782 square miles). Since 2008, this partnership has received 5 awards to map all of the Lake Champlain Basin. The program afforded an opportunity to work on the CT River basin in an effort to complete all LiDAR mapping for Vermont. The total cost for the project is \$261,970.

**CEQ Announcement on Flood Plain Development:** Sue and I participated in a conference call with CEQ in which they announced a new effort to require all federal agencies to set standards that require consideration of climate impacts (sea level rise, increased rainfall, etc). This will apply wherever federal funding is used to build infrastructure (applies to both new construction and substantially retrofitted re-construction.) It will not impact minimum criteria for FEMA or impact flood insurance rates. They are issuing draft implementation guidelines that, once adopted, need to be incorporated into every federal program.

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## **EVERYTHING ELSE:**

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

**Clean Water Legislation (H.35):** The House Fish, Wildlife and Water Resources Committee has started taking testimony on a committee bill that reflects the majority of the Administration's legislative proposals including our language for the creation of a Clean Water Fund. We will continue to work with Legislative Counsel Mike O'Grady and the Committee to ensure that the bill includes our full package. We are coordinating with AAFM on the agriculture related provisions and with VTrans on the transportation related provisions.

The House and Senate Agriculture Committees have also begun taking testimony on the background of the state's Clean Water Initiative, as have the House Natural Resources and Energy, the House Ways and Means Committee and a number of caucus groups within the General Assembly. We also provided an overview along with AAFM, ACCD, and AOT before the full House. ANR representatives appeared last week before the Franklin and Grand Isle delegations at their invitation to discuss clean water issues as well as before the newly formed Water Caucus. Committee hearings before other committees with jurisdiction including Senate Natural Resources and Energy, House and Senate Transportation and Institutions are already scheduled or planned.

**DEC Fee Package:** Commissioner Mears and his team testified before the House Ways and Means to give an overview of DEC's fee package. This committee took testimony on both DEC's general program support package of fees, as well as clean water fees. DEC has also testified before the House Committee on Fish, Wildlife and Water Resources regarding the clean water fees, which will be added to the Fish and Wildlife Committee Omnibus Bill, H.35. DEC will work with both committees and affected stakeholders over the next few weeks as they consider both packages of fees, which are central both to the Department's core budget as well as to meet the need to grow capacity and provide additional service associated with the Clean Water Initiative.

**Enforcement Overview:** The Director of our Compliance and Enforcement Division, Gary Kessler, appeared before the House Committee on Fish, Wildlife and Water Resources and gave an overview presentation on the operation of our compliance and enforcement program. He summarized our ongoing efforts to move to a more strategic and targeted enforcement and compliance system which prioritizes our compliance and enforcement resources on reducing the most significant environmental damage and public health risks.



**Current Use:** Commissioner Snyder provided testimony to the Senate Committee on Agriculture on the proposed Current Use Moratorium in the FY'16 Budget package. I plan on meeting with Sue today (Friday) to talk about a broader Current Use proposal that includes the posting policy as well as an addition to the formula to take into account the cost of our County Forester services to current use landowners. As we back away from the Moratorium we might be able to move our broader policy goal of bringing in new revenue for FPR (to free up GF for other things.)

**Bottle Redemption Meeting:** DEC's Solid Waste Program staff met with Rep. Marcotte and Rep. Hubert, who own and operate stores with container redemption, about their concerns with TOMRA, the third party pickup agent contracted by the beverage distributors. The representatives voiced three concerns: (1) container pickup is not always on time which causes issues at stores/redemption centers, (2) the counts of containers – which are the basis for payment – are not always accurate, and (3) the payments are not timely. All agreed that it would be helpful to hold a meeting with the major distributors and some redemption center owners to discuss concerns. DEC has convened such meetings in the past, when developing the container comingling program, but have not had one in a few years.

**Roxbury Fish Hatchery:** Commissioner Porter and his team testified before the House Committee on Corrections and Institutions regarding the fish culture capital bill. Discussions ranged from the Roxbury Fish Culture Station rebuild to general fish culture capital projects. The FWD request for fish hatchery improvements totaled almost \$1M and the F&W request for the Roxbury FCS rebuild totaled \$5.5M. The Governor's total request for fish hatchery improvements was \$700k and the Governor's total request for the Roxbury FCS rebuild was \$400k.

**Overview in House Government Operations:** Alyssa and I spent time in House Gov Ops to provide an agency overview and to talk about Lean and how we provide IT services (our internal service model) as well as how we interact with DII. They liked Alyssa's statement that instead of having a conversation about whether services should be delivered centrally or not – we should be talking about how to best accomplish our primary goals of transparency, accountability and service in the delivery of IT.

### Press Issues/Releases:

**Clean Water:** There has been robust and positive coverage on the Administration's Clean Water Initiative with a particular focus this past week on the agricultural components. AAFM

and DEC have developed a coordinated outreach and communications strategy and messages. Chuck and David did a great job on VPR!

**Water Quality:** Commissioner Mears attended a press event in St. Albans with Sec. Ross of VAAFM and A.G. William Sorrell on Monday, January 26 to talk about efforts to improve water quality, and specifically how those efforts would be carried out (a mix of incentives, technical support, and enforcement) in the farm communities in Franklin County.

Commissioner Mears is scheduled to appear as a panel participant on a Channel 17 live forum on the health of Lake Champlain's waters, and the state's restoration efforts on Jan 28.

The **ANR newsletter** Ripples was distributed this week. The current issue focuses on water quality. Secretary Markowitz contributed a piece summarizing the Clean Water Initiative as laid out by Governor Shumlin in the State of the State earlier this month. Other articles include a summary of DEC's work on the TMDL process and review of DEC resources available to stakeholders interested in following TMDL process; an article summarizing the relationship between forest health and water quality; and an article discussing what constitutes a healthy aquatic environment, and common factors that impact water quality.

**2014 Banner Year for Lake Champlain Salmon Restoration:** Officials from the VTFWD, USFWS and the NYDEC today announced that 2014 assessment results show continued gains in the Lake Champlain landlocked Atlantic salmon fishery restoration program.

**CSG article on the White House Task Force on Climate Preparedness:** Sue and I were widely quoted:

<https://ercwts.wordpress.com/2015/01/28/key-observations-from-participants-in-the-white-house-task-force-on-climate-preparedness/>

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

**No RIFs Necessary to Meet Rescission Targets:** In order to meet our rescissionary targets we identified two positions to RIF. In one case, we negotiated a retirement instead, and in the other, the employee found a new job.

**Accessibility on State Lands:** The ANR Secretary and Leadership Team have approved a new ANR lands policy regarding the Use of Mobility Devices on ANR Fee-Owned Lands by Persons with Mobility Disabilities. This policy was developed in response to the U. S. Justice Department's 2011 regulations regarding the Americans with Disabilities Act. The Agency will soon be conducting assessments of its roads and trails for use of various mobility devices by persons with mobility disabilities in accord with these regulations and new ANR lands policy.

**Meeting with Chittenden Solid Waste District:** As part of my effort to ensure we successfully implement act 148 I visited with the Chittenden Solid Waste Management District. I have visited all district, but Lamoille (that is scheduled for next week.) The Chittenden District are

superstars. They are very supportive of the goals of the new law and, like the rest of the districts, feel strongly that they need additional resources for education and outreach. Other districts also need money to help get the right infrastructure in place to meet the requirements of the law. CSWMD is concerned that fees generated from their district would go to support other districts ramping up. This is in part because their business model relies on other district's use of their MRF (recycling).

**Endangered Species Committee:** The ESC met this week and discussed their support of the proposed modernization of Vermont's Endangered Species Act. We will be bringing a proposal to the legislature to modernize the ESA to update the penalty provisions and to make the penalties civil offenses. It also makes changes so that our law better conforms to the Federal Act (and offers better protection to Vt species – particularly in light of climate change) by adding protection for critical habitat for listed species to prevent the destruction of that habitat when the species is not present. A present loophole in our law would permit destroying a bat cave or cutting down a roosting tree when the listed bats were not physically present. We also had a frank discussion about our Lampricide program and they agreed to hold a workshop to learn more about how the program works and what they do to limit its impact on non-target species.

The **VTF&W Board** held its monthly meeting on Jan 21, 2015. A new deer management proposal was debated and voted on (with lots of public input.)

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

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

**TDI New England:** The Public Service Board held a pre-hearing conference for the TDI docket on Jan 28. Prior to the conference, OPLA, working in partnership with PSD attorneys, reached a negotiated agreement with TDI on a proposed docket schedule, which was submitted to the Board at the conference. OPLA and PSD informed TDI that if the applicant is able to adequately demonstrate that their project meets the Sec. 248 criteria early in the proceeding, the state agencies parties could entertain a stipulated agreement that could shorten the schedule further.

**Swanton Wind:** On Jan 29 OPLA facilitated a meeting between ANR/DEC/DFW staff and representatives of the Swanton Wind project. Swanton Wind is a 6 to 7 turbine utility scale wind project proposed for Travis Belilse's land in Swanton. Project consultants have conducted initial natural resource assessment work at the site and are preparing for additional field work this spring and summer. They intend to file a CPG petition with the PSB as soon as July. ANR will assist Swanton Wind in developing field study methodologies that will ensure the applicant collects all data necessary for a complete application. Concerns regarding possible impacts to migratory birds and federal endangered bats were raised at the meeting. Swanton Wind plans to conduct bird and bat studies this spring and fall to provide data on this issue.

**Derby Walmart:** Shattuck Hill Investments, LLC has applied for an Act 250 land use permit to construct a new 24-hour Walmart SuperCenter store between Route 5 and Route 105 in



Summer. W.A. check up.

Derby. The District 7 Commission convened an Act 250 hearing on this project in June of last year and then recessed the hearings pending the submittal of additional information regarding the application. Through the issuance of a recess order in November, the District Commission directed the applicant to provide copies of all the necessary and outstanding DEC permits including a water supply construction permit, a wastewater permit and also all stormwater permits. The applicant is now requesting the District Commission to issue the Act 250 Permit without waiting for the stormwater permits. We have objected to this request because this is contrary to longstanding Act 250 precedent, and it sets bad policy because the earlier we get applications the earlier we can identify potential issues that could impact the underlying Act 250 application.

**New Applications:** Week of Jan 26, OPLA received 5 new Act 250 application and 2 new Section 248 applications.

### **Environmental Conservation**

**Cyanobacteria and Drinking Water:** The current voluntary practice guiding drinking water facility response to cyanobacteria blooms and toxins is under revision. DEC staff provided information to the Vermont Department of Health on the ecological and environmental factors that influence bloom dynamics. In light of the issues illustrated by the drinking water problems on Lake Erie this past summer, DEC is working to coordinate the drinking water protection and surface water quality programs approaches to this issue. DEC expects to join the Department of Health in issuing a voluntary cyanotoxin monitoring program this year.

**International Paper (Ticonderoga, NY):** IP recently obtained an amendment to their Title V Air Permit from NY DEC for approval to burn No. 2 fuel oil and natural gas at the facility in addition to wood, waste oil and No. 6 fuel oil. The natural gas approval is presumably in anticipation of the natural gas pipeline extension. Both No. 2 fuel oil and natural gas are significantly cleaner fuels than the No. 6 fuel oil or wood that they would displace.

**Beaver Wood Energy (Fair Haven):** Beaverwood has requested a second extension of the commencement of construction deadline in their Air Permit as they continue to pursue other necessary permits and a power purchase agreement for this proposed wood fired utility unit with a co-located pellet plant. DEC proposes to approve this extension, but has informed the company that further extensions are unlikely.

**Mack Molding:** DEC's Environmental Assistance Program worked with Mack Molding in Arlington on a paint recycling issue. Due to the recoverable amounts of metals in the paint waste stream and favorable prices in the market, recycling the paint is in their best interest.

**College Internships:** Three student interns from Middlebury College, UVM, and SUNY at Plattsburgh, along with their advisors, are working with the Geology Division. The interns are working on different aspects of the hydrogeology of public water supplies, which may involve structural geology, geochemistry, and geophysics. These students are expected to make significant contributions to our work through the internship and senior thesis research projects.]

### **Federal Hazardous Waste Law (Resource Conservation and Recovery Act or RCRA)**

**Authorization:** We submitted our application to EPA Region 1 for authorization of the Vermont regulations pertaining to the use of “hazardous wastewater evaporation units” by hazardous waste generators to treat hazardous wastewaters. These regulations address a recognized void in the federal RCRA hazardous waste program (regulations/policy) that exempts most evaporators from regulation.

**Materials Management Data:** Solid Waste Program staff met with Vermont Solid Waste District Managers at a quarterly meeting to introduce a new analytical tool in the State’s electronic solid waste reporting system. The new tool will help all users of the online reporting system (Re-TRAC) have improved access to data submitted on materials management from facilities across the State. A [series of trainings](#) will be offered in February and March to provide much needed outreach on the ins-and-outs of reporting, extracting, and analyzing data in the system—the first of their kind since Re-TRAC was introduced in 2011.

### **Fish & Wildlife**

**Landscape Conservation Targets:** Fish & Wildlife Staff participated in the first meeting of the Landscape-Scale Conservation Targets project which seeks to identify landscape-scale conservation elements (e.g., forest blocks, connectivity) and then set specific conservation targets for each. This information will be included in the next Wildlife Action Plan and to help focus conservation work.

**Recertification for Non-Lethal Tactics:** Non-Lethal use of force recertification was attended by the instructors and training was also held at Warden in-service for the entire force.

**“Rock Snot” Research:** Staff researched scientific papers on *Didymosphenia geminata* (Rock Snot) to begin drafting a short white paper on the species status as “native”, environmental conditions that may be related to recent blooms across North America and how this may affect the Department’s position on the current legislative ban on felt-soled waders.

**New Access Area Possibility:** Staff met with The Nature Conservancy (TNC) in West Haven to discuss a possible arrangement to create a new fishing access area on the Poultney River on a 4,010-acre preserve that abuts the 81-acre Ward Marsh WMA. This area currently experiences a high level of both fishing and illegal dumping and burning along the border of the two properties. The formal creation of an access will provide the public with safe and secured access and would allow law enforcement staff to apply a more strict set of rules to the area to help curb the illegal activities. The goal is to formalize an agreement and clean up the area by removing a large burn pile and other trash this winter. Additional improvements will come after high water recedes in late spring.

**Possible Solar Installation at Hatcheries:** On February 2, Fish & Wildlife staff will be meeting with All-Earth Renewables, a solar panel installer, to discuss the feasibility of solar

installation at the Salisbury and Ed Weed Fish Culture Stations to supplement electrical bills. Current questions remain as to the feasibility of the project due to federal aid funding constraints and the cost-benefit ratio of completing the project in house. Staff hope to gain a better idea of the details involving the All-Earth Renewable model for solar installation in the meeting to better ascertain project feasibility and benefit.

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

**ANR Land Transactions:** The Vermont Housing and Conservation Board voted last week to award \$31k to the Department towards the acquisition of the Dern parcel at Emerald Lake State Park. Most of the remaining funding for this acquisition would come from the federal Land and Water Conservation Fund. FPR expects to close on this 84-acre addition to the state park by mid-February. Work continues on a number of other high-priority ANR land transactions including the Muckross property donation (Edgar May Estate) in Springfield, numerous Forest Legacy fee and conservation easement acquisitions, Hoyt donation at CC Putnam State Forest, sale of Lafreniere parcel at Camel's Hump State Park, and other projects.

**Ski Areas:** FPR staff met with Okemo Mt. Resort and Jay Peak Resort this week to review ski lease matters including the State Auditor's recent report on state ski leases. Several ski areas have expressed concern that the State Auditor's report offered only a limited perspective on the ski leases and failed to look at the overall economic benefits these resorts provide to the State.

**Hiring for Summer:** Parks Regional staff are busy interviewing candidates for key operations positions for next summer.

**District III Timber Harvests Commence:** Both the Bedded Bruin timber sale in Camels Hump State Park and the Northwest Passage timber sale in Lewis Creek WMA have started up for the winter.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: January 30, 2015

Subject: Weekly Report

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**Governor Level Issues:**

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

Scott

**LED Dynamics:** I visited there today, and am impressed by a LED tube they are creating to substitute for florescent light bulbs. We should support this and EVT incentive payments for this Vermont company. They are expecting production in the second quarter, and I think it would be great for you to visit them after production starts to promote the product.

**VGS:** I've relayed the latest cost estimation for Phase II and the implications for IP service. The expectation now is that VGS will file with the Board on Monday. Waiting for IP to decide is not an option in VGS's mind. I have also confirmed the discrepancy in the letters and VGS understanding. The concept of a "pause" was agreed to by them publically in the meeting with landowners. They are now saying they'd have preferred to be able to contact all landowners during this period before March 12<sup>th</sup> (they are free to contact any who wish to continue contact), but frankly, that is not what they agreed to in the public meeting with landowners. That said, I think most landowners are taking the \$2,500 AND agreeing to continue discussions with landowners.

w-11 f/u w/VGS.

**VY:** At the NDCAP meeting this Thursday, Kate O’Conner and Martin Langaveld were elected as chair and vice chair – this was expected as I transitioned to a “citizen’s” advisory panel. NRC presented their description of the decommissioning process at this meeting – which at least was not received hostilely by the public. The Atomic Nuclear Regulation Board ruled the ERDS system was not a requirement of post-shutdown operations, and we are considering an appeal of that decision to the NRC, while also negotiating with Entergy about a reasonable alternative. Entergy received and reacted to our two letters to the NRC jointly filed with the AGO – one on the use of the NDT, and the other in support of the VECAN request to support NY and MA Ag’s offices oin the financial security of the company and its ability to meet its obligations. Entergy is unhappy with the secons letter in particular, and will likely raise it with you at the meeting with Bill Mohl mid-February.

**Strontium 90 Update:** Last reported, it was believed this was a false positive, and that retesting was going to take about a month. It appears today that NRC confirmed VT’s samples and presence of S-90 in the water samples taken last fall. DOH is in the lead on this, and is probably reporting separately, but the current analysis is that the presence is not new, but rather a function of the sensitivity improvements in the analysis. Entergy or DOH may want to get out in front of this with an announcement, and we will be engaged with that.

**FairPoint:** Total troubles are improving – now at about 547 down from 1200 a week or two ago, but prioritization of medical concerns seems not to be occurring. Every day we hear that FairPoint has 18-20 medical issues, and they resolve a handful, with half a dozen new ones, so we end up at about the same place. Since they have 100 service personnel in the field, and are closing about 200 troubles a day, it is unclear why some of these are still outstanding and are not all cleared. Information on strike is that “negotiations are ongoing and productive” but no more on that.

**First Wind:** We met with FW about the attenuation study the board and FW agreed for us to conduct. That information is inconclusive – and while qwe must submit something to the board on this, I am trying to figure out a polite way to tell them I have no intention of trying to enforce their30 dba “in house” standard – as neither the standard or the protocol for measuring it is doable. Although we had a meeting yesterday, I was unable to ask Claude Cody about any progress on the Therriens.

**CEP:** We are starting preparations on renewal of the Comprehensive Energy Plan – due January 2016. As part of this we are supporting three RPC’s (specifically selected to be productive) to work on regional plans about how they could advance the CEP in their regions. I am hopeful this will serve as a model for other regions, and we determine how much of the 90% renewables needs to and should be provided din Vermont.

## **Meetings this Week:**

Jan 26: Chris call with Nancy McNamara NRC; Darren meets with Patty Richards

Jan 27 to 30: Darren in HNRE during H.40 EIP hearings

Jan 27: Chris VTA transition meeting; Chris conf call with David Filipelli/Atlas Holdings; Chris VY Interagency conf call; Darren meets with Robert Dostis; Darren lunch with Tony Klein and Rebecca Ellis;

Jan 28: Chris meets with Mike Twomey; Chris at NDCAP meeting

Jan 29: Bruha/ First Wind Attenuation meeting with First Wind; Chris meets with Kathy Keenan on PSD FY16 budget; Darren meets with Warren Coleman and Eileen Simollardes;

Jan 30: Chris meets with LED Dynamics

## **Meetings next Week:**

Feb 2 – Chris at VTA Board meeting; Darren at Dynapower event

Feb 3 – Chris speaking at Transmission in NE conference in Boston; Darren testifies on EIP in Senate Natural Resources and Energy

Feb 4 – Chris/Darren meet with TDI

## **Media:**

## **Everything Else:**

### ***PERD***

#### **Legislative Updates**

- Attended Senate Finance Committee hearing on Alternative Regulation where AARP and its expert discussed the pros and cons of Alt Reg and how in their opinion Vermont's alternative regulation plans move risk from shareholders to ratepayers without proper compensation to ratepayers.
- Introduced the Governor's Energy Innovation Program proposal in House Natural Resources and Energy.
- Developed summary of New England Renewable Portfolio Standards for House Natural Resources and Energy Committee.
- Staff met with BED power supply and energy efficiency staff to further explain and receive feedback on the EIP and how it would apply for BED.

#### **ISO-NE**

- Met with ISO-NE to discuss the Vermont Energy Efficiency Forecast. Previously, ISO had estimated 16MW per year of energy efficiency, their current forecast shows 14MW. ISO is concerned that this still may be high, however 14MW is consistent with the expected results from the next VEIC performance cycle. ISO will use 14MW going forward.

SEP-Competitive

- Building Energy Labeling Project – PSD Staff, in coordination with the other project partners, has submitted the proposed task changes, which would cut the required \$60,000 from the project budget to DOE. We now await their approval of the proposed changes. Once approved we will finalize the budget forms and Scope of Work and submit to DOE. This should be the final step to have the conditional award lifted.

Clean Energy Development Fund

- SSREIP
  - Approved the SSREIP incentive payments of \$71,320 for 41 solar PV projects totaling 293KW of new PV capacity, \$2,500 for a pellet system, and \$9,130 for 6 solar hot water systems, including a large system installed by the town of Middlebury.

Renewable Energy Items

- Finalized RPC energy planning contract and sent it, prep form, and sole source memo to Finance & Admin to begin contract approval process.
- Met with Commissioner and PA director to discuss equity firm interest in VT municipal hydropower assets. Firm will be invited to come in to further discuss their ideas.
- Reviewed EAN technology innovation work group proposals in advance of next week’s meeting. EAN has been working on a community energy dashboard that will interface with the Vermont Renewable Energy Atlas, and the draft wireframes raise a number of (continued) questions about the utility of the Atlas to this and other endeavors.
- Compiled CPGs for PV on car dealer rooftops for benefit of Burlington area Chevrolet Volt dealer interested in going solar.
- Sent second round of comments on model solar contracts to Ethan McLaughlin, as he has not yet sent the final version, and there are still problems with this penultimate draft. Will be meeting with VLCT and VNRC shortly to discuss next steps.

Net Metering

<b><u>Net Metering Activity 1/17/15 – 1/23/15</u></b>				
	Registrations	Applications	45 Day Notice	CPGs Granted
<b>Count</b>	3	1	2	19
<b>kWAC</b>	251	497	1000	394
<b>Ave Size kW</b>	3.666	497	500	20.734
<b>Cumulative Capacity of ALL Formal Notices Submitted**</b>				
<b>Year Total to Date</b>	<b>Total Since 1999</b>			



weatherization services; 3 - Identify the incentives to participate in Weatherization even when Fuel Assistance benefits are adjusted as a result; 4 - Adjust Fuel Assistance benefits to households residing in otherwise "energy efficient" homes to the extent such information is available

- For typical results of costs/savings due to Wx see table below.

**PROTOTYPICAL RESULTS OF COORDINATION BETWEEN FUEL ASSISTANCE AND WEATHERIZATION**

Fuel Benefit determination process based on household characteristics and the effect of Weatherization Program (WX) assistance given typical savings per fuel type from the 2007 Dalhoff evaluation and adjusting for degree day and fuel cost changes <sup>4</sup>	Living alone in 1 BR apt heated with natural gas		Adult and child living in kerosene heated 2 BR mobile home		2 Adults living in 3 BR house heated with fuel oil	
	before WX	after WX	before WX	after WX	before WX	after WX
total winter heating cost	\$670	\$616	\$2,770	\$2,216	\$3,708	\$3,092
monthly household income	\$955		\$1,900		\$1,495	
% of heat cost benefit if based solely on income <sup>5</sup>	81%		66%		90%	
amount of heat benefit if based solely on income	\$543	\$499	\$1,828	\$1,463	\$3,337	\$2,783
payment rate affordable with available funds <sup>6</sup>	42%		42%		42%	
actual heat cost benefit payable	\$228	\$209	\$768	\$614	\$1,402	\$1,169
remaining heat cost to be paid by participant	\$442	\$406	\$2,002	\$1,602	\$2,306	\$1,924
<b>Net Gain By Participant</b>	<b>\$36</b>		<b>\$400</b>		<b>\$383</b>	
<b>Net Gain By Fuel Assistance Program</b>	<b>\$18</b>		<b>\$154</b>		<b>\$233</b>	
<b>TOTAL SOCIETAL GAIN</b>	<b>\$54</b>		<b>\$554</b>		<b>\$616</b>	

Conclusion -With an increase in quality data, obtaining participant fuel consumption histories and average energy reduction percentages, and some IT modifications these programs can achieve increased weatherization participation leading to decreased costs in seasonal fuel assistance. This could lead to an estimated \$150,000 to \$200,000 of the SFA budget repurposed to the WX program during the first year with gradual increases in subsequent years.

Vermont Gas Systems

- Reviewed VGS testimony and drafted discovery questions in Docket 7970 second remand.
- Plan for re-analysis of Phase 1 projects at higher price tag has been established and legwork is underway. Approach will be "brute force," calculating monetary savings of all possible combinations of a variety of price forecasts for NG and competing fuels, including Heat Pumps. Results will be scrutinized for significance. Price forecasts of fuels are currently being developed.

**Engineering**

### Vermont Yankee Spent Fuel Management & Decommissioning

The dismantling of (reactor vessel) neutron detectors described in previous reports was completed on Thursday (1/22). Radiation measurements of the detectors indicated that many of them had lower than expected radiological dose rates. The several “higher dose rate” detectors were moved to the SFP over the weekend, while the lower-dose rate detectors were moved to a locked, high radiation area within the reactor building on Monday (1/26). The “fuel movement” gates between the SFP and the reactor vessel drywell were reinstalled on Thursday (1/22), isolating the SFP from the drywell. The drywell is being drained of water in anticipation of reassembling the (empty) reactor vessel. Vessel reassembly will assure that no reactor vessel components will interfere with any future activities conducted on the refueling floor. VY expects vessel reassembly will be completed by the end of next week. System tag-outs for shutdown equipment and systems maintenance for maintaining SFP integrity continues.

### NRC Atomic Safety Licensing Board (ASLB) Denies Vermont’s Request for Hearing

On 1/28, two members of the three-member ASLB ruled that Vermont’s Request for a Hearing regarding the continuation of the Emergency Response Data System (ERDS) does not have merit and is denied “because Vermont’s contention collaterally challenges an NRC regulation and therefore is not admissible.” The third, dissenting, ASLB member disagrees with the conclusion that Vermont’s contention is not admissible. The majority opinion is that ERDS is not required for “nuclear power facilities that are shut down permanently or indefinitely”. The minority opinion is that the exemption to the NRC regulation relied upon by the majority only applies to nuclear power facilities that were shut down permanently or indefinitely at the time the regulation was written (early 1990’s), and that this exemption does not apply to facilities that had installed ERDS and then shut down in the future.

### Update on VY Staffing Level Changes

Because VY has not received NRC approval of its License Amendment Request (LAR) for on-site staffing reduction and a smaller Emergency Response Organization (ERO), Entergy has implemented a contingency plan to fill the plant staffing and ERO requirements that VY’s current facility (reactor operating) license still requires. Approximately 20 employees scheduled to transfer to other Entergy facilities last week remain assigned to VY to keep these required staffing and ERO positions filled. However, approval of the LAR is expected in the near future, given the ASLB’s denial of Vermont’s petition for a hearing with respect to the requirement to maintain ERDS.

### NRC Notifies VY That Inspection Activities Have Been Moved to Its Decommissioning Program

On Thursday (1/22), Entergy was formally notified that NRC oversight activities at VY will no longer be performed in accordance with the Operating Power Reactor Inspection Program, nor will they be conducted by the NRC’s Nuclear Reactor Regulation Division. NRC oversight will now be conducted in accordance with the Decommissioning Power Reactor Inspection Program. Oversight will be led by the NRC’s Region 1 Division of Nuclear Materials Safety (DNMS).

### NRC Senior Resident Inspector Departs from VY

Senior Resident Inspector Scott Rutenkroger's last day at VY was Thursday (1/22), and he will transfer to the Limerick Power Station (outside Philadelphia). Resident Inspector Sarah Rich will continue full-time at VY through approximately the end of June 2015, when she is expected to complete the "transition to decommissioning" inspections at VY prior to moving to the Indian Point Power Station (north of New York City). The NRC has budgeted for a Resident Inspector position at VY through the end of December 2015, which assures that an on-site inspector or an augmented inspection team will be available should any emergent VY issues warrant NRC oversight through the end of the year.

#### Vermont Gas Systems Addison Transmission Pipeline Project

VGS developed written procedures, during this report period, related to actions to preserve project pipeline sections which are installed below ground in Williston, Essex and Colchester. The procedures are intended to specify company methods to replace oxygen in pipeline segments with nitrogen. Engineering reviewed the documents and informed VGS representatives of several deficiencies related to equipment identification, prerequisite knowledge references and method descriptions required to execute the processes. The company acknowledged the deficiencies and informed Engineering the documents will be revised to address the concerns prior to performance of the procedures.

#### Vermont Gas Systems Operator Qualification Program

The Department Gas Engineer will be attending a meeting, later this week along with other New England gas safety regulators, to review a template program for the purpose of gas pipeline company compliance with federal regulations related to personnel qualifications. The template was developed by the regional natural gas consortium, Northeast Gas Association, and is utilized by Vermont Gas Systems Inc. This activity initiates PSD's 2015 inspections of VGS's Operator Qualification Program.

#### Propane Company Inquiry

The Engineering Div. revised Department guidance for propane company emergency notifications to include current contacts at the PSD and PSB. This guidance will be included with a request to provide emergency contacts from propane companies pursuant to Public Service Board Rule 6.100. Engineering has informed the Board and the Vermont Fuel Dealers Association that this request is planned to be distributed during the next week.

#### ISO-NE Bulk Power System Update

Engineering participated in a conference call held by ISO-NE on January 27 to provide government contacts for OP4 (Action During A Capacity Deficiency – a set of 11 actions) with an update on bulk power system conditions during the current snow storm. ISO-NE stated that the system was actually in very good condition. The main event for that storm was the loss of Pilgrim Nuclear Station due to the loss of two 345 kV transmission lines that tie the plant to the grid. ISO-NE had anticipated the possible loss of generation and added extra sources in the day-ahead plan for 1/27. The system loads are down due to many states implementing travel restrictions. At the time of the call (10:30 am), New England was reporting about 30,000 outages, mostly in MA. Snow depths were trending lower than forecasted. Vermont power

outages on 1/27 were within the normal (non-storm) range.

### Municipal Electric Association of Vermont (MEAV)

Engineering attended the MEAV meeting on January 23. Highlights of the meeting included: status of pole treatment, how to increase utility participation in the emergency preparations conference calls, how to get more utilities to report outages on vtoutages.com, qualifications of workers involved in mutual aid for other utilities, VELCO requirements of under-frequency load shedding and whose load gets shed, costs of storm restoration, and storm accidents. The most discussion involved how storm costs are dealt with. The municipalities and coops have to cover their own costs from operating revenues or re-imburement from FEMA (if a storm is large enough), while GMP, through alternative regulation, can pass through the costs as an adder to rates. The municipalities feel this can lead to higher costs to consumers by excess crews being staged ahead of time and then not needed, but having to be paid for by rate payers.

### Weekly Summary of Underground Damage Prevention Activities

Underground Facility Damage Reports (UFDR) received: 3

### ***Regional Policy***

#### Connecticut PURA Docket on SPEED

- The Connecticut Public Utilities Regulatory Authority is providing the opportunity to file any final comments in the docket by February 2. Staff have prepared draft comments that highlight the issues that need to be addressed and argues that the question of individual representations by Vermont utilities (an issue raised by Vermonters for a Clean Environment) is not relevant to PURA's consideration of the SPEED program.
- The draft has been circulated to Vermont utilities participating in the PURA docket and Washington Electric Coop, VPPSA, and Burlington Electric Department have indicated support for the filing.

#### Consulting Services for Assistance with NEPOOL/ISO-NE issues

- The DPS is engaging a consultant to help cover NEPOOL meetings and provide targeted strategic assistance on specific matters before NEPOOL and ISO-NE. Response to the RFP were received on January 28. Although the subject matter is fairly specialized, there are a few legitimate responses from qualified firms.

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

#### Electric

Barton Village Electric – Misuse of Bond Proceeds; this week we received an information request from the PSB including a request for our recommendations on Barton's informational filing disclosing that it may have misused bond proceeds. We are continuing our review of the filing and will prepare a response that is due on February 2. PA will discuss with Barton's counsel our possible recommendations that essentially include comments that Barton needs to file for a rate increase, restore and segregate the misused funds, consider asking VEC to

manage and perhaps eventually purchase the electric department, discuss Barton's misinterpretation of the PSB order on what the Bond funds can be used for and discuss the possibility that tax payers may need to cover a possible shortfall in the range of \$300,000 or more.

Enosburg: Franklin Foods Economic Development Special Contract (draft) — Staff has reviewed a draft proposal to lower Franklin Foods electric rate by \$.02 for the next 3 years. In response to informal inquiry regarding an accounting order to defer the costs of the discount, we initiated informal discovery with VPPSA to learn more specifically what the rate impact of the contract may be on Enosburg and are awaiting a response. We have followed-up with VPPSA and learned this week that Enosburg is hesitant to absorb the discount after learning that its 2014 load actually decreased when it was expecting an increase of 2 to 3%. The issue is currently pending before its Board for a decision.

Stowe Electric Department (SED): Tariff 8553-Rate Design- Stowe filed for approval of its updated/new rate designs that include updated cost allocations, consolidation of customer rate classes and new optional Time of Use and Critical Peak Pricing rates. The rate class cost of service and rate redesign is the first in Vermont to use load data generated by AMI (Smart Meters). This week we received the electronic spreadsheets that support the cost allocations. The rate design is now under review and a Department recommendation is due March 16, 2015.

Swanton: Tariff 8536-Rate Design Filing – This is Swanton's rate class cost of service and rate design filing. This week the PSB held a Pre-hearing conference where a schedule was set for the case. Staff is reading through the petition for possible discovery questions.

Swanton: Docket 8291--Financing for Capital Projects Compliance Filing: This week Swanton submitted executed loan documents for two of its capital projects. There are some questions regarding unclear language in the documents pertaining to use of the utility truck and how the funds for the loans will be recovered [through electric department rates and fees (ratepayer revenue) or through municipal tax revenue]. Staff is preparing questions for review to be sent to Swanton.

VEC Miscellaneous Charges TF 8554—VEC has filed a petition to update rates for its miscellaneous services (such as disconnections, reconnections, establishment of service) that were last updated in 2009. The proposed changes are to reflect VEC's current costs to provide such services and to match utility costs with cost causation. We are considering opposing this change and recommending that such rate changes be made as part of a general rate increase when all rates would be changed. Our review is continuing this week. A PSD recommendation is due February 18, 2015.

Washington Electric Cooperative: WEC has filed for an Accounting Order to Defer Extraordinary Storm Expenses that may range from \$850,000 to \$1 million. Subsequent revisions indicate storm damage may be in the \$650,000 range. WEC proposes to defer all expenses associated

with the winter storm into a regulatory asset account to avoid significant adverse financial consequences to WEC and its members. Staff completed its review and submitted a recommendation on January 23.

### Natural Gas

Vermont Gas Systems (VGS) — Alt Reg Plan (ARP) extension---We met with VGS to discuss a PSD draft of changes we are proposing to the VGS ARP that included the need for a fully litigated rate case if VGS plans to include the Addison/Middlebury plant in its rate base for its FY commencing on October 1, 2015. At the meeting VGS indicated it has not yet determined when the project may be completed and placed into service and therefore may want to simply extend the existing ARP for one additional year and thereafter, have a fully litigated case for the 2016/2017 rate year. They are to let us know how they would like to proceed. We have indicated we would have no objections to the one year extension along with some minor tweaks to the plan. An Alt Reg Plan recommendation is due to the Board by January 30, 2016.

VGS —Interruptible Tariff Filing TF 8555—The filing reflects a Trans Canada Pipe Line (TCPL) toll rate increase of 60.5% that we estimate will cost rate payers about \$2,000,000 a year. The increase was approved by The National Energy Board of Canada on December 18, 2014 for service rendered on and after January 1, 2015. VGS has four tariffs (Rate IS, Rate IS-O, rate IS-CNG-T, and Rate GS) that include upstream transportation charges that fluctuate on an equal basis with the TCPL Parkway to Phillipsburg firm transportation toll. The updated charges will be effective on a service rendered basis January 1, 2015, and a bills rendered basis February 1, 2015. We have completed our review and are preparing a recommendation that the tariff be approved as filed. A Department recommendation is due to the Board on or about January 31, 2015.

*vgh. will hit  
MFGS.*

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

VGS—work continues on the use of rate payer provided expansion funding. The parties have agreed to work together to build a ‘model’ that will delineate the financial rate payer impact of various options. PA is assessing the probability of a successful outcome regarding a possible IRS private letter ruling. We are continuing work on the model this week.

### Water

Woodstock Aqueduct (WA) –filed a petition on November 1, 2014 for a 20.3% or \$75,106 rate increase effective with service rendered on February 1, 2015. WA's proposed rates are designed to produce an overall 20.3% increase but it is not an across the board uniform increase. Staff completed its analysis and sent a recommendation to PA on January 12. Thereafter, it was discovered that Woodstock never posted its customer notice, and had to change the effective date to April 1, 2015 to allow time for customer feedback. Woodstock submitted its Proposed Rates, Rules & Regs, and Disconnection Notices for review and staff

noticed a discrepancy and brought it to PA's attention to clarify with WA. There is nothing new to report this week.

### Energy Efficiency Utilities

Fiscal Agent (FA)-Financial Statements: Request for Restatement of 2012 and 2013 Energy Efficiency Charge Financial Statements - The Department provided comments to the PSB proposing that the FA restate its financial statements for 2012 and 2013 and note in those restatements that there were material misstatements of remittances as well as a failure of internal controls to ensure accurate and reliable financial statements. The FA provided comments to the PSB responding to the Department request saying the mistake was the fault of GMP and that some of our statements were "very misleading and inaccurate". Staff has prepared a draft response to the FA comments that is under review in PA.

BED –Staff completed its review of the December invoice; found no exceptions and approved the invoice for payment.

VEIC – Monthly Teleconference – Staff participated in the monthly invoice review. VEIC's Jim Massie discussed the large customer incentive balance and said the balance would likely remain large throughout the coming year. Controller Fred Holland discussed their changeover from BC/BS to CIGNA and that BC/BS presented them with final billings and claim close out costs at year end.

Fiscal Agent Reconciliation Summary – October 2014 – The Fiscal Agent (FA) sent the October 2014 financial reports. Staff prepared the monthly review of the financials and the Reconciliation Summary and found no issues with the FA report.

### Non-Docket Projects

Staff is continuing to work on a comparison of GMP's and VGS Alt Reg plans that identify differences between the plans and how those differences impact stockholders and ratepayers. We are completing the comparison in anticipation it will be needed later regarding inquiries from AARP and the legislature.

February 5, 2015 REMI – Seminar – Economic Impact of (Maryland) Marcellus Shale - to discuss an impact analysis conducted on future gas production in Maryland, implications for economic output, jobs and wages, state and local tax revenues, and property and land values.

### Annual Reports and Gross Revenue Tax:

Barton Village Electric – Annual Report for 2013 – Barton Electric filed its 2013 Annual Report this week. It showed a difference due in the Gross Revenue Tax of \$24.46 and the check for the difference was received Friday, January 23, 2015.

MBE Coin Phone – Annual Report for 2014 – MBE Coin Phone sent in its 2014 Annual Return with the minimum Gross Revenue Tax (GRT) of \$20.00.

All utilities – GRT Fiscal Year to Date – Amount collected Fiscal Year To Date totals \$1,044.46.

### ***Public Advocacy***

VEPPI / VEC Billing Dispute – No Docket – Vermont Electric Coop and VEPPI have had a dispute regarding the manner in which VEC wants to charge VEPPI for wheeling services for SPEED projects. VEC has billed VEPPI in a manner that VEC believes to be consistent with its tariff. VEPPI brought the matter to the Board and the Board sought comments from PSD and the utilities. The other utilities are concerned about VEC’s approach because they believe it unfairly puts their ratepayers in a position of subsidizing VEC’s ratepayers. While the Department understands this concern, the Department’s position is that VEC must follow its tariff and bill VEPPI accordingly. In its comments, VEC raised concerns with the approach that was generally approved by the Board in 2009. The next step is for the Board to address the matter. Given the disagreement among utilities, some sort of further Board process is likely.

VTC Digester – Docket No. 7965 – On January 15, a complaint was filed by the proprietor of a campground near the Vermont Technical College digester in Randolph regarding odors from the facility. The complaint was accompanied by a petition with approximately 50 signatures. Department staff has already contacted VTC about odor complaints. The Department again contacted VTC to informally follow up on the odor complaints. VTC stated that there is an internal call scheduled for January 30 to discuss the issue and that VTC would respond next week.

Rule 4.100 Workshop – No Docket – Board staff has indicated that a Board staff workshop will be held on February 19 to discuss potential revisions to Rule 4.100, the rule implementing PURPA in Vermont. Rule 4.100 was the vehicle for a recent avoided cost rate-setting proceeding in Docket No. 8010.

VGS – Alternative Regulation – No Docket – The Department is in talks with Vermont Gas regarding an extension of its existing alternative regulation plan, with a commitment to report to the Board by January 30 on whether the parties could reach agreement. If not, a new plan and full rate case would be filed. Department staff and VGS staff are nearing agreement, subject to approval by senior leadership. The Agreement would extend the Plan for one year with two modifications: (1) clarifying the manner in which the capital structure is established; and (2) clarifying the documentation requirements necessary to meet the known and measurable standard. Importantly, VGS would commit to keeping all Phase I capital costs out of rates for the upcoming year. While VGS may seek to include some Phase I related expenses, the Department and VGS would reserve the issue for now and seek to reach agreement on any allowable expenses in advance of VGS’s base rates filing. The next step is for VGS and the Department to file a letter indicating that an agreement in principle has been reached and seeking another week or two to finalize.

Barton Solar Alleged Violations – Docket 8372 – Leslie Cadwell has filed a notice of appearance along with an affidavit from Robert Grant and a number of supporting exhibits. The PSD is in the process of reviewing this filing in advance of the Order to Show Cause Hearing scheduled

for January 29<sup>th</sup>.

Woodstock Aqueduct Company – Tariff 8535 – The PSD continued to engage in negotiations with the company regarding the substance of its filing and the appropriate process. Additionally, the PSD (CAPI) reviewed and edited the notice to customers. As requested by the PSD, the petitioner withdrew the filing; spoke with the PSB regarding the notice to customers; and re-filed the petition with the PSB.

TDI /New England Clean Power Link Project – Docket 8400 — The petitioner, ANR and the PSD engaged in lengthy negotiations regarding the schedule, which resulted in agreement. The PSD participated in an uneventful prehearing conference. Conservation Law Foundation has moved to intervene. PSD is unlikely to object to the intervention. In furtherance of our 30 V.S.A § 218c(7) obligations, the PSD continues to reach out to select boards to schedule meetings to discuss the Department’s role as the public advocate. If the PSB adopts the agreed-upon schedule, the site visit and public hearing will be held February 18<sup>th</sup>.

VY Decommissioning – No Docket – The Department signed onto a letter on behalf of the State to the NRC in response to a December 30 Entergy pre-disbursement notice seeking withdrawal of \$18 million from the decommissioning trust for unspecified decommissioning costs. The State is requesting that the NRC require a more detailed cost analysis for Entergy disbursements, consistent with the Decommissioning Master Trust Agreement requirement. On January 6 Entergy filed an exemption request to the NRC to allow for use of \$225 million for spent fuel management expenses. The exemption request has yet to be noticed in the federal register.

VY ERDS License Amendment Request – NRC 50-271-LA – In a split decision, the Atomic Safety and Licensing Board denied the State’s contention, concluding that the contention is an impermissible collateral attack on an NRC regulation. The Department is exploring the possibility for an appeal of the Board’s decision.

VY PSDAR – No Docket – The Department met with the larger VY interagency group, and concluded that agency comments to the NRC should be completed prior to the February 19 NDCAP meeting with the NRC. Draft comments are planned to be complete by February 6.

FairPoint Service Quality Investigation – Docket 8390 – The Department met with its outside expert consultants to discuss the goals of the Department’s investigation activities. The Department is focused on forwarding all appropriate information to the consultants. FairPoint responses to the Department’s first round of discovery requests are due January 28. Second round requests are due to FairPoint by February 11. The Board issued an order allowing limited party status to IBEW, limiting its participation exclusively to address service quality issues, not issues related to working conditions and/or labor relations.

Addison Expansion—Docket 7970—On January 23, the Board filed a Motion with the Supreme Court requesting a remand. Unfortunately, they neglected to copy the parties so no one was

aware of this until the evening of January 27. In response to the Board's Motion for remand, appellant Kristin Lyons filed a separate Motion requesting an unlimited scope upon remand (having found the Board's requested scope too limited) or a ruling in her favor on the merits, which would effectively return the underlying matter of the issuance of the CPG to the Board's jurisdiction.

The Department continues to work with the company and affected landowners regarding easement/condemnation issues. Letters to landowners went out last week and several forms have been returned, seeking either the pause in communications with VGS or reimbursement of expenses or both. The Department has established a work plan which will hopefully allow for the smooth administration of this process.

Addison Expansion Phase 2—Docket 8180- On January 23, the Board ordered VGS to file a cost estimate update and proposed schedule, or a status report, by February 17. The Department has been advised that a revised cost estimate will be filed on January 28, but that due to ongoing negotiations with IP, VGS will not be in a position to advise regarding schedule/status going forward until February 17.

Vermont Gas-Plouffe condemnation--Docket 7819- The Hearing Officer issued an order vacating the remainder of the schedule, with the exception of the site visit, which will go forward. It has been rescheduled for a third time to February 2. VGS requested that the Board issue an order as to the scope of the compensation phase as it prepares to produce its testimony. In the order vacating the schedule, the Hearing Officer indicated that an order as to evidentiary scope, as well as a new procedural schedule, was forthcoming.

VGS/ Energtek--Petition pursuant to 248(j) to construct facilities in Swanton—Docket 8427- Construction of these facilities is necessary to allow VGS to serve Energtek's proposed CNG facility. Comments as to whether the petition raises a significant issue with respect to the substantive criteria of Section 248 are due by February 23. Engineering will review. The Nultys advised the Department that they will no longer be associated with this business venture due to differing management styles.

AARP Low Income Electric Assistance—Docket 7535—Pursuant to a previous Board order, GMP is required to report on the status of the Electric Assistance Program at the end of its second year of operations. GMP notified the Board on January 26 that, in order to provide a comprehensive report to the Board, it needed information from DCF that would not be available until sometime in February. Therefore, with the support of the Department, GMP advised the Board that it plans to file the report in March.

Chelsea Solar – 2.0 MW Standard Offer Project in Bennington - Docket 8302 – PSD continues to work on review and filing of a Partial MOU which would reflect our support of the project on the criteria of concern to the Department. The deadline has been extended by the Board on two occasions, but needs to be extended again in order for us to complete our review. PSD will hold a status conference on 2/29, presumably to discuss scheduling issues on this docket going forward, relating to the impacts of a 1 mile line extension necessary to serve

the project. (The petition did not include any information regarding the line extension.) PSD will request additional time to finish the initial Partial MOU.

VEC Substation in Alburgh - Docket 8378 – No additional parties intervened in this docket. Discovery is due 2/4/15. PSD will be seeking discovery on aesthetic impacts and potential mitigation of project impacts on nearby residential property.

VEC-VELCO Substation in Newport - Docket 8385 – Site visit and public hearing are scheduled for 1/29. VEC and VELCO report that no adjoining landowners have expressed objections to the project, and Town Selectboard and Planning Commission have filed letters of support. The project involves expansion of existing VELCO substation, decommissioning of a small VEC (former Citizen’s Utilities) substation several hundred feet away, and construction of a new VEC substation within the newly expanded VELCO substation footprint. Upon initial review this project likely to be an improvement from existing conditions under all applicable Section 248 criteria.

Use of EEC Funds to support electro-technologies - Docket 8311- The Department, all Energy Efficiency Utilities and all Distribution Utilities are parties to this docket. Eight parties, including PSD, filed testimony on 1/23 stating positions on the statutory criteria that govern the Board investigation. The next component of the schedule gives all parties the right to ask discovery on the testimony of any other party by 2/3. PSD is meeting on 1/29 to discuss what discovery questions we believe we need to ask of the other parties based on their testimony.

Cold River Solar – Docket 8188 – The Board held a site visit to the Project site at the request of an intervenor group to address potential aesthetic impact on surrounding homes. The visit was well attended. The Board members did not give any indication as to their thinking on the issue. A Proposal for Decision has been issued; comments were filed in December and oral argument held in early January in response to the PFD.

Stowe Business Process Review – Docket 8084- The Board hearing officer issued an order seeking additional information regarding plans for implementation of two recommendations made by the BPR consultant. Additional information is due to the Board by February 3.

Barton Bond Proceeds – No Docket - On March 25, 2011, in Docket No. 7719, the PSB issued an Order approving a request by the Barton Village Electric Department to issue bonds in the amount of \$1,850,000 to fund upgrades to an existing 46 kV transmission line. On January 12, 2015, Barton filed a letter notifying the Board that Barton may have taken actions in the use and accounting of the bond proceeds that were not consistent with Vermont statutes and the Order. Specifically, Barton reports that excess proceeds left over from the Project in the amount of \$731,082 were co-mingled with other municipal funds of Barton Village and may have been used for other, unauthorized purposes in addition to repayment of the bond debt. Barton had previously notified the Department of this issue and came in to discuss it just prior to its filing with the Board. On January 23 the PSB issued a memo asking whether the PSD was discussing the matter with Barton, and what PSD would recommend for next steps. The Board

seeks a PSD response by Feb. 2.

Ascutney Mountain Water Co. – Docket 7653 – This water system is located at the Ascutney Mountain Resort, which is no longer a functioning ski resort since a creditor foreclosed and began selling the assets. The “caretaker” owner of the water system is poorly capitalized, unable to enforce payment by customers, and would like to transfer the system. On January 8, 2015 the base lodge with some water system infrastructure inside was destroyed by fire. This development catalyzed the execution of an Asset Purchase Agreement between the current owner and the Town of West Windsor, as well as an agreement that the Town should take control of the system immediately as a receiver. An unopposed motion to that effect was filed on January 28. PSD will write to urge prompt action on the motion.

SunE DB11, LLC – Docket 8248 – The PSB determined that the petitioner’s proposal to use a temporary access point does not constitute a substantial change to the project. Also, the petitioner filed its Amendment to Irrevocable Standby Letter of Credit reflecting the SunE DB11 as the new CPG holder.

GMP IRP – Docket 8397 – The hearing officer issued his prehearing conference memorandum and scheduling order. The public hearing will employ Vermont Interactive Television and has been scheduled for February 9<sup>th</sup>.

### ***Telecommunications***

FairPoint Service Outage in November – PSD staff were contacted by, and then met, with an FBI agent who is investigating the November service outage that resulted in a statewide inability of telephone customers to reach 911. The agent is investigating whether the outage may have been caused by an intentional act of a third-party. (PSD staff believes this is not the case). Members of PSD telecom staff have agreed to keep the agent apprised of information we receive regarding the outage as the service quality investigation proceeds.

FairPoint Service Quality – PSD staff continue to have two calls per week and one in person meeting per week with FairPoint’s Maine and Vermont state presidents. The backlog of repair and service orders has substantially reduced over the past couple of weeks.

Transition of the VTA to the PSD – As transition meetings continue between PSD staff and representatives of the VTA, a current issue involves the VTA’s desire to issue an RFP for management of the VTA fiber projects. All VTA fiber projects are due to be completed prior to July 1, 2015. As the management contract anticipates that maintenance and repair will have to be sub-contracted to a third-party, PSD staff would like to explore whether it would be more cost effective to have one of the newly envisioned connectivity staff manage the fiber projects rather than an outside vendor. Members of PSD telecom staff have requested all contracts and other agreements regarding the fiber to determine what, if any, obligations PSD will assume. In addition, PSD staff have contacted Leslie Cadwell, who has been retained by the VTA, for a meeting regarding this and other transition issues.

Dispute between E911 and Intrado – Intrado currently manages the E911 system and its contract to perform these services expires June 30, 2015. FairPoint has been selected by the E911 Board as the successor to Intrado and its contract begins August 1, 2015. FairPoint has notified the E911 Board that Intrado will have to perform various services as a part of the transition from Intrado to FairPoint, including management of the system for the month of July. While the current Intrado contract anticipates that transition services may be negotiated, there is a billing dispute between the E911 Board and Intrado for other services under the contract and Intrado seemingly is refusing to negotiate a transition agreement. PSD staff are working with the E911 Board, the assistant AG assigned to the E911 Board, and Intrado to resolve this conflict so that a transition services contract may be negotiated.

Justin  
←

Connectivity Initiative – On Monday, February 2, the PSD will post the RFP for bids under the Connectivity Initiative pursuant to Act 190 to provide broadband to unserved and underserved areas. Letters will also be sent to all known broadband vendors in the state seeking responses.

Charter Cable CPG Renewal – PSD will file comments on the PFD issued by the hearing officer. The PFD is consistent with the MOU entered into by Charter, VAN and the PSD.

Sale of Stowe and Jeffersonville Cable Systems – A prehearing conference has been scheduled for Friday, February 6. For years PSD staff have heard complaints from Stowe Cable customers about the lack of programming and this will be an issue in the proposed sale of the system.

Connectivity Initiative RFP– Stone prepared a final version of the locations eligible for the Connectivity Initiative RFP. This includes 268 census blocks that contain 9347 locations. Of these, 544 are unserved, 1227 are underserved, and 7576 are served/to be served. The forthcoming RFP will seek proposals to provide 10/1 broadband service to the 544 unserved locations on a census block basis.

VTA Funded Locations – The VTA provided information about VTA-funded projects. Stone used this information to develop a database of locations that are to be served by these projects. The PSD is attempting to correlate this information to the VTA projects list provided for the transition to the Connectivity Division.

Sovernet Locations– Sovernet provided the PSD a list of 384 locations that are presently connected to the Sovernet fiber project funded through the VTA. Sovernet has so far refused to publicly release the fiber route map, and only provided the list of connected locations after pressure by the VTA. The PSD has directed Stone to plot the approximate route map based on the list of connected locations provided by Sovernet.

FairPoint Service Quality Expert – The PSD has retained Interisle as telecommunications experts in the FairPoint service quality investigation. Interisle will review the first round of discovery questions due this week.

Stowe Cable CPG Petition – The Board has docketed the Stowe Cable sale petition and scheduled a pre-hearing conference. Division staff has brought together a member of CAPI and a member of Finance and Economics to begin work on the petition. Although a community needs assessment is not required, there may be benefit to having some level of assessment done since Stowe Cable has operated under its current CPG since 1983 without undergoing an assessment.

Connectivity Initiative RFP – Staff completed the RFP for the connectivity Initiative’s first round of grant funding. The fund has a balance of \$963,349.79 available for projects initiated under the Connectivity Initiative. It is the intent of Division staff to utilize as much of this money as possible.

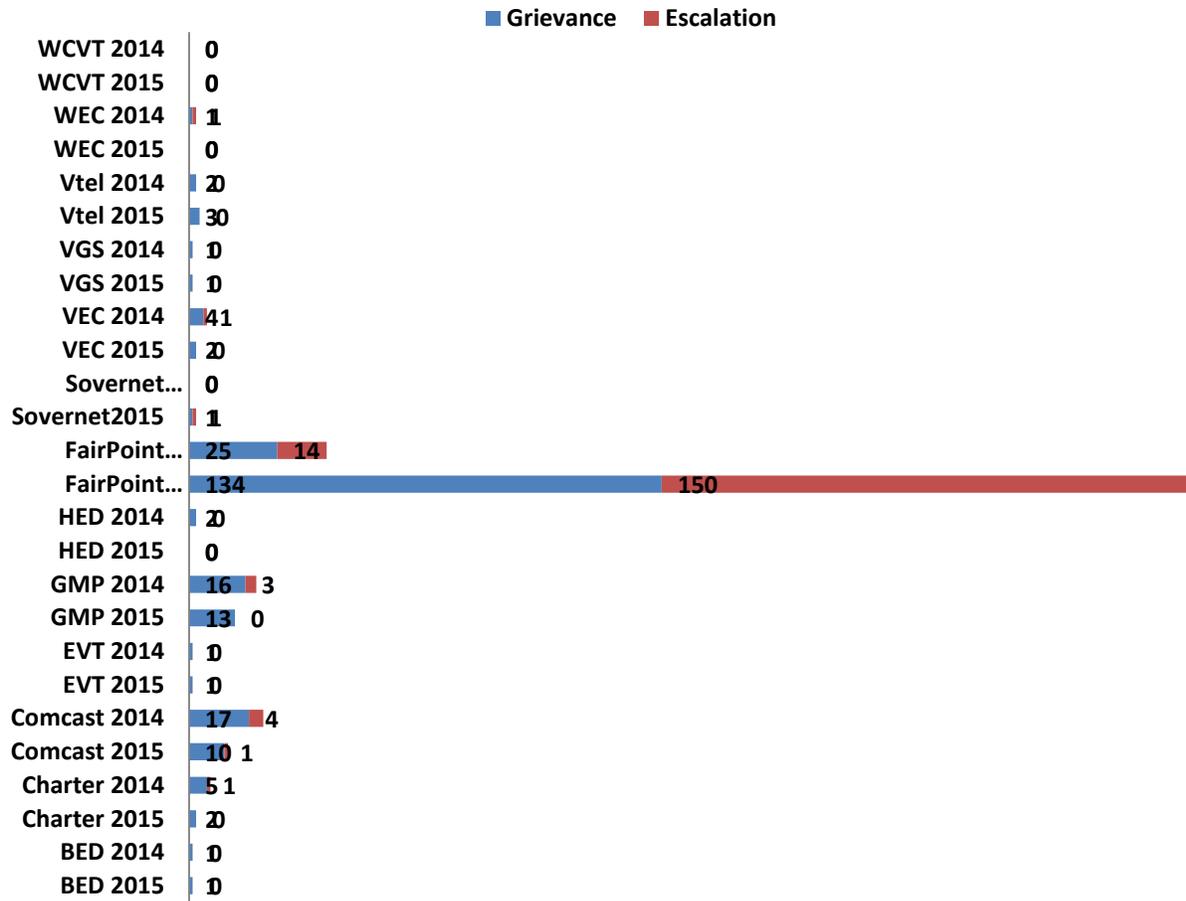
Waitsfield Cable Rate Increase – Pursuant to Rule 8.322, Waitsfield filed notice with the Department that it is raising its rates for cable service.

Burlington Telecom Channel Lineup – Burlington Telecom file notice, pursuant to Rule 8.322, that is changing its channel lineup. Two channels were added, and three deleted.

FairPoint Vermont Inc. Service Quality Report – FairPoint Vermont (not FairPoint Communications) submitted its service quality report for the fourth quarter of 2014. FairPoint is meeting all of its benchmarks – including “troubles cleared in 24 hours” which continues to be a serious problem for the larger company.

**CAPI**

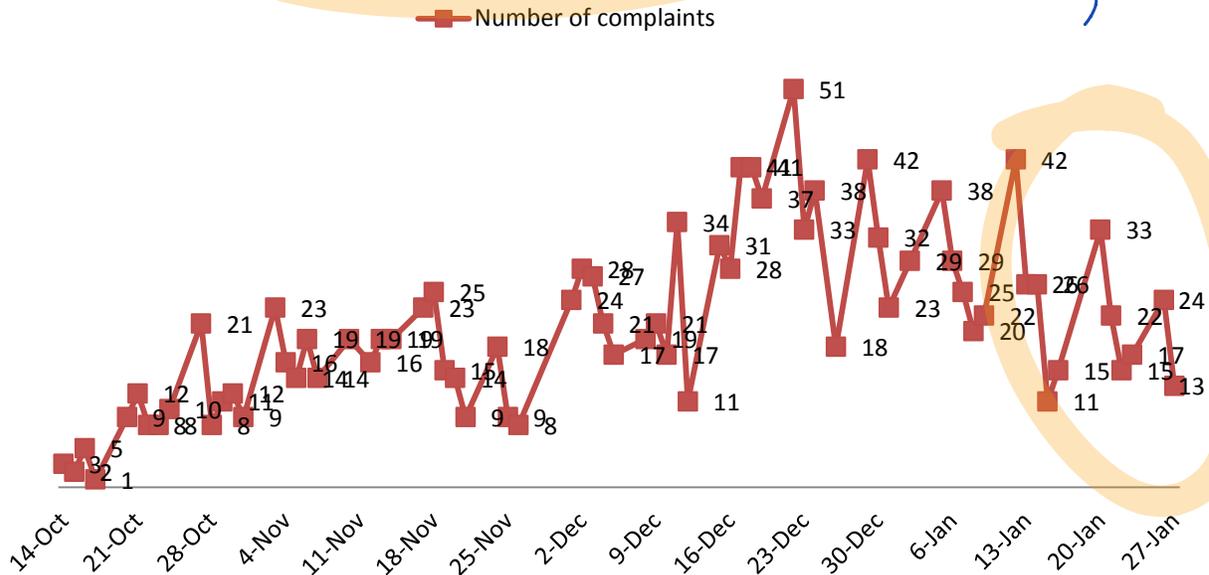
## Number of Complaints Investigated, by Company YTD 2013 and 2014



## FairPoint Complaints

Beginning 5 days before 10/17 strike to present

9050



### CONSUMER COMPLAINTS

Complaint topics included, but were not limited to:

- (87) FairPoint: majority were service restoration delays
- (3) VTel: (1) Billing; (1) broadband build out questions; (1) private property easement questions
- (6) GMP: (4) Arrangements on disconnection notices; (2) billing
- (4) Comcast: (1) number not in White Pages; (1) channel options; (1) voice mail issue; (1) policy regarding changing account out of a deceased person's name
- (1) VEC: \$3 fee for receiving a disconnection notice
- (1) Verizon Wireless cell phone booster/internet issue
- (1) Great Auk Wireless: broadband service problems
- (1) Broadband availability

### OTHER DIVISION ACTIVITY

Equipment Distribution Program: Staff have drafted, and in some cases finalized, updated versions of website content and application materials for this program. In addition, staff made contacts with potential vendors of communications equipment to establish accounts and ordering and billing procedures. A notice has gone out to relevant community organizations, doctor's offices, and others in the deaf and hard of hearing community to inform them that the program is now accepting applications.

Stowe Cable CPG: CAPI is working with Telecom to determine the scope of work and who will be involved from the Department in this case. Discussions included the potential community needs assessment and outreach requirements which may be imposed upon the incumbent

owner and management as part of the new CPG.

Green Mountain Power: GMP contacted CAPI regarding a customer due to be disconnected who the company feels poses a threat to staff. CAPI is organizing a conference call with GMP, to include our Public Advocacy division, to discuss procedures to disconnect this account. We will discuss the process the Department supported with Vermont Electric Cooperative whereby they seek a waiver of Public Service Board rules prior to initiating a remote disconnection without on-site notification to the consumer.



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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO: Governor Peter Shumlin**  
**FROM: Secretary Justin Johnson**  
**DATE: January 30, 2015**  
**SUBJECT: Confidential Report to the Governor**

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**BUILDINGS AND GENERAL RESOURCES**

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

Waterbury State Office Complex Tour with Legislators: Mike Stevens provided a terrific overview and tour to House Corrections & Institutions and Senate Institutions, along with Michael Clasen. This was a very exciting and productive activity which resulted in positive feedback.

109 State Street: Lockers are on order (expected to arrive mid-March) and will be installed in the first floor lobby upon arrival. *process!*

Montpelier Heat Plant: A meeting was held 1-26-15 with Julie O'Tool Gutzgell, Tom Sandretto, Brian Halloran and Teigh Southworth. They discussed the technical read-outs of energy consumption that the meters can put out. Agreement was reached on what would be utilized for monthly billing. Brian and Teigh were able to work through questions that had come up – positive result. Julie just received the draft billing for November and December. The process for getting the bill to the City of Montpelier is in working order. We all are waiting to hear the City's response from the Council Meeting on 1-14-15.

Randolph AG/ANR Lab: BGS preparing presentation, along with AG/ANR for the legislature. Received Woodchip Feasibility Study from consultant. Also discussing permitting and working with VTC. Presenting to Senate Institutions on Friday (1/30) at 1:00pm.

Fleet Management Services (FMS) Report Cards: Harmony Wilder is developing individual "Report Cards" for departments as a means of engaging the customers in a practical consideration of under-utilized vehicles, size of vehicles, standardization considerations, etc. She has met with VTrans

recently; they have asked to receive the report quarterly. She is developing the BGS report card and will be scheduling a meeting to discuss the results with appropriate BGS staff.

Barre Motor Pool Location: Harmony Wilder has been contacted by Joel Swartz from the Barre Area Development Group who will be installing two dual-port charging stations in the Pearl Street lot behind City Place. He was asking whether Fleet would be interested in parking two plug-in vehicles at that location. HHW will respond to let him know Fleet is interested. She will reach out to AOE to discuss dispatch; she is waiting to hear from Court Administrator's Office relative to developing an agreement with the sheriffs at 255 North Main.

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

Hebard Condo Discussion: Meeting with Sec. Johnson, James Nash, Allen Palmer, Julie O'Tool Gutsell and Jeff Lively to discuss handling of the normalization of the Hebard Condo Association and the diligence associated with acquisition of Asa Bloomer (1/1/18).

Gas Fuel Discussion: Met with Jim Reardon, along with Wanda Minoli, to discuss whether BGS has any fuel savings to share.

National Life Parking Challenges: Met with Michael Clasen, Chris Cole (VTrans), Louis Porter (DFW), and Trey Martin (ANR), Bob Ferlazo, Ed vonTurkovich, Deb Ferrell and Harmony Wilder – There are currently 8 spaces reserved for SOV vehicles on level 4 of the parking garage – used by Commissioners/Secretaries. MJC to ask NL for an additional 6 spaces (either in the parking garage or in the upper parking lots) to accommodate 3 DFW (enforcement), 1 DEC (spills), and 2 VTrans (haz mat) vehicles.

## **FINANCE AND MANAGEMENT**

Nothing to report.

## **HEALTH CARE REFORM**

No Report.

## **HUMAN RESOURCES**

### **Legislative Update:**

Met with House Appropriations to familiarize them with the Position Pool, Position Pilot, and Pay Act. The committee appeared to understand the challenges of managing the pool with so few positions and **seemed open to the idea of expanding the pilot program to include more departments;** we stressed the need to continue the strong review process currently in place (review and approval by the Secretary of Administration with input from DHR and F&M, then a review period for the legislative committees for Appropriations and Government Operations).

## Significant Events/Meetings:

Informed senior leadership of ACCD, AG, ANR, AOE, and AOT that we will change the HR Management assigned to their agencies -- HR Manager Dimick will assume management of the DHR ACCD/AOE/AOT unit and HR Manager Theis will assume management of the DHR AG/ANR unit. The transfers better align the managers' skillsets with customer needs.

The Deputy, Field Services Director and Investigations Supervisor met with Champlain College forensics management to tour the facility and discuss service levels and costs. We continue to work with DII to explore possible benefits of a statewide contract but Champlain will allow us to utilize their services on an as-needed basis and will honor the rates listed in the expired contract.

The BCBS implementation audit is nearing completion and we expect to receive a report of the findings this week.

The Benefits Division is analyzing the Cigna and Express Script audits to see if any reconciliation is needed based on the findings.

There is a BAC meeting this week for a presentation from BCBS regarding the pilot Episode of Care program.

Delta Dental provided us with a \$25,000 performance guarantee penalty check for not having recruited as many dentists into the new network as we had hoped but savings from this new network group are at an acceptable level.

We are doing a "soft start" on the use of Twitter to "tweet" job openings. As we stabilize the process, we will make our presence on Twitter more widely known.

✓ for Sarah

Will present the Attorney Pay Plans to Secretary Johnson on Friday. There will be some cost to it.

Received a request from WCAX for:

- Number of involuntary terminations, voluntary terminations and retirements at the Vermont State Hospital for 2009, 2010 and 2011
- Number of involuntary terminations, voluntary terminations and retirements at the Vermont Psychiatric Care Hospital, each month between July and December, 2014
- CEO of Vermont State Hospital's salary in 2011

Scott ...

Legal is reviewing the request and data.

Received a public records request from Seven Days for the following:

- FY2015 annual rate salaries for each employee in the Governor's executive staff
- FY2015 annual rate salaries for each employee in the Senate Pro Tem office
- FY2015 annual rate salaries for each employee in the House Speaker's office
- FY2015 annual rate salaries for each employee in the Lieutenant Governor's office
- FY2014 actual expenditure salaries for each employee in the Governor's executive staff, Senate Pro Tem staff, House Speaker's staff, and Lieutenant Governor's staff.

did they tell us?  
how  
to  
proceed

Request was received on 01/26/15 and responded to today.

## **INFORMATION AND INNOVATION**

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

#### **Healthcare:**

- Healthcare security contracting is finalized and contractors have begun work.
- Integrated Eligibility (IE) – The Chief Information Security Officer (CISO) is working to ensure that IE and subsequent contracts fit into the newly designed mold for security. A review will be conducted this week to ensure alignment.
- The Pharmacy Benefits Management (PBM) project is on track from a security perspective. The vendor has provided security details that demonstrate positive competencies.
- DVHA – Plan of Action and Milestones (POAM) Status
  - 0% of all outstanding security weaknesses remain in a high/significant risk status.
  - Progress begins on remediating all outstanding Medium and Low items.
- Healthcare Hosting replacement for CGI – The state should enter into a letter of intent with a new Vendor in the next 2 weeks. All vendors being considered understand the complexities involved and need 4-5 months to complete the transition and design work. All prospective vendors currently host Health Exchange environments. Our CGI contract expires at the end of June 2015. The 3 viable replacement vendors have clearly addressed cost estimates, duration, and pros and cons of the transition effort.

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

Commissioner Boes testified to House Appropriations Tuesday, January 27th. There were some general questions on DII services to State government and the difference between allocated and demand services. Members seemed satisfied with Richard's explanation. Richard outlined the savings associated with Wide Area Network (WAN) and licensing consolidation and the upward pressures associated with increase information security demands.

Richard also testified to House Government Operations at 3PM on the 28<sup>th</sup> about DII mission, funding, and strategy; mostly educational and no significant questions.

### **Evolving Issues:**

#### **Tax:**

- The IRS audit has received another extension and is in a holding pattern pending the Tax department submitting more information to the IRS.
- Security services being built for healthcare will also be available as general services to State government entities as early as May 2015. When this occurs the Tax department will begin leveraging some of these items to help remediate security risks on its current Plan of Action and Milestones (POAM).
- 65% (211 items) of all outstanding security weaknesses remain in a high/significant risk status.
  - The penetration test of the FAST external web site is complete. No high findings.... FAST is doing a great job at securing the new Tax infrastructure.

### Other Security Operations:

- No work coverage currently exists at DII for off hours security related work that needs to be performed.  
A managed security services business case is in the process of being developed with a target approval time frame of March 2015. This is to ensure an RFP can be distributed and a project can align with the rollover of the fiscal year.
- Work is commencing to evaluate the risk situation in the Department of Public Safety. DPS is beholden to stringent FBI regulations and DII is evaluating these in context of their environment.
- The Secretary of State's security project is wrapping up with positive feedback.

W2 Processing: Distribution of W-2s is completed.

### Web

- Harry Met with VIC to begin requirement definition for the Enterprise Events Registration Service. Requirements gathering is in a final stage and prototyping will begin shortly.
- Websites for the Department of Libraries and Blueprint for Health will be going live the week of 2/2.
- The Lottery Commission has provided a site map for their problem gambling site, which will be created using the new template.
- Harry will be meeting with the Judiciary on 1/29 to begin the process of them using VIC to host their main Website.
- Harry met with VIC and DCF on 1/22 to discuss a change in the fee model for their online Child Support Payment Service. There was not good information about likely use of the service when it went live so the parties agreed on an initial funding structure. Now that there is sufficient data to predict transaction amounts the interagency agreement is being renegotiated.

## **LIBRARIES**

No report.

## **TAXES**

### **Legislative Update:**

Miscellaneous Tax Bill: The following summarizes some of the committee testimony the Dept followed this week:

#### ***Municipalities:***

*Homestead Declaration:* W&M has not considered yet.

*Municipal Garages, TIF Provisions, Affordable Rental Housing Exemption:* W&M signaled will hear from various stakeholders on competing proposals. Heard from Auditor's office on TIF.

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

*Transmission Lines:* TDI's attorney has contacted PVR about clearing up valuation "confusion" amongst towns. Commissioner will touch base with Commissioner Recchia.

*Vermont Yankee:* Commissioner Recchia has arranged a meeting with VY and Tax in February.

*Amazon:* We are quietly seeing if there is any interest in moving this issue in advance of the Misc. Tax bill.

*Publicly Traded Partnerships:* The Commissioner informed Matt Chapman that the Department would not object if they advanced a proposal to exempt PLP from certain withholding requirements – although still not clear that PLPs can demonstrate that other states have taken this step as represented.

Revenue Issues:

↓ need data

*Payroll Tax:* JFO (Klein) flagged hit to school districts as triggering need for unfunded mandate report.

*Estate Tax:* Rep. Ancel informed the Committee that she had agreed with Sen. Ashe that this will be worked on by the Senate in the first instance.

*Current Use:* JFO has made presentations to W&M (Klein) and House Ed (Perrault) framing these proposals as a potential hit on the Ed Fund. Rep. Clarkson inquiring whether the water quality piece made up revenue.

Revenue Items From Other Bills:

Justin/Sue/Gov

*Budget:* Steve Klein complimented Commissioner Reardon in Ways & Means testimony for relying on less one time money in the budget, but pointed out that there still were some items lurking, such as the VHCB capitol bill switch.

*Water Quality:* Rep. Ancel and Branagan told the Committee they would strip any TMDL related charges (including the Ag fee, which they said was a tax) out of the fee bill to consolidate in water quality bill they will eventually see.

*Rooms & Meals Dedication:* Steve Klein criticized the proposal as interfering with the forecast process, and Rep. Ancel chimed in that it was a revenue (vs. budget) waterfall disfavored by the legislature for many years.

Vh sh... not surprising.

*Education Finance:* Rep. Sharpe wants to schedule meeting with Commissioner on Friday to discuss various ideas.

Operations:

*Top 100:* Names and addresses published. Got clearance from IRS as long as Dept had judgments or liens on each taxpayer – had to take this step for a few, going forward will operationalize this step for anyone close to publication.

*Tax Season:* Fraud continues to be a huge and growing issue – occupied a great deal of time in Appropriations when we appeared to discuss our budget, and at least one legislator has been personally affected. A new step instituted by the Dept is to send a paper refund check to any first time filer – this has been instituted by the IRS and other states.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Michael J. Hogan, Commissioner of Liquor Control**  
**Date: January 30, 2015**  
**Re: Weekly Report**

**Status of Governor's Priorities:**

- Marijuana Report from the Rand Corp being thoroughly studied by our folks. Speaking next week to the Canadian Alcohol Jurisdiction meeting in Toronto about Marijuana.
- January sales still looking good +3%.

**Legislative Issues/Contacts/Updates:**

- Miscellaneous clean up language for Title 7. Working on some housekeeping changes.
- Met with Appropriation Committee member on department budget prior to our testimony in a few weeks.
- Will speak to House General next Friday on licensing issues. Will give them a Licensing 101 presentation.

**Press Issues/Releases/Contacts:**

**Significant Events/Meetings:** Next Board Meeting 02/04/2015 - Enforcement Hearings.

**Evolving Issues:**

- ERP/POS Project underway. Excellent Progress! Recent meeting with vendors and staff working through the particular functions of the front end and back end systems.
- Preliminary review of department processes for potential licensing and enforcement system. Considering using VIC as they are very familiar with our business processes to help with a statement of work.
- Break open ticket reporting process is working. Live data is being entered. Should have some numbers by the end of the first quarter.

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**Summary of Key Department Activity:**

- Reviewing internal controls with staff and department committee.
- Looking closely at more cross training for some of our divisions.
- **Commissioner's Commentary:** Have a great weekend.

Elizabeth H. Miller  
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