

# WEEKLY REPORTS

## Checklist

7/29/16

Darren Springer

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

Sue Allen

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

Sarah London

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

Jessica Gingras

- Boards and Commissions – Jessica Gingras
- Department of Liquor Control – Patrick Delaney

Laura Gray

- Agency of Agriculture – Chuck Ross
- VT Commission on Lottery – Greg Smith

James Pepper

- Department of Labor – Annie Noonan

**To: Governor Peter Shumlin**  
**From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development**  
**Date: July 29, 2016**  
**Re: Weekly Report**

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## LUCY LERICHE, DEPUTY SECRETARY

Pat is on vacation this week.

**Confidential Vermont Center for Geographic Information Director:** We still need to inform staff, but the new Director of VCGI has been chosen. He was an internal candidate from DHCD, John Adams. John is a Planner with a passion for maps and ability to translate tech speak into plain English. This is just what the Division needs! We look forward to seeing John bloom in his new role though he will be sorely missed by the CP&R team.

**Downtown Board Tax Credits:** Some great projects in this round. Will coordinate an event with the Governor's schedule.

**Vermont Life Innovation Engineering:** Vermont Manufacturing Extension Center has offered pro bono Innovation Engineering sessions for Vermont Life. Lucy, Pat, Mary, and Steve all met with staff from VMEC to share an overview of issues, and map out how we can get the most out of this assistance. We are specifically looking for more opportunities to close VL's operating gap. We will likely schedule the work for late September or beginning of October to accommodate schedules and work flows.

## GOVERNOR'S PRIORITIES

**CONFIDENTIAL - EB-5:** Commissioner Joan Goldstein Reports:

- Had introductory call with Locke Lord and DFR about the USCIS Request For Information (RFI). They will ask for extension of the USCIS 8/25 due date.
  - We also briefed Locke Lord on the Stowe Aviation letter - where we begin the process of “decoupling”. We may need to gingerly notify the other projects when this letter to Stowe Aviation goes out as the Barr's may lash out and go to press with complaints, etc. We will be prepared with a press statement.
  - Last week the SouthFace project point blank asked us whether they should leave the regional center after Gene Fullam gave his resignation. We of course advised them not to but if the Stowe Aviation news becomes another bruise we may be forced to ask our remaining projects whether or not they want to stay.
  - Commissioner Michael Pieciak offered the assistance of James Whitehouse to help us with gathering of any information we need for Locke Lord, USCIS or anything else.
  - In the meantime, we have an investor who is interested in investing in our projects so next Friday we will be introducing them to Mt. Snow, SouthFace, and Trapp.
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- Megan Reports **The Department of Health and the Department of Public Safety** are both updating their standards in a way that could have serious negative economic impacts on the hospitality industry. The comment period is over for Health and many concerns were submitted on behalf of small businesses in the public input process. There was a huge outcry from the Inns and B&Bs on the ongoing subject of leveling the playing field for Air B&B.

Updating of Public Safety Standards, now becoming CODES, was just brought to our attention this week and has an August 5th cutoff date. The public hearings have come and gone with very little attendance but we are not sure how they were publicized. We do not think this public process was very public at all, as no one we talk to knew anything about it. Megan has picked out the changes in the code that will affect the industry and will send them out in the August 1 Commissioner's newsletter as well as forward them to the State Chamber and VSAA to

distribute. There is no place for comments on the website so we have obtained the email of an officer in the department to reach out to. The process feels like it has had limited transparency.

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Joan Goldstein, Commissioner**

- **CONFIDENTIAL:** Met with Greg Maguire of Revision to review air show details and our sponsorship of the event on 8/12 and 8/13. During this conversation he said they have grown much in the State of Vermont and the next spot for growth will most probably be the seacoast of NH. Of course we need to convince him this is a bad idea. White River Junction would be a good location but a facility would need to be built.
- **CONFIDENTIAL:** Received a call from John Ilick of ReArch who wants us to get the PayPal deal. The worker issue could be dealt with by having the presidents of the colleges work with us to provide a steady stream of graduates to feed the supply of workers. I must say he has a point and we could get behind this but I do not know the status of this recruitment. Of course John has the perfect class A space in So. Burlington to locate them.
- Met with Blodgett Supply management team - part of workforce needs assessment. They are rapidly growing and need more employees: welders, engineers, and other professional staff. They are interested in the Vermont Training Program for existing employees and also the pipeline development activities that we could fund.
- Met with Commissioner Snyder to brainstorm about how to coordinate getting materials to him as he will be attending the outdoor recreation trade show. We know that Ibex and Cabot Hosiery will be in attendance. We can also assume that Utah will be courting them.
- Microsoft Dynamic CRM system: The Microsoft folks showed members of DED staff and IT the capabilities of the system and it was impressive. If the price is right, we will proceed with this system.

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

- **Northern Border Regional Commission (NBRC):** Alongside Deputy Secretary Leriche, working with Laura Gray in the Governor's Office to finalize our list of recommended economic development projects for the 2016 grant round. Final decisions will be formally approved by the full Commission on August 1<sup>st</sup>. We are looking at a possible August 5<sup>th</sup> press event/public announcement that would include Sen. Leahy. More to come.
- **Clean Energy Development Fund Board Meeting:** The Board unanimously approved the 2017 Annual Program Plan and Budget. "The CEDF will continue to focus on advanced wood heating, and particularly bulk wood pellets... The Fund will continue to work on ensuring that wood heating systems are advanced in their emissions, efficient, and use locally and sustainably harvested wood.

### **INTERNATIONAL TRADE (VERMONT GLOBAL TRADE PARTNERSHIP) ♦ Katie Corrigan, Manager of International Trade**

- STEP Grants are in the works for Finn Utility, Omega Optical, and RNRG.

### **VERMONT TRAINING PROGRAM ♦ John Young, Director**

- Met with Konrad Prefab who will be adding employees to produce lactation stations out of their Springfield facility. They are working on a VTP application.
- Blake Hill Preserves is close to completing its new facility and are looking into VTP as they will need to add staff and larger equipment to keep up with demand.
- United Way of Chittenden County is facilitating a conversation in regards to ELL (English Language Learner) that I am part of. There may be room for a traditional VTP grant or a workforce pipeline development grant to be used in the future.
- General Dynamics is looking to VTP for a project management training and is also implementing a new ERP system that might be added to the training grant.

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

### **Deputy Commissioner Hanford**

- **Housing the Homeless and the 15% Executive Order:** Held the final work group meeting to reach consensus on the reporting requirements, timelines and identified training and outreach needed to the affordable housing owners and property managers. The first year report, by affordable housing owners, on the efforts to make 15% of their housing units available to those experiencing homelessness will be due December 1, 2016. A coordinated effort, to educate the owners & property managers of thousands of publicly supported rental units, by VHCB,

VHFA and AHS is needed to help folks adjust to this new annual report and capture the key information & connections needed to make ending homelessness a reality.

- **Project Support:** Participated in a number of discussions to move important development projects (Richmond Creamery, S. Burlington City Center, Rutland Project Vision & NW Neighborhood Redevelopment and others) forward, helped to coordinate capacity and fill funding gaps. Sharing below one recent note of appreciation for assisting the City of Rutland help improve and revitalize a neighborhood in desperate need of help.  
*“Josh, Ann and Claire, you have been so generous and helpful in making this project possible. We thought you would enjoy reading comments directly from the residents in the neighborhood about how they feel now compared to how they felt three years ago, before our grand project got underway with your support! So attached you will find a pdf and a link to our website where we have posted the results of a survey on the neighborhood we conducted this spring comparing the results to a survey we conducted three years ago, both times of more than 200 residents in the NW Neighborhood. <http://www.nwwvt.org/2016-community-impact-measurement-survey-results/> Thanks again to all of you and by all means feel free to share this information with anyone who will listen!!! “*

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

### **Partner and Program Report**

- **Vigilant Guard:** Chris participated in the last of many meetings to prepare for this New England-wide disaster response test. The drill begins this week and concludes next Tuesday. Big thanks to the IT team -- Charlie, Melissa, and David for testing and standing up the [BACH-DA disaster data collection tool](#) – as well as DHCD team – Caitlin, Nate, and Faith who will be in-taking data from farms, businesses, and historic sites to test out ACCD’s role collecting and aggregating damage information.
- **Vermont Refugee Resettlement Program:** John met with Amila Merdzanovic, Director of the Vermont Refugee Resettlement Program, and her staff to discuss housing and transportation issues facing refugees coming to Vermont. Needless to say, the challenges for newcomers to Vermont are great and there are few resources available to help address them. CP+R will highlight some of these challenges facing this growing population in their housing report due to the legislature this fall. The Vermont Refugee Resettlement Program has helped resettle 7,000 people in Vermont since 1989.
- **Strong Communities Quarterly Newsletter:** We had nearly 700 initial ‘opens’ with a 27% open rate and received positive feedback on the [summer edition](#) of the newsletter. Top links clicked included the [economic development marketing plan](#), the [municipal planning grants announcement](#), and [municipal day](#). Thanks to all who submitted news items by the deadline.

### **State Designation Program Report**

- **Downtown Development Board**
  - Awarded approximately \$2.2 million in state tax credits and reallocated sales taxes to 21 projects in 16 communities. Governor Shumlin will host a ceremony to announce the winners in September.
  - Elected Lucy Leriche as new Board chair
  - Renewed village center designation for Johnson and Island Pond
  - Renewed downtown designation for the City of Winooski
  - Awarded neighborhood development area designation for the City of Winooski
  - Amended the growth center designation boundary for the City of Montpelier
  - Extended a Downtown Transportation Fund grant for the Town of Middlebury’s railroad bridge project
- **Vergennes Neighborhood Development Area:** John met with representatives from Vergennes to present an overview of the Neighborhood Development Area designation program. Zoning in Vergennes was recently updated to better conform with the program requirements and allow for more housing within walking distance of the downtown. The group was very receptive to the program and is planning to move full steam ahead in pursuing the designation for the downtown and surrounding area. It is expected that about 150 new housing units will be built within the eligibility area within the next few years.

## **GRANTS MANAGEMENT ♦ Ann Karlene Kroll, Director**

### **Environmental Review**

- Last Friday, July 22<sup>nd</sup>, the Environmental Release for the Slums and Blight Phase of the Richmond Creamery Redevelopment project was issued. This release will allow the project to close on the property and move forward with the Corrective Action Plan and remediation activities. A second Environmental Review will be done at a later date to address the redevelopment phase of the project. For the Slums and Blight phase the project is also receiving funding from the VDEC Targeted Brownfield Assessment Funds and the RPC EPA Brownfields

Assessment Grant. The approach of doing two Environmental Reviews to separate the remediation and redevelopment phases is crucial to allow for the project to move forward and expend the other funds, which have time constraints, for cleanup work, while redevelopment plans are still being developed/finalized.

#### **HUD Issues**

- Audit Findings – Ann is on week 3 of providing continued additional responses to HUD on their Audit findings on KPMG's Audit Findings which has resulted in providing details on such nominal amounts as \$7.19 for advertising costs for asbestos testing for demolition of our home buyout projects, HUD looking for paystubs to determine hourly rates of staff working on our scattered-site owner-occupied rehabilitation projects, and then HUD determining that the documents are inadequate for our CDBG expenditures when they clearly relate to Other Resources such as USDA funds and Vermont Center for Independent Living for handicapped access ramps. In all cases, there are spreadsheets provided with more than adequate information for HUD to see that there are Other Resources involved and details of how invoices are spread across multiple sources in many instances.

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

- **French Block:** A draft project agreement was sent to Housing Vermont that will hopefully keep the project review clean and clear, placing the burden rightfully in the standards necessary for a successful tax credit application. Housing Vermont is already exploring how this type of agreement might work for several other larger projects seeking tax credits.

#### **State Archaeologist**

- On Tuesday, Jess traveled to Derby to meet with Ken Jordan about his recent, serendipitous discovery of a rare copper axe found under the waters of Lake Salem. Because artifacts located under State waters are the property of the State, he gratefully notified Jess, gave him the artifact, and showed him where it was recovered. These items are rarely recovered in Vermont, are generally between 3,000 and 2,000 years old, and were manufactured from raw drift copper from Michigan or Nova Scotia - meaning the axe itself or the copper from which it was made had to be brought to Vermont from one of those locations. It will now be curated at the Vermont Archaeology Heritage Center. Jess is grateful to Ken for being a great steward of Vermont's cultural resources.

#### **Project Review**

- **Waterbury:** DHP staff continue to work with Town officials, VEMHS, FEMA and consultants to find an appropriate solution for the house elevation project at 5 Healy Court through the Hazard Mitigation Grant Program. The project identified a number of unanticipated costs and necessary changes to the original scope of work. Finding a suitable solution here will help inform a larger pilot project on Randall and Elm Streets that seeks to elevate 8 additional homes.
- **Guilford:** Jamie submitted DHP comments on Generative Arts VT's proposed Black Barn Arts Complex in Guilford. An ANR Project Review Sheet completed in October of 2013 indicated the project was subject to Act 250. However, the Applicant commenced construction (including demolition of buildings and character-defining features, inappropriate alterations and removal of historic fabric, construction of conjectural elements that convey a false sense of history, and significant ground-disturbing activities in areas deemed highly sensitive for archaeological resources) without any consultation with our office and continued for almost two years before contacting us. DHP determined that as a result of the work completed to date, the farmstead has lost all historic context and integrity and the project has an undue adverse effect on historic sites. VDHP cannot make a positive recommendation on Criterion 8 to the District 2 Commission and provided detailed testimony and comprehensive evidence to support our position. We anticipate the Applicant will continue to pursue Act 250 approval, despite the above issues.

#### **Historic Sites Section Chief and State-Owned Historic Sites**

- From 11:00 a.m. to 3:00 p.m. on Saturday, July 23, Tracy and Bill Jenney led guided tours of the Theron Boyd House in Quechee. Built in 1786, the house combines elements of both high style Georgian and Federal architecture. While not normally open to the public, tours of the Theron Boyd House are occasionally offered by special arrangement. Requested and promoted by the Hartford Historical Society, this event was so well attended that tours ran continuously for four hours. As photos from the day make clear, the Theron Boyd House needs a great deal of work. What may not be as obvious is its remarkable regional historic and architectural significance, and the degree to which people in the community care about its future.



- 125<sup>th</sup> anniversary of the Bennington Battle Monument's dedication. **SAVE THE DATE: Saturday, August 20, 2:00 PM.** *You won't want to miss this party!*
- **Hubbardton:** The Town of Hubbardton had their family fun afternoon and evening on Sunday, with hundreds in attendance. Everyone enjoyed food, games, music, and fireworks at the end. Bob Welch and Mark Brownell are working with Elsa to make sure every day is covered in Carl's absence.
- **Coolidge Site:** The press release for Plymouth Old Home Day was sent to Montpelier for review and then distributed to the local papers. A poster was also printed and placed in area hot spots. Scheduled for August 6, this annual event is promising to be one of the best ever!
  - There may be light at the end of the restaurant concession tunnel. Laura, Dale, Tracy and Bill had a conference call on July 26 to discuss options. Carmen Citro, an employee who worked with former manager Nancy Yale, has expressed interest in the operation. We've asked her to clarify her proposal, and hopefully, we can get the restaurant up and running soon. The *Washington Post* Presidential Podcast on July 25 included a short segment with Bill speaking about the Coolidge gravesite. Listen to the podcast here - [A tale of two Calvin Coolidges.](#)

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

- Arthur summarized the research and information he's been collecting on HUD's manufactured housing installation requirements, and drafted a report/memo the Vermont Manufactured Housing Association to follow up on our meeting with them in May. While the situation is thankfully not as dire as predicted, there are substantially higher costs incurred to install a mobile home according to the new requirements. Funding for park owners and/or residents to pay for removal of old homes and non-compliant slabs and cover the additional costs that often can't be financed would be helpful along with more flexibility in applying the requirements on the part of HUD.

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

##### **Regular VCDP**

##### **Potential Applications**

- **City of South Burlington:** The City and Cathedral Square have concluded (rightfully) that bringing in the \$590,000 Implementation Grant application for the City Center Senior Housing project for February 2017 is better timing than applying now for the October 2016 CD Board meeting. The project needs the equity from an award by VHFA of 9% in Low Income Housing Tax Credits to move forward and that decision will not be made until March/April 2017. There was almost no chance of being successful in October due to other projects coming to that Board meeting without such a major gap in funding
- **Town of Bennington:** Nathan has been providing ongoing guidance to Robert Crego, of M&S development, and the Town on their potential slums and blight application. A conference call was held to discuss the process to pre-qualify the project as being eligible for the national objective of slums and blight. The Town is considering one application to be submitted for the February 2017 CD Board meeting that would potentially fund the demolition and clearance of selected buildings along the historic "Putnam Block" which includes the former Putnam Hotel building. The town is also interested in a potential application in late 2017 or 2018 that would seek funding for the implementation of the redevelopment of this downtown block. Initial concerns included the potential impact the project would have on the historic buildings, however it appears that the developers are targeting a former hardware store and lumber storage out buildings. Additional information is required from the developers on the future use of the property in order for VCDP staff to provide guidance on the two potential applications as the end

use of the property will determine many of the requirements that will need to be addressed in an application. The project is very much in the conceptual phase at this point but there is a strong team working on the redevelopment plans and the town is very supportive of the redevelopment efforts.

### **CHIEF MARKETING OFFICE ♦ Heather Pelham, Chief Marketing Officer**

- **Economic Development Marketing:** The priority for the CMO continues to be the implementation of the Economic Development Marketing Plan, specifically developing the framework and content for a new ‘Why Vermont?’ web portal. Our interns are making progress on collecting all the data and third-party validations to support our pitch for why Vermont is the best place to live, work and grow a business, and rough drafts of page copy are coming together. With the assistance of Vermont Life, new videos interviews are being planned for several upcoming events, including the Road Pitch segment next week in St. Johnsbury and Lowell, the Wings over Vermont air show in August and the next ‘Hops on Top’ young professionals event in Rutland. Appeals have also gone out, thanks to coordination with Gary Holloway, to all our downtowns to help populate our regional ‘communities’ pages with compelling images and content from those who know their towns the best.

### **DEPARTMENT OF TOURISM & MARKETING**

#### **Megan Smith, Commissioner**

- **Mad River Valley Chamber:** It seems every week we visit another regional Chamber of Commerce to help them try to stay alive. Steve and Megan met with the board of the Mad River Chamber this week and had a very productive conversation. They are in the process of hiring a new Director and we focused our conversations on how to find the right person as well as what they should be doing once hired. This was a very open dialog which benefited all of us. We will continue to work with them as they transition to new leadership.
- **World Cup 2016:** Megan met with the new Rutland Chamber Director about their participation in the World Cup in November. They are looking for ways to get involved and, as with Woodstock, we are encouraging participation from their hotels and restaurants both leading up to and while the event is going on.

#### **Steven Cook, Deputy Commissioner**

- **Bed & Breakfast.com:** Steven is meeting with representatives from [www.bedandbreakfast.com](http://www.bedandbreakfast.com) to discuss potential advertising partnerships. Since Vermont is comprised of a significant number of lodging properties with less than 10 rooms, bedandbreakfast.com is a large contributor to bookings.
- **Vermont Ferries/Viewboost Beacon Technology:** Steven met with representatives of both Lake Champlain Ferries and Viewboost to discuss placing beacons on the three ferries serving Lake Champlain that would push messages to rider’s mobile devices. These messages would focus on travel and tourism related information, local promotions, regional events and attractions.

### **COMMUNICATIONS ♦ Philip Tortora, Director of Communications**

- **Social Media Notes:** Our Instagram following has doubled in less than four months, and is now at nearly 5,000 people. We have seen close to 1,500 video views on our Instagram channel this month, and close to 1,700 video views on Twitter, demonstrating their growing value as video publishing platforms. Facebook had a reach of 166,585 last week, with 2,933 people engaged. Total Likes for VDTM’s page are now at 34,765, up about 10 percent in the past four months.
- **Media Correspondence:** Provided Vermont covered bridges photos and information to a writer for Simply Saratoga magazine, who is doing a piece on fall drives to Vermont from the Saratoga, New York region.

### **MARKETING ♦ Hilary DelRoss, Heritage and Recreation Specialist**

- **Vermont Mountain Bike Festival:** Last weekend, the 6th annual Vermont Mountain Bike Festival saw its greatest attendance yet in its first year hosted by the Mad River Riders at Sugarbush Resort’s Mount Ellen. The location change (from Ascutney) brought in more onsite registrations due to the closer proximity to Chittenden County and pre-registrations were up from previous years. Rain on Friday and Saturday nights dampened campers’ tents but held off throughout almost all of the group rides. The only weather related adjustment necessary was moving the BBQ (included with registration) inside on Saturday night so hungry riders could fuel up after a great day of riding trails in the Mad River Valley, Waterbury and Pittsfield. Representatives attended from out-of-state mountain bike associations, who now offer Vermont Mountain Bike Association (VMBA) add-ons to their memberships. The many volunteers and vendors who put on the festival did a great job showcasing our local trails and riding communities for visitors.



• Scene from the 2016 Vermont Mountain Bike Festival

**SALES ♦ Kathleen Kolva, Sales Manager**

- **Young Leaders Program:** MCW, Miracle Corners of the World, is a NY-based organization that seeks to improve worldwide communities by achieving greater levels of education, improved health, and increased economic security. For the week of July 27-August 4, an amazing group of 65 young people, ages 16-25, from many corners of the world will be gathering at Champlain College for a week of “visioning” positive change. Kathleen put together a packet for all of the attendees of the Young Leaders Program. Each of these packets include not only Vermont guides, maps, local Burlington information, and promotional souvenirs, but also a copy of the Spring 2016 issue of Vermont Life – the vision issue!
- **Lion Travel:** Kathleen is assisting Lion Travel with a new itinerary named “Beauty Trails of New England”. Each year Lion Travel sends 3,000-4,000 group tourists from Taiwan to Toronto/Quebec as well as Boston and New York. Kathleen is working with this tour operator to create opportunities for more guest experiences and overnight stays in Vermont.
- **Promotion of Vermont Tourism to Canadian Consumers & Travel Professionals:** Four proposals were submitted in response to the simplified bid opportunity to assist VDTM with promotion at consumer and travel trade events in Canada. These submissions are being reviewed.

**VERMONT LIFE ♦ Mary Hegarty Nowlan, Editor/Sky Barsch, Associate Publisher**

- **Advertising:** Last week Chris closed \$6,500 in ad sales for 2017 Fishing Guide, and also closed \$17,000 in sales for Vermont Life contract renewals.

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

**Activities and Accomplishments**

**ITS**

- Attended Vermont Weather Analytics Center Outreach and Update meeting.
- Submitted Fiber P3 RFP draft to Contract Admin for their review.

**Future Plans/Activities**

- Attend Vigilant Guard Exercise at SEOC.

**Obstacles and Opportunities**

- none

State of Vermont  
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[Securities] 877-550-3907  
[Banking] 888-568-4547

**CONFIDENTIAL and PRIVILEGED**

**To: The Honorable Peter Shumlin, Governor**  
**From: Michael S. Pieciak, Commissioner, Department of Financial Regulation**  
**Date: July 29, 2016**  
**Re: Weekly Report**



**Securities Division:**

EB-5 Jay Peak State Litigation: The State's response to Quiro's motion to dismiss is due next Wednesday. The AG will provide DFR with a draft to review today

Jay Peak Media: Yesterday PBS New Hour followed-up on a December story about Jay Peak; it features Anne Galloway. A YouTube link to the video can be found here:  
<https://www.youtube.com/watch?v=pViWuzH3HPM>.

EB-5 Stowe Aviation: ACCD/DFR responded to Stowe Aviation on Thursday indicating the State's interest in having the project associate with another regional center. We have not heard back from Stowe Aviation as of Friday.

Burke Contractors: A conference call is scheduled for August 9 between the receiver, ACCD and DFR to listen to complaints from unpaid subcontractors. Barbara Blackman of Lynn, Lynn, Blackman & Manitsky, PC, represents the subcontractors. The major complaint is that DFR's Raymond James settlement sets aside the \$4.5 million for investor distributions and does not satisfy the unpaid contractors. I am sympathetic to their concern and am willing to be flexible, but my hands may be tied.

Receiver Settlements: As previewed in last week's report, Mike Goldberg is still in settlement negotiations with Citibank and Raymond James. Goldberg is also attempting to close on a \$7 million line of credit by mid-August.



### **Banking Division:**

Deputy Commissioner Cynthia Stuart serves on the Federal Financial Institutions Examinations Council Task Force on Reports (FFIEC), which has been working to identify ways to reduce reporting burdens for community banks. The group has proposed a new less complicated reporting form, modeled after the existing call report form, that will be completed quarterly by all banks having less than \$1 billion in assets. The task force will also evaluate the possibility of widening eligibility requirements and incorporating additional changes to further simplify the reporting rules. The new guidelines will be published in the Federal Registry Notice today to give financial institutions an opportunity to comment before the proposed implementation date of March 2017. This new reporting option will provide regulatory relief for a significant number of Vermont banks.

### **Insurance Division:**

Nationwide Insurance announced this week that beginning with academic year 2017-2018, it will no longer offer student health insurance plans nationwide. Vermont has a limited number of insurers in this market and the elimination of any carrier will negatively affect Vermont college students. The Insurance Division is working hard to gauge the interest of other insurers to see if other companies would consider selling student health insurance in Vermont. It is also exploring how to accommodate fallback options such as self-insurance and captive insurance companies if there are no available student health insurance plans available by fall 2017.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: July 29, 2016

Subject: Weekly Report

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**Governor Level Issues:**

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

GMP Base Rates Filing – No Docket – GMP has made its annual base rates filing, seeking a rate increase of 3.53%, which is made up of a 2.57% increase to underlying rates and 0.96% increase to power supply costs. The Department is not challenging the power adjustor amount, though it has raised challenges to other components of the Filing. GMP and the Department are currently close to completing negotiations on a global resolution to the matter. One positive development working in ratepayers favor is the formulaic adjustment to Return on Equity (ROE). Given the year-over-year drop in 10-year treasuries, GMP's ROE will drop from 9.44% to 9.02%. This will result in an approx. 80 basis point reduction to the rate need. If all matters settle as expected, (to be announced on Monday), the Department's advocacy will have achieved a drop in the rate increase from 3.53% to approximately 1%. UPDATE: Settlement has been reached, but we are working on the write-up still. Jon and the team did a terrific job on this under difficult circumstances.

Sheffield/Brouha Sound Investigation – Docket 8653 – The Hearing Officer issued an order requiring additional exterior monitoring at the Brouha residence, in order to determine whether the facility was operating in violation of the CPG indoor 30 dBA sound limit. The order also clarified a number of threshold issues briefed by the parties during the winter. Of particular note, the order directs a windows-fully-opened assumption when evaluating sound data from May

through September, window-partially-open assumption in April and October, and fully-closed November through March. The order also allows for the application of attenuation values gathered by the Department in July, 2014 to the outdoor monitoring to be conducted. The Department found attenuation values of 1-3 dBA with windows fully open, 6-9 dBA with windows partially open, and 25 dBA with windows closed. The long-term implications of these assumptions on existing facilities are likely significant as we expect to see violations under windows-fully-open conditions. The order did not lay out the exact length of time for the additional monitoring, although it indicates months, as opposed to weeks, would be appropriate, nor did it outline the analysis protocol and assumptions to be used to isolate project-only noise from the sound data. The Hearing Officer will hold a status conference on August 2. The Department has had preliminary discussions with Vermont Wind, and the parties will likely propose delaying the monitoring program until spring 2017, and use the interim period to attempt to develop a data analysis protocol that is agreeable to all parties.

PSB Issues Temporary Rule on Wind Sound – The Board met the 45 day deadline and issued a temporary rule covering sound from wind generation facilities. This rule will be in place until a permanent rule is adopted July 1, 2017. Analysis of the rule is ongoing, but there is concern from Department staff that the Board has sustained an interior sound standard and has clarified, as with the Brouha investigation addressed above, that the attenuation should be based on a windows fully open protocol for the summer months, May through September. Based on attenuation figures of 1 – 3 dBA with windows fully open, this effectively makes the exterior sound standard 33 -35 dBA rather than the 45 dBA exterior standard that is also part of this rule and the established figure for most existing large wind projects in Vermont.

GMP Off-Grid Innovative Pilot – No Docket – GMP proposed to launch a pilot program in which it would provide off-grid service through some combination of solar generation, back up generation, storage and energy management systems. GMP is allowed to propose such projects pursuant to a provision in its alt reg plan. The Department plans to oppose the pilot. Staff has submitted a draft letter to leadership for filing this week.

**Meetings/Calls this Week:**

July 25 – Darren Springer meeting, PSB filing RE:SRS @ Governor’s office, GMP Rate Case  
July 26 – VY Decommissioning Monthly meeting, NESCOE meeting  
July 27 – Climate Cabinet Conference Call, CEDF Board meeting  
July 28 – Swanton Wind meeting, St. Albans & Biogas meeting w/ James Ehlers,  
July 29 – VEDA Board Meeting

**Meetings next Week:**

Aug 01 –  
Aug 02 – VELCO Brown bag lunch,  
Aug 03 – ACT 174 Generation/Mapping Meeting  
Aug 04 – CPG Complaint Protocol  
Aug 05 – Act 174 Working group members meeting

**Media:** Brattleboro Reformer story on CEDF Grant to Windham Regional Commission.

## **Public Official Contacts:**

### ***PERD***

#### Finance Collaborative

- Met with leaders from Vermont Bankers Association; Association Vermont Credit Unions; Green Mountain Power; and Vermont Gas to describe current thinking on the initiative. All expressed interest and have tentatively agreed to participate pending review of the draft letter of intention.

#### Clean Energy Development Fund

- Working with our DOE Program Officer, submitted a request to DOE's SEP Financing Programs Repurposing Committee to move \$1.2 million from our Revolving Loan Program to a commercial interest rate buy-down and loan loss reserve to be offered through VEDA after meeting with our DOE SEP Program Officer regarding repurposing.
- Completed a \$20,000 grant agreement in support of a pellet boiler to be installed to heat two adjacent apartment buildings owned by the Windham & Windsor Housing Trust in Brattleboro.
- Reviewed, edited and approved a final press release to be issued by the Windham Regional Commission announcing the \$400,000 grant they are receiving from the CEDF to administer a grant program for renewable energy projects in Windham County.
- Received notice that the \$230,000 CEDF grant submission to the Northern Border Commission would be eligible for a grant. This is a reversal of an earlier notice that it would unlikely to be eligible. If awarded the funds would be used to provide sub-grants for advanced wood heating systems for public serving institutions in the Northern Border Region of VT.
- Community Solar Finance Program
  - As of June 30th, the program supported 14 loans for participants in community solar projects with 68.57 kW of capacity around the state. Locations include Dummerston, Cavendish, Randolph, Jamaica, New Haven, McIndoe Falls, Brattleboro, Pittsford, Colchester, Danville, Pownal, Barre, Bomoseen and Bennington. Participants borrowed \$243,941 to finance their community systems and received a total of \$33,914 of interest rate buydowns. This incentive thus leveraged \$7.19 of private investment for each public dollar. The total available for the program was reduced to \$75,000 given the short timeline (September 30) under the DOE grant. As of June 30th, the program had a balance of \$41,086 available for the summer months. Last quarter, CEDF allowed businesses to participate in the program, and we expect to see some doing so now that this component is up and running at VSECU.
  - Worked with CESA to help initiate a new cost reduction training for solar contractors and Zero Energy Now participants to be offered this September as part of the SunShot grant.

#### Dockets/248

- 8698/8710 – VGS Alt. Reg. (and rate case) – Deadline for testimony was extended at the last moment by 1 month. Staff testimony is, however, largely complete. Staff argues that

VGS should be regulated under an interim “PGA-only” plan (to include weather normalization and some reporting requirements) until the pipeline is fully installed, the DRP docket is complete, and the RNG program is running. In the meantime, VGS, and Department, and other stakeholders should work toward a plan that is simpler and incents the behavior we want from the company. VGS has been informed of our position, though we haven’t heard back from them about their response.

- 8550 – Renewable Energy Standard proceeding – BED filed a motion to amend the Board’s final order, arguing the points below. The Department has not issued any response to this motion, but in informal conversations indicated we would not oppose BED on issue number 1 below. Responses are due to the Board by August 3.
  - 1) McNeil should qualify automatically as a Tier 1 resource;
  - 2) 100% renewable utilities (WEC and BED) should be able to use Tier 2 resources in excess of 100% of their load to satisfy Tier 3 even if those RECs were also used to establish that the utility is 100% renewable.
  - 3) Reporting for Tier 3 should not necessarily include net-metered customers with no production meter
  - 4) The Board should clarify how Tier 3 credit applies to vehicle *charging* stations (to prevent double counting for vehicle purchase and charging)
  - 5) Utilities which are banking Tier 3 credits should not be required to document the banked credits.
  - 6) The Board should clarify whether the first Tier 3 annual plan is due November 1, 2016 or November 1, 2017.

### ***Public Advocacy***

VGS Rate and Alt Reg Filings – Docket Nos. 8710 & 8698 – This case is Vermont Gas’s request for a rate decrease of 3.3% (which includes placing the Addison Project in service and withdrawing money from the SERF) and its request for approval of an alt reg plan. Non-petitioner testimony was due July 22, however by stipulation of all parties, the date was extended by a month, with other dates pushed back accordingly. AARP and the Department submitted further discovery requests on July 27. Responses are due on August 10.

Generic Rule 4.100 Avoided Cost Proceeding – Docket No. 8684 – A technical hearing was held on July 7. It was long but uneventful. Initial briefs are due July 28.

North Hartland Rule 4.100 PPA – Docket No. 8569 –. The case involves a request from an existing hydro facility for a 20-year non-levelized PURPA contract. For such a contract, the generator has to demonstrate compliance with 248(b). Because the standard Rule 4.100 rates are “stale” at this point, the DUs and the Department oppose the request. A technical hearing was held on July 21. It was long and uneventful. The hearing officer sustained many objections of the Department and DUs regarding the QF’s exhaustive line of inquiry into evaluations of economic benefit. The case has become litigious and has spawned a related challenge to the Board’s implementation of PURPA at the FERC.

Coolidge Solar 20 MW facility in Ludlow - Docket 8685 and Request for Rule 4.100 contract approval- Docket 8586 – Non-petitioner testimony was due on June 20th. The PSD submitted testimony from Asa Hopkins, Bill Jordan and Mark Kane. Asa Hopkins concluded the project

would satisfy the economic benefit criterion, but is inconsistent with the Vermont Electric Plan and that the project's energy and capacity are not needed at the offered price (the above-market prices reflected in Docket No. 8010 rates). Bill Jordan explained there is not enough evidence in the record to determine whether the project will adversely impact system stability and reliability. Mark Kane determined the project does not create an undue adverse impact on aesthetics or on the orderly development of the region; however, given the size and scale of the project he recommended additional mitigating measures. Other non-petitioners that submitted testimony included GMP, WEC, VEC, BED and ANR. The utilities' testimony emphasized that the proposed price is significantly more expensive than the avoided costs since the price is higher than current contract prices and market price forecasts.

On July 22nd, the PSB granted GMP's motion to compel responses to discovery questions that seek information from Coolidge regarding the need for 20-year levelized PPA rates in order for the project to be financially viable. In granting GMP's motion, the PSB found the questions reasonably calculated to lead to the discovery of admissible evidence. In order to address Coolidge's concern regarding the "highly confidential" nature of its financial model, the PSB encouraged Coolidge and GMP to negotiate appropriate confidentiality procedures and to file an amendment to the protective agreement. Additionally by August 5th, the PSB requires GMP to file an accounting of its expenses associated with compelling this information in order to provide for the payment of the prevailing party's expenses (GMP) by the non-prevailing party (Coolidge) pursuant to V.R.C.P. Rule 37(a).

Petition of Robert Garthwaite to Revoke CPG #NM-1771 – Docket 8774 – This case involves a complaint that the holder of the CPG, David Blittersdorf, did not construct the turbines in accordance with the CPG application. On April 28<sup>th</sup>, counsel to Mr. Blittersdorf filed a Motion to Dismiss the petition on the basis that Mr. Blittersdorf was not properly served a copy of the filing a required by the VRCP and Board Rules. The Board has opened an investigation and has scheduled a prehearing conference for July 29<sup>th</sup>. The Board's Scheduling Order also found Mr. Blittersdorf's motion to dismiss the complaint to be moot, as the Board has acted to open an investigation in response to Mr. Garthwaite's public comment.

Vermont Electric Cooperative Special Contract with David Schurman d/b/a Little Charlie's Sugarbush – no docket – VEC submitted a filing on June 29<sup>th</sup>, requesting approval of a special contract with a maple sugar producer as part of its Clean Air Program. The objective is to incentivize replacement of off-grid fossil fuel-reliant installations with electric equipment, by contributing to line extensions and service upgrades. In the contract, VEC pledges to cover 24% of the total project cost of \$59,602, which includes installation of a ½ mile single phase line and a 167 kVA transformer to interconnect the facility to VEC's existing line. This is presumably the first of many requests for approval of special contracts of this kind. The Department is concluding its review of the contract, and anticipates filing a letter recommending approval before the deadline of July 29<sup>th</sup>.

VGS Addison Expansion—Docket 7970- Kristin Lyons, landowner in this docket, and the resident intervenors in the Hinesburg condemnation docket (8643 below) filed a Motion for an Order to Show Cause and for an investigation concerning Vermont Gas's continued construction of the pipeline while the issue of the Geprags Park wetland delineation gets sorted out. In response to the Board's request, the Department, ANR, VGS, the Palmers and CLF filed

comments on the Motion. CLF and the Palmers supported the Motion, and the Department, ANR and VGS objected on the grounds that VGS was constructing in accordance with its CPG and would obtain whatever amendments were ultimately needed for construction in Geprags Park. Lyons submitted a Reply to Opposition to Request for Sanctions and Contempt Order on July 27, alleging additional violations such as performing more HDD construction than provided for in the original Order and destroying the harsh sunflowers at the former Peyser property. She seeks immediate relief from the Board, including construction cessation, a contempt citation and sanctions.

VGS Addison Expansion –Notice of Probable Violations-no docket-The public advocacy and engineering divisions, together with the Commissioner, are preparing a NOPV regarding Vermont Gas’s construction practices where electric transmission lines are present. Vermont Gas failed to follow its own Specifications in this regard.

CLF declaratory ruling re: amended CPG for the VGS Addison Expansion-Docket 8330- On June 21, CLF submitted a request for oral argument as contemplated by the schedule. No one objected to the request, and the Board has solicited dates of availability from the parties. The week of August 22 will be recommended to the Board.

GMP-St. Albans Community Digester-Docket 8673- 800 kW methane biodigester generation facility to be constructed in St. Albans. GMP and the Department met on June 28 to discuss revisions to the Project in response to concerns raised by the Department. The schedule remains suspended, but GMP has circulated a revised proposed schedule to parties for comment. Talks continue among staff and we await the delivery of promised documentation from GMP.

VGS Renewable Natural Gas Program and Optional Tariff-Docket 8667-The Department and CLF submitted direct testimony on July 7; Lincoln Renewable filed some testimony describing its operations and how it hopes to engage with Vermont Gas, but it also sought a 30-day extension to submit additional testimony. No one objected to the extension, but parties are now attempting to establish a replacement schedule with hearings at the end of August. This is agreeable to the Department, CLF and Vermont Gas; Lincoln has not responded. The Department is generally supportive of the Program.

VGS-Broughton condemnation-Docket 8641 - This parcel is in Monkton and is owned by the late Mrs. Broughton’s Revocable Trust. Vermont Gas and the Successor Trustee participated in a successful mediation session on July 18, followed later that week by a closing and the filing of a Motion to Dismiss the Petition.

VGS-Town of Hinesburg condemnation-Docket 8643-This parcel is in a park owned by the Town. A site visit with the full Board is scheduled for August 2, with a technical hearing-which will be closed but live-streamed to the public- scheduled for August 4. A Huntingdon resident has brought suit in U.S. District Court seeking injunctive relief from the hearing’s closure; a hearing in federal court is scheduled for Friday, July 29. VGS and the Town have reached a new Settlement Agreement which will be voted on by the Selectboard on July 28. The Residents have not responded to the settlement offer made to them. Even if settlement is reached, the technical hearing is necessary due to a restrictive covenant in the deed conveying the property to the Town

and the resulting need for a Board order. In a lengthy prehearing legal memorandum, the Residents included a Motion calling for Board Member Hofmann to recuse herself based upon her testimony on behalf of the Department in the SERF docket in 2011. The Board has requested comments, which are due on July 29. PSD expects to reluctantly support the recusal motion, to avoid any appearance of bias.

Vermont Yankee Site Restoration Standards – Docket 7862 – The Department and ANR have drafted a petition to the Board seeking the opening of a proceeding to establish site restoration standards at the VY site, consistent with the parties’ December 2013 MOU and the Board’s final order in the CPG proceeding. The Department has reached out to Entergy to determine whether Entergy would join the petition. Discussions between the state and Entergy on whether the latter will join are ongoing.

Irasburg/Blittersdorf MET Tower Investigation – Docket 8585 – The Department and David Blittersdorf are tied up in a discovery dispute regarding Blittersdorf’s desire to depose Department staff as part of the investigation proceeding. The Department, along with ANR and the Town of Irasburg, filed a motion to quash Blittersdorf’s notices of deposition on July 15. Blittersdorf has since noticed rescheduled deposition of Andy Perchlik for August 5, and now seeks to depose other unnamed Department representatives in advance of Blittersdorf’s July 29 due date for response to the Department’s motion for partial summary judgment (on the question of whether a violation of Title 30 occurred) filed on June 29. In response, the Department has reiterated its position that deposition or production of documents pursuant to Blittersdorf’s companion subpoena *duces tecum* in advance of an August 5 deadline imposed by Board order would be in contravention of the order and VRCP 26(d), and it opposed an extension of time Blittersdorf sought to respond to the summary judgment motion in order to depose Department representatives prior to filing the response. As things currently stand, Blittersdorf will respond to the Department’s motion for summary judgment on July 29, the Hearing Officer will likely render a decision on the motion to quash early next week, deposition of Andy Perchlik is scheduled for August 5, deposition of unnamed Department representatives are to be scheduled for August 5 or later, Department responses to Blittersdorf’s first round discovery requests are due August 8, and the Department’s reply regarding the summary judgment is due August 12.

GMPSolar 4.99 MW Solar Facility in Williamstown – Docket 8682 – GMPSolar provided the PSD with a draft proposal for decision (PFD), which the PSD is reviewing. The technical hearing is scheduled for July 29<sup>th</sup>.

VEC 2016-2035 IRP – Docket No 8672 – On July 20<sup>th</sup>, VEC filed its revised IRP along with the MOU, resolving all issues.

VELCO PV 20 Replacement Project – Docket 8604 – This case involves the construction of a cable replacement project from the New York border to the Town of Grand Isle. The PSD informed the PSB that it supports VELCO’s request for unlimited construction hours (during construction activities that require horizontal directional drilling; in-lake cable installation and removal activities; and work that requires planned transmission outages) provided VELCO provides written notice to the project abutters 24 hours prior to extending the construction hours. VELCO has agreed to the notice requirement.

Vermont Transco Section 108 Petition – no docket – Vermont Transco filed a petition on June 22<sup>nd</sup> seeking approval to issue up to \$50,000,000 in Class A Units to Vermont distribution utilities. The Department filed a letter recommending approval of the petition on July 26<sup>th</sup>.

Petition of the CLEC Association of Northern New England to Amend Board Rule 3.706(D)(1) Regarding the Rental Calculation for Pole Attachments – no docket – The Board has scheduled a Rule 3.706 workshop for August 9, 2016. The Department is holding an internal meeting to discuss the matter on August 2<sup>nd</sup>.

Charlotte Solar Enforcement - Docket 8638 – The Department filed a Reply Brief along with a Motion To Hold Open the Record, based on a new issue concerning a potentially noncompliant landscape mitigation installation. Conversations with Charlotte Solar’s counsel to learn more information about the details of the installation have been unproductive. Charlotte Solar is instead filing an opposition to our motion.

Triland Partners 500kW net metered solar facility in North Clarendon - NMP 16-0018- The Department filed comments on 7/26/16, recommending that the Board declare the project has the potential to raise a significant issue with respect to aesthetics and requesting that a litigation schedule be drafted while simultaneously giving the parties an opportunity to determine whether the issue can be resolved through screening. As the Petitioner had not filed any mitigation proposal (although a draft proposal was circulated and discussed at the site visit), and given that Petitioner did not have site control over the lands on which the draft mitigation screening was to be installed, the Department had no choice but to ask for additional process in this matter. Petitioner’s counsel filed an objection to our recommendation within 12 hours of our filing it.

Workshop on Evaluation of Energy Efficiency Behavioral Pilot Projects – No Docket - At the request of the Public Service Department, the Public Service Board held a workshop at which the Department presented the evaluation results of two recent Efficiency Vermont programs that focused on the use of behavioral measures to produce energy savings. The results of the evaluation will guide the Board, the Department and the efficiency utilities on whether to continue to pursue this approach and how much if any resources to devote to this effort for the next three-year budget, which is currently being developed in EEU 2016-03, the Demand Resource Plan Proceeding.

Propane distributors Compliance letters-no docket-The Public Advocacy division is reviewing 15 letters to Vermont propane suppliers containing allegations of non-compliance with Federal and state regulations prior to transmittal to the suppliers.

### ***Telecommunications***

Burlington Telecom CPG Renewal – PSD staff is evaluating the petition of Burlington Telecom for a renewal of its cable CPG. In the year end June 30, 2016 the company had revenue of \$8.4M and EBITDA of \$2.5M, and increased its net cash position by almost \$1M to \$2.1M. With 5,352 subscribers, this is an average of \$130/month per customer. Based on traditional telecom sales of \$2000 per customer, BT could be worth about \$11M. The reported revenue and earnings also suggest this valuation, but the company believes it could be worth more.

E-911 – An E-911 outage in January 2016 prompted the PSD to arrange a meeting with the staff of the PSD, the E-911 Board, and FairPoint to discuss the E-911 network configuration. It was previously determined that the failure of one device in New Hampshire interrupted the ability of another device in New Hampshire to route calls between two switches colocated in Burlington, so calls could not reach the E-911 private network and thus the PSAPs. The discussion focused on the portion of the FairPoint network that is involved in converting calls from traditional telephone format (TDM) to the modern format employed by the E-911 Board (VoIP). Some of these features are not identified in the E-911 Board-FairPoint service contract Service Level Agreements, or are outside of the “Point of Interconnection” defined in the contract. These components are used to provide services to public customers in addition to the E-911 Board. Because these services are VoIP based, there is some regulatory uncertainty about the PSD jurisdiction over them. FairPoint has deployed redundant routes, in excess of what was called for in the contract, using alternative technology that reduces reliance on out-of-state potentially unregulated components. FairPoint and the E-911 Board agreed to re-evaluate their contract, consider the risks and rewards posed by reliance on the out-of-state network, and meet again with the PSD in October.

Charter Line Extension Dispute – The Board has opened an investigation into Charter line extension practices. Consumers contend that Charter proposes to include in the portion of line extension project costs not only the cost of extending cable into areas that lack cable, but also the cost of improving the network where the company already offers service. The company explains that the cost is necessary because simply extending the existing cable plant would result in inferior signal quality. The consumers do not question Charter’s judgement about the necessity of the network upgrade, but instead question whether this is appropriate to pass on to the participants in the line extension.

Vermont Universal Service Fund Audit – The fiscal agent for the Vermont Universal Service Fund (VUSF) received two proposals for an auditor to audit the FY16 financials. The first proposal was from Moss Adams and the second was from Hurlbert CPA. The Department has final approval over the auditor selection. Both proposals were competitive in price. Both firms included references within their proposals. Each included a reference for a staff member of the Texas PUC. Division staff called the Texas PUC and got a recommendation for Hurlbert. Texas has not used Moss-Adams for several years, but the firm “[was] fine.” Hurlbert, however, has been the favored vendor for many years. In his opinion, Hurlbert is very client focused and provided the PUC with a lot of attention. The Texas PUC hired Solix, Inc. to manage the Texas USF, the Texas lifeline program, and the Electric Discount Program. Based on this recommendation, staff believes that Hurlbert will do an adequate job auditing the VUSF.

Mount Snow/ VTel License Agreement – VTel is seeking a lease agreement from the state to colocate equipment on a state owned facility on Mount Snow. Staff presented Public Safety with a final version of the Mt. Snow license agreement. Staff also requested frequency data from DPS that VTel needs to do an interference study. Staff believes that the Vtel contract will be ready to execute as soon as Vtel provides the study and is accepted by DPS.

Comcast CPG Renewal (Docket 8301) – The Board completed technical hearing for the docket

on Monday, July 18. The parties have agreed to a briefing schedule that contemplates that briefs will be filed on September 2 and reply briefs to be filed by September 22.

Verizon Waterbury § 248a Petition (Docket 8601) – The Board has scheduled a prehearing conference for August 1, 2016. Division staff have spoken with attorneys for Verizon and several of the adjoining landowners. This docket involves the construction of a new cell tower on a hillside in Waterbury center near the Stowe town line, and it has generated significant opposition from neighboring landowners and the Towns of Waterbury, Stowe, and ANR. DPS submitted expert testimony last December from aesthetic and RF experts finding that the application complied with applicable § 248a criteria. ANR submitted written testimony that was highly critical of the project due to its impact on wildlife habitat. The neighboring intervenors have retained wildlife and aesthetic experts to review the application. The Department anticipates that this docket will entail significant and extended discovery, likely including depositions and extensive interrogatory requests. The Towns, ANR, and the neighbors have all expressed a willingness to negotiate a settlement that modifies the tower location slightly, but Verizon has indicated that it will not consider alternate options for the facility.

VTel Wireless ETC Designation (Docket 8391) – The Board requested that VTel and the Department provide an update by July 25 as to the status of the docket, which has been stagnant since September 17, 2015. VTel advised the Department that it would file an update by Monday, July 25, but the Department has not yet received such an update. VTel indicated that it intended to file a status update on the progress of its voice network, and request additional time for the docket.

QLink Wireless Wireless ETC Renewal (Docket 8075) – QLink Wireless filed a request to extend its ETC designation. Although QLink missed its initial deadline for submitting a renewal request, the Department advised that it will not oppose the request for being untimely. CAPI staff have advised that QLink is active in the Vermont wireless Lifeline market and would like to see their ETC designation extension. Telecom Division staff have recently learned that QLink's owner is currently under indictment for second-degree murder in the State of Florida. Division staff are investigating whether this indictment should affect the Department's recommendation.

Revised § 248a Procedures Order – The Board issued a memorandum requesting comments on proposed revisions to its procedures order for § 248a applications. The revisions incorporate amendments to § 248a that were codified through Act 130.

Licenses for Wireless Equipment on State Facilities – Telecom Division staff completed a license extension with AT&T for use of a Public Safety tower located on Mount Snow. Telecom Division staff are currently working with VTel and Public Safety to complete a lease agreement that would allow VTel to install microwave dish antennas on the same tower to provide backhaul to a VTel Wireless Network site in southern Vermont.

Vermont Universal Service Fund – Staff posted the June 2016 statement of fund performance on the Department's website. The VUSF balance reported at June 30, 2016 was \$24,966.69. However, this number is not the final net position upon which the fiscal agent will make the determination of funds available for the Connectivity Fund for FY17 because there are variables

that will still impact the fund balance. These variables include but are not limited to: accounts payable for June 2016 (such as \$5,833.33 due to fiscal agent for June program administration) and accounts receivable (such as June 2016 assessments which carriers have until July 15, 2016 to pay). It is anticipated that the increase in net position at June 30, 2016, after the full \$1,140,665 FY16 Connectivity Fund appropriation is transferred out of the VUSF and into CDARS, will be minimal (i.e. less than \$20,000). Any audited increase in net position would be designated for use by the Connectivity Fund in FY17, split 55% to the Connectivity Initiative grant program and 45% to the High Cost Fund. FY16 Operating Revenue (unaudited) for the VUSF was just under \$6,000,000.

Impact on VUSF of E911 FY16 Budget Increase for PSAP Transition – In the FY17 Big Bill (Act 172, signed into law by the Governor on June 8, 2016), the legislature appropriated an additional \$425,000 to E911 in FY16 for PSAP transition costs, stipulating that funds for this appropriation were to come from the Vermont Universal Service Fund. This increased the FY16 E911 budget to \$5,029,830. Since the VUSF had been operating at near break-even throughout FY16, the fiscal agent had to use \$262,917 from the FY16 Connectivity Fund appropriation of \$1,140,665 to be able to pay the additional \$425,000 to E911, due to insufficient cash flow in the VUSF. (Note: Although the fiscal agent had determined per its authority under 30 VSA § 7516 that \$1,140,665 was available for appropriation to the Connectivity Fund for use in FY16, these funds had not been physically transferred out of the VUSF bank account during FY16.) In FY16, roughly 84% of VUSF total operating revenue was used to pay E911 expenses.

Connectivity Initiative Funding for FY17 – The legislature appropriated \$300,000 to the Connectivity Initiative in the FY17 Capital Budget Adjustment – Act 160. In addition to this appropriation, the fiscal agent shall determine by September 1<sup>st</sup> the amount of funds available for use by the Connectivity Fund for FY17, based upon any increase in net position of the Vermont Universal Service Fund at June 30, 2016. Per 30 VSA § 7516, 55% of any funds available for use by the Connectivity Fund will be appropriated to the Connectivity Initiative grant program.

Vermont Telecommunications Relay Service (VTRS) Advisory Council: The Advisory Council met for its quarterly meeting on July 20<sup>th</sup>. The Advisory Council is formed and required by Title 30 VSA § 218a, and is composed of the following members: one representative of the Department of Public Service, acting as chair and who shall be designated by the Commissioner of Public Service; one representative of the Department of Disabilities, Aging, and Independent Living (DAIL), acting as vice chair; two representatives of the deaf community; one member of the community of people who are hard of hearing or have a speech limitation; one representative of a company providing local exchange service within the State; and one representative of an organization currently providing telecommunications relay services. Topics on the agenda included discussion of combining the VTRS and EDP Advisory Boards to increase efficiency of resources. The Council discussed potential program language or statute change that would be required in order to add Communication Facilitator services to the current VTRS program. Members from the Vermont Center for Independent Living presented information on the Equipment Distribution Program, and the changes in the program administration that have occurred since VCIL was chosen as a subcontractor for the EDP program in October 2015. The Vermont state account representative from Sprint presented the group with information on program use, development, and outreach from the previous quarter. The Advisory Board had

several follow up questions regarding legal requirements, which the Department will be addressing after discussion with its legal staff.

Consumer contacts:

1. Staff worked with a consumer from Royalton who had been tracking the recent degradation of cellular signal in her area. The consumer had good service previously, but over the past few weeks she has had difficulty in accessing a usable signal in the area where her home is located. Staff is following up with wireless providers.

PSD GIS Server – A GIS server with associated hardware and software will be required to process broadband availability information internally. Staff is still in the process of negotiating with other agencies and a consultant to determine what the best long term and cost effective solution will be.

CoverageCo Project – Vanu CoverageCo is a company who was awarded the EDA Resiliency Project to provide cellular service in unserved areas of Vermont. A Field Test Plan was created to test the EDA Resiliency sites that were known to be in operation as of now and the test of 41 site locations has been completed. The test found that 8 of the originally executed 26 sites were not performing to spec with various error modes and 2 of the newly invoiced sites also did not perform to spec. These issues are documented and will be presented to CoverageCo.

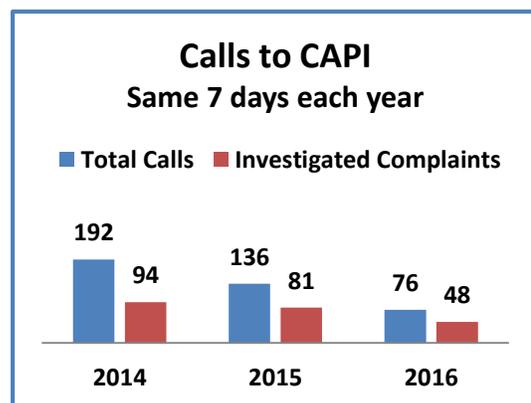
A face to face meeting with CoverageCo that was scheduled last week was canceled by CoverageCo due to a number of reasons. We are trying to reschedule this important meeting as soon as possible.

**CAPI**

Report period for July 17 to July 23, 2016

CPG Complaint Protocol – CAPI completed its key informant interviews and notes are in the folder including a review identifying trends and suggestions. CAPI developed a process diagram. The first draft of the protocol is now available for review. There are 5 survey monkey responses to date.

FairPoint DSL advertised speeds – CAPI and Telecom staff met with representatives from the Attorney General’s office. Prior to the meeting, CAPI provided the AG with detail (personal information redacted) from thirteen complaints received beginning in 2014 and through 2016. The complaints from consumers report that FairPoint is not providing advertised internet speeds. AG staff were encouraged by the information CAPI provided and by cases made against providers in other states. CAPI provided additional information at the meeting and will send complaints to the AG on an ongoing basis on this subject. The AG plans to approach FairPoint for information in the near future.



## CASES OF THE WEEK

A consumer, who identified herself as a person of color, advised that she had been told by a Comcast CSR that Comcast does not offer BET (Black Entertainment Television) “by agreement” with the state of Vermont, and further that “Vermont would never have BET.”

Vermont Electric Cooperative -- a stabilizer pole damaged a consumer’s pool when it fell down, subsequent repairs by the utility, which does not have an easement, damaged the lawn and ripped up trees. The consumer was referred to an attorney.

Comcast -- A consumer contacted CAPI for assistance with cable television service problems ongoing since November. The day after receiving the complaint from CAPI, Comcast sent a tech who completed the work. Comcast has also, in lieu of a credit, placed the consumer on a two-year promotional rate for the same plan he is currently on, at a \$43/month savings (the overall savings to the consumer is \$1,032).

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

**To:** Peter E. Shumlin, Governor  
**From:** Paul Dragon, Deputy Secretary, Agency of Human Services  
**Re:** AHS Weekly Report  
**Date:** July 29, 2016

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**Secretary's Message:**

As you know, Secretary Cohen is out this week. The Department for Children and Families received a letter copied to the Governor from the Administration for Children and Families regarding the Reach Up/TANF Work Participation Rate (WPR) for FFY14. The letter assesses a penalty of just under \$2.4M for failing to meet the WPR. We are evaluating our options as a response is due within 60 days. We have appealed the prior year's penalty and if possible we will appeal this penalty as well. We will keep you apprised of our review and recommended course of action. Over the last couple of years, we have implemented several initiatives to improve our WPR and we are hopeful we will meet it for FFY15 & FFY16.

The Agency of Education and AHS through DCF have met recently regarding the Vermont School for Girls. It is critically important that the two agencies take a coordinated, holistic and methodical approach to the issue of educational accreditation. We must be mindful and seek to fully understand and plan for the consequences of suspending or ending accreditation in regards to this residential program that serves approximately 50 vulnerable young ladies.

**AHS Highlights:**

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

Counseling Services of Addison County – Hill House

On Sunday July 24, 2016 at 2pm a client (Ronald Bean) at Hill House reportedly stabbed a male staff person and a female client with a pair of scissors. Both individuals required medical care and were hospitalized. The staff person and client have been discharged from the hospital. CSAC was working with the client to determine where she would like to return to if Hill House or it's general proximity was too upsetting. R.B. ran from Hill House and was found and arrested within a short amount of time. He was charged and in corrections. At court an evaluation was ordered. We are waiting for more details on the next steps related to that order. The other clients at Hill House were temporarily relocated because Hill House was a crime scene. Between CSAC resources and the other DAs resources all clients were placed temporarily relocated and are in the process of returning to Hill House. In addition, CSAC is doing a full analysis of the situation and their safety protocols and will share the outcome of that process once completed.

Vermont Psychiatric Care Hospital

VPCH is at full census of 25. The hospital continues to prepare for a Joint Commission return within 45 days of their recent visit, using a team approach and welcoming the input of Dr. Jay Batra DMH Medical Director to make sure we are making corrections to all the "conditional" level deficiencies that were identified. The hospital is also undergoing a transition this week and next, as two psychiatrists who have been at VPCH for its first two years are leaving and two new psychiatrists are starting. The VPCH Advisory Committee met this Monday and was given updates on Joint Commission visit and other hospital operations, and expressed their support for the hospital's performance and direction.

### Emergency Departments

This week there were 35 people in need of inpatient psychiatric admission and 24 have been admitted. There currently remain 7 adults waiting in Emergency Departments throughout the state. This is the largest number of people that have been waiting in many months. This past week has also been one of the busiest in terms of number of people in need of inpatient beds in close to a year. A large part of the backlog is the fact that half of the inpatient units in the state were at 100% occupancy this entire week and the entire inpatient adult system of care has been at an average of 96% occupancy this week. The longest wait at this time is just under 8 days, with the expectation that this person will be admitted to the next available Level 1 bed which is expected to open up today. The children's world has been quieter this week with only 1 voluntary admission and currently no minors are waiting for an inpatient bed.

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

#### **Crescent Manor Cited for Immediate Jeopardy After the Death of a Resident**

On 7/19/16 there was a resident to resident incident at Crescent Manor which resulted in one resident's death; this was followed by a subsequent assault by the same resident the next day. The DAIL Survey and Certification Unit (S&C) has been onsite since 7/25/16 and has cited the facility at an Immediate Jeopardy (IJ) level based on the fact that they are not supervising residents to prevent accidents. They confirmed the IJ level of severity with the Boston Regional Office. Our surveyor informed the facility on 7/26/16 of their status and S&C will follow up with a letter within the next two days. Crescent Manor was also cited at the Immediate Jeopardy level in September of 2015 and they paid heavy Civil Monetary Penalties (CMP) fines for that incident; we anticipate that they will be heavily fined for this incident as well. There are no bans on admissions at this point in time but this does open an enforcement cycle which will probably require corrective action with CMS. Due to possible negligence on the part of Crescent Manor staff, an Adult Protective Services Investigation has also been opened.

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

#### **High Risk Law Enforcement Notification:**

Sean Guillette (DOB 10/29/1964) will be maxing out his sentence on 8/2/2016 and will no longer be under DOC supervision. Guillette plans on residing with his father, Ralph Guillette, at 9 Locust Lane Essex Jct., VT. Guillette will be released non-compliant with treatment as he has failed to complete the facility based VTPSA program. CSS Laggis is working to set up meetings with CUSI and Essex PD to discuss this case. Compared to other incarcerated sex offenders, Sean Guillette's risk to commit another sexual offense is considered to be in the high range, and his risk for general criminal recidivism is considered to be in the high range. Based on offender history, if he were to sexually re-offend, his most likely victims would be females in the 10-12-year-old range that are both known and unknown to him.

## Other Agency Report Items for Consideration:

### Agency of Human Services Secretary's Office

#### Joint Fiscal Committee Meeting

CFO Clark attended the July Joint Fiscal Committee meeting to support, if needed, Commissioner Pallito as he presented the FY16 Closeout picture and FY17 rescission plan. In addition, there was a discussion of the Single Audit and audit findings with JFC and KPMG. There will be additional follow-up and reporting needed for the Legislature to better understand audit issues.

### Vermont Department of Health (VDH):

#### Dr. Harry Chen Leave of Absence

Commissioner Chen is taking a leave of absence from July 29 – August 5 to campaign with Shap Smith. Tracy Dolan will be Acting Commissioner during this period.

#### West Nile Virus Investigation

The Vermont Department of Health is investigating the second case this year of West Nile virus disease in a Vermont resident. Similar to the first case reported in early July, this newest case is also a resident of Windsor County. VDH epidemiologists are collaborating with colleagues at the Vermont Agency of Agriculture, Food and Markets to enhance mosquito surveillance in the Windsor County area.

#### Vigilant Guard

The Department of Health is participating in the Vigilant Guard Exercise currently taking place across the state. The Health Operation Center has been opened to exercise a response to a large scale outbreak of an infectious disease. **Communities should be reminded that this is only an exercise.** Exercising our emergency plans allows the Health Department to be better prepared to assist Vermonters when a real emergency occurs.

As a part of the Vigilant Guard Exercise, the Division of Emergency Preparedness, Response and Injury Prevention at the Department of Health is partnering with the Vermont National Guard to exercise the receipt, storage and distribution of medications and supplies from the Strategic National Stockpile to POD Site across the state. There may be an increase of military vehicles on the road and in the sky over the next few days as the Department of Health prepare to exercise POD activations in the cities of Barre, Burlington, Brattleboro, Rutland and St. Albans.

#### Naloxone Pilot

The Division of Emergency Preparedness, Response and Injury Prevention at the Department of Health enrolled the Turning Point Center of Rutland and North Central Vermont Recovery Center in Morrisville as Naloxone pilot sites. These organizations will receive Naloxone at no charge from the Department of Health to dispense to their clients.

#### Chemical Disclosure Program

The Chemical Disclosure Program for Children's Products received its first chemical disclosure in July, 2016. The report was provided by a costume manufacturer that sells costumes at various retail stores, as well as online. The manufacturer submitted the report and payment successfully.

#### Heat Vulnerability Index

The Climate & Health Program developed a Heat Vulnerability Index to estimate the risk for heat illnesses for each town and city in Vermont. The index was based on 17 indicators, including age, socioeconomic status, pre-existing medical conditions, environmental characteristics, climate characteristics, and historic incidence of heat illness. The Heat Vulnerability Index can be found at <https://ahsvt.maps.arcgis.com/apps/MapSeries/index.html?appid=5bfd71bdeff242d4a8f0d2780369807a>

#### Local Opiate Website Launched

The Central Vermont Opiate Addiction Workgroup and Green Mountain United Way recently announced the new Central Vermont Opioid Addiction Resource Guide, now available at <http://www.gmunityedway.org/resources/opioid/>. The guide is the culmination of local work in response to the 2014 Governor's Community Forum on Opiate Addiction. It offers support and clear direction for those who are struggling with opioid addiction, their loved ones and those in the community dedicated to the health and welfare of Central Vermonters.

#### Marijuana Messaging Added to ParentUpVT.org

Focus group research conducted with parents of school aged youth will inform updates to [ParentUpVT.org](http://ParentUpVT.org), including parental education outreach about the risks and harms of youth marijuana use, educating parents on the importance of their influence and communication with their children regarding substance abuse, including marijuana use. The program website and materials will be updated with these marijuana-specific resources for a Back to School roll-out in September.

#### High Risk Drinking Prevention Campaign Gains Traction with Young Adults

The Health Department contracted with Rescue Social Change to create a new branded online campaign to address high risk drinking among the young adult (ages 21-25) "partier" peer crowd in Vermont. The campaign promotes new information on responsible drinking behaviors. The campaign's website has been successful throughout the year, with over 4 minutes spent on the web page per visitor on average (enough time to read about the brand and messaging).

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

##### DAIL Vocational Rehabilitation Hosts Kansas Team to Offer Technical Assistance

The state of Kansas has recently announced a \$25 Million initiative called "End Dependence Kansas" <http://www.dcf.ks.gov/Agency/Operations/Documents/End-Dependence%20TPR.pdf>, aimed at reducing benefits dependence through integrated, competitive employment. The initiative will implement and evaluate three distinct placement strategies:

1. Individualized Discovery/Customized Employment for persons with significant intellectual and developmental disabilities
2. Individual Placement and Supports (IPS) for persons with severe or severe and persistent Mental Illness
3. The Vermont Progressive Employment model

The Department of Aging and Independent Living, Division of Vocational Rehabilitation recently hosted a technical assistance and training session for representatives from the Kansas Department for

Children and Families and consultants from Public Consulting Group based in Boston, MA. The guests had an opportunity to learn about the development of Progressive Employment here in Vermont, and heard first-hand from VR staff in the Burlington and Saint Albans offices the value of Progressive Employment from the perspective of Counselors, Employment Consultants and Regional Managers.

The Division of Vocational Rehabilitation has been partnering with the Institute for Community Inclusion at UMASS Boston on a 5-year implementation and research grant to study the effectiveness and replicability of the model in four pilot state VR agencies: Nebraska General, Oregon Blind, Maine General and Florida Blind. Initial results are promising and many other state VR agencies have expressed an interest in the model, including the state of Kansas. Many of the provisions of the recent reauthorization of the Workforce Innovation and Opportunity Act focus on employer engagement and skills attainment. Progressive Employment can be the “bridge” many individuals need to secure meaningful careers that match their interests and skills.

#### DAIL Testimony to Health Reform Oversight Committee

Commissioner Hutt and Deputy Commissioner George testified in front of the HROC on July 25, 2016 in reference to timely processing of Medicaid Long Term Care applications. Because this process is structured into both clinical and financial eligibility and split between DAIL (clinical) and DVHA (financial), we testified jointly with Commissioner Costantino. Generally, the clinical eligibility is determined well within the 30-day window required by statute. In fact, DAIL is able to process 87% of application in under 30 days. The bottleneck tends to occur in relation to financial issues which are extremely complicated and require assets lookbacks and assessments. Across the board, we are making overall progress in timely processing and that was our message to the Committee. DAIL will follow up with DVHA and assemble some additional materials at the Committee’s request.

#### DAIL Employee Appreciation Day

DAIL staff gathered this week for our public service recognition event. Approximately 185 DAIL staff were able to attend for a day filled with highlights of the work, success stories and Commissioner’s Awards for excellence. It was an honor to celebrate our tremendous public service and impact on Vermonters with DAIL staff from across the state and an event that was much appreciated by those same staff.

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

##### Housing Opportunity Program Grant Awards

The Office of Economic Opportunity (OEO) has awarded more than \$5.9 million in federal <sup>[1]</sup> and state funding under the Housing Opportunity Program (HOP) to 39 non-profit organizations across Vermont, including community and faith-based organizations. Of the total funds awarded, approximately \$1.2 million represents investments from the General Assistance (GA) program to create new community-based alternatives that decrease reliance on GA motels.

HOP provides funding to operate emergency overnight and day shelters; provide essential services to shelter guests; provide transitional housing where appropriate; rapidly re-house homeless individuals

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<sup>[1]</sup> Federal funds are from the US Department of Housing and Urban Development (HUD) Emergency Solutions Grant Program (ESG). The [Vermont Consolidated Plan](#) outlines the activities and objectives for use of ESG funds.

and families; prevent individuals and families experiencing a housing crisis from becoming homeless; implement coordinated entry to streamline client access to resources; and administer the Homeless Management Information System (HMIS). HOP operates within the [Opening Doors, Federal Strategic Plan to Prevent and End Homelessness](http://usich.gov/opening_doors) ([http://usich.gov/opening\\_doors](http://usich.gov/opening_doors)) and the [Vermont Plan to End Homelessness](http://humanservices.vermont.gov/boards-committees/vermont-council-on-homelessness/) (<http://humanservices.vermont.gov/boards-committees/vermont-council-on-homelessness/>). The primary goals of the HOP are to:

- Decrease the number of individuals and families experiencing homelessness;
- Shorten the length of time people experience homelessness;
- Reduce the number of individuals and families returning to homelessness; and
- Prevent people from becoming homeless.

A guiding principle of the HOP is to tie homeless assistance activities to permanent housing through systems, practices, and initiatives that are informed by data and proven approaches. While the program will continue to address the needs of homeless people in emergency or transitional shelters, the focus is to assist people to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness.<sup>[2]</sup>

A full summary of SFY 2017 Housing Opportunity Grant Program Awards can be found here: <http://dcf.vermont.gov/sites/dcf/files/OEO/Docs/HOP-Grants-SFY2017.pdf>

#### Department of Energy Audits Vermont's Weatherization Program

The Office of Economic Opportunity (OEO) receives approximately \$1.1 million in funding from the Department of Energy (DOE) annually to support Vermont's Weatherization program. DOE visited OEO the week of July 18<sup>th</sup> as part of routine monitoring. The DOE Weatherization Project Officer was accompanied by a Technical Assistance Contractor. The week entailed review of the State's Weatherization Policies and Procedures at the Waterbury State Office, then three days of site visits to homes with completed weatherization projects in three of five community partner regions. We expect a formal monitoring report from DOE within 60 days. From the exit interview, OEO expects a positive review, even if there are areas for continued improvement. The DOE maintains a national ranking of all of State Weatherization Programs; after the monitoring visit, DOE expects that Vermont will remain in the top ten nationally.

#### Vermont Incurs Fiscal Penalty for Reach Up Work Participation Rate

Earlier this week DCF-ESD was notified that it failed to meet the Work Participation Rate (WPR) for FFY14. The WPR is a federal performance measure in the Temporary Aid to Needy Families (TANF) program, known in Vermont as the Reach Up program. A financial penalty of under just \$2.4M has been imposed for failing to meet the WPR, which is an enhanced penalty for having failed it in the prior FFY as well. The prior FFY penalty is still under appeal. There are several avenues available to contest or mitigate the FFY14 penalty and those are currently being explored in detail. Many changes have been implemented over the prior two years to improve the WPR and we are hopeful to meet it for FFY15 and FFY16.

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<sup>[2]</sup> HUD HEARTH Emergency Solutions Grants Program, Interim Regulation, <https://www.hudexchange.info/resource/1927/hearth-esg-program-and-consolidated-plan-conforming-amendments/>

**Department of Corrections (DOC):**

**Joint Legislative Justice Oversight Committee Agenda for 7/29/16:**

10:00 AM

**Electronic Monitoring**

*Policy and Procedure Handbook Review*

Lisa Menard, Commissioner, Department of Corrections  
Kenneth Schatz, Commissioner, Department for Children  
and Families

John Campbell, Executive Director, Department of  
State's Attorneys & Sheriffs

Keith Clark, Sheriff, Windham County Sheriff's  
Department

Hon. Brian Grearson, Chief Superior Judge, Office of  
Chief Superior Judge

11:00 AM

**Department of Corrections**

- *Repurposing of St. Johnsbury Facility*

- *Work Camp, Woodside*

Lisa Menard, Commissioner, Department of Corrections  
Kenneth Schatz, Commissioner, Department for Children  
and Families

Sen. Jane Kitchel

Catherine Benham, Associate Fiscal Officer, Joint Fiscal  
Office

12:00 PM

**Lunch**

1:00 PM

**Use of Segregation for Offenders with Mental Illness**

A.J. Ruben, Supervising Attorney, Disability Rights  
Vermont

Ed Paquin, Director, Disability Rights Vermont

Matthew Valerio, Defender General, Defender General's  
Office

Dave Bellini, Chair, DOC VSEA Bargaining Unit, VSEA

Lisa Menard, Commissioner, Department of Corrections

John Gramuglia, Chief of Mental Health, Department of  
Corrections

2:30 PM

**Commission Discussion**

*Use of segregation*

3:00 PM

**Agenda planning**

3:30 PM

**Adjourn**

Population:

The Department's incarcerated population averaged 1750 for the previous week. Last year at this time, the average was +124 over the current number.

The Department's incarcerated male population averaged 1608 for the previous week. Last year at this time, the average was +119 over the current number.

The Department's incarcerated female population averaged 141 for the previous week. Last year at this time, the average was +6 over the current number.

The Department's overall detainer population averaged 437 for the previous week. Last year at this time, the average was -49 under the current number.

The out of state population is currently at 252. Last year at this time, the out of state population was +28 over the current number.



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**CONFIDENTIAL AND PRIVILEGED**  
**MEMORANDUM**

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

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**Vermont School for Girls**

The SBE heard from Ken Shatz, the leadership of the VT School for Girls and our internal investigator in executive session. The SBE then voted in public session to send the letter reviewed by Ken, Sarah, Pepper and Darren. I appointed a DCF investigator to the investigative team, which includes Mark Tashjian, who is the head of Burr and Burton and the Head of the Council of Independent Schools. The investigation has 60 days to look at the sexual assaults and other safety issues, as well as management practices as they may or may not contribute to an environment in which assault is more likely to occur.

**Burlington College**

All I can say on this one is that it is an increasingly bizarre situation. The AG is now heavily involved, including to the extent of showing up at the SBE meeting unannounced to ask for an executive session to address the Board. I've given you some details in previous reports. Our role and authority is with respect to the records, which we are trying to protect in order to protect students. We are working very closely with the AG at this point.

Last week, there was a bizarre break in at the College, where records were not sufficiently protected. Some records were stolen (and hopefully recovered), some may have been damaged, and all are in disarray. This is a very sad situation in which opportunists are putting the interests of students at risk.

At this point, the records are in such poor condition that no other college is eager to take them. And, we are compelled to assume unanticipated costs associated with cleaning up the records, getting them into a condition in which they could be transferred to a more appropriate custodian and serving as "registrar" in the interim. We do not have resources for this in our budget, and will be reaching out to Andy Pallito once we have been able to secure the records and assess the situation.

This incident also puts us in conflict with a politically-connected entity (HITEC) that is behaving in very unusual and questionable ways.

This case highlights a risk the AOE faces in an error of declining enrollment, in which private institutions are struggling and closing. When they close, the AOE has to find a permanent repository for their records. When this is difficult, as in the case of Burlington

College, the AOE is compelled to take that role. The AOE has the same responsibility with respect to closing independent elementary and secondary schools as well. Twenty-one independent schools have closed in the last 10 years.

## **Fingerprinting**

Some hopefully good news: At the beginning of June, we directed our Licensing group to change its protocol and process all criminal records checks upfront rather than after reviewing all applications, in order to reduce the strain on DPS. Hopefully, we have managed to clear the VCIC pipeline of most licensed PK-12 educators.

The remaining problem from the perspective of Superintendents, VSBA and VISBT seems to be that they face a lose-lose proposition due to our failure to fingerprint private providers in time:

1. either they tell some kids they cannot access the vouchers in time for the start of the year, including in some programs with which they already have contracts, or
2. they violate their statutory responsibilities with respect to their administrators licenses, putting themselves and their districts at risk if there were an incident in one of the private providers.

If there were an incident in one of the PK providers, the parents would likely come after the district, as that is where the deep pockets are, and the Supt would likely be perceived as negligent for authorizing contracts in the absence of statutorily required assurances.

## **Review of Rules for Independent School approval to receive public tuition dollars**

For the purposes of the SBE rules, “approval” means that a private school has met minimal criteria to be eligible to receive public tax dollars. We have some outstanding “approved” independent schools in the state, and we also have some that get public dollars that are embarrassing. The current rules do not differentiate.

I have been clear that the rules are the Board’s rules, and not the AOE’s and not the Governor’s rules. We will defer all media requests to the Board, and are sharing the Board’s media statement on their behalf without AOE comment.

This rule review is part of a series of rule reviews that the SBE is undertaking as part of its strategic plan. In its plan, the SBE committed to update all rules with an eye to quality, equity and sustainability. At Friday’s meeting, it sent the post-secondary rules to LCAR, and the independent school rules to ICAR. These actions are within their authority, and our lawyers believe they have a strong legal basis for the changes they are proposing. Sarah and Pepper have seen some of this material.

I know you have been hearing from a lot of the independent school lobbyists directly. The State Board has been hearing from them, but also from some other entities, including representatives of the disability interest groups.. I have attached a sampling of the input they have received, including:

- A letter from the Vermont Independent Schools Association, which was read into the record yesterday,
- A white paper contrasting voucher practices in VT with national practices,
- A letter from Karen Richards of the Human Rights Council,

- A sampling of survey input from a survey of 39 superintendents and 43 special education directors. (NOTE: this is a draft of survey summary that has not been prepared yet for public release, so please do not share.)

Here also are links to some of the public comment we received even before initiating the public comment session, which the SBE voted to begin on Friday:

[J1 – Letter – Burr & Burton Academy](#)

[J2 – Letter - VT Independent Schools Association](#)

[J7 - VSBA Resolution on Public Funds to Independent Schools](#)

[J8 – Letter – VT School Board’s Association](#)

In addition, Sarah and Pepper have read a draft legal brief requested by the SBE that defines their authority and the legal basis for the proposed change.

The most controversial aspect of the rules is the proposed requirement that private schools that depend on public dollars be required to be willing to serve students in all disability categories that public schools are required to serve. This doesn’t mean they have to staff up or contract in all areas; but rather that they have a plan for how to do so if, for example, a student with a reading disability showed up and wanted to enroll.

I would encourage us all to take care to really understand the politics before weighing in. Read Karen Richard’s letter and try substituting the words “African American” or “Jewish” for “student with disabilities” in the proposed rule language, and I think you will see why this is a priority for the Board.

For context, publicly funded students in independent schools represent only about 3.5% of publicly funded enrollment. In addition, of those students, almost 70% are in schools that already meet the new proposed requirement. I don’t see the rules changing much for St. Johnsbury Academy, Burr and Burton, Thetford Academy, Lyndon Institute, the Mountain School at Winhall or the Village School of North Bennington, which serve this 70%.

I would also encourage us to consider this is not just a public vs. private sorting of students problem, but also a private school vs. private school sorting of students problem. For example, Thetford Academy serves all takers and is approved in all disability categories. Sharon Academy has chosen to accept a very limited number of students with disabilities. As a result, a child who grows up in Sharon and who has one of the 9 disability categories Sharon Academy does not serve, effectively watches his or her peers go to Sharon Academy, while he or she does not have that choice and must enroll in a different school. Last I checked, for example, on one state test, almost 40% of Thetford’s kids were students with disabilities, while only about 3% of Sharon’s students had disabilities. This has been a sore point locally, because Sharon uses its “higher scores” to recruit, while in truth, its scores are likely higher because it excludes a category of students.

The disability groups’ argument is that private schools are free to discriminate, but should not be given tax dollars from across the state to do so. In light of that argument, it may be worth noting that access for kids with disabilities has been a core Democratic commitment for a while. In her DNC speech Hillary Clinton said “*I went to work for the Children's Defense Fund, going door-to-door in New Bedford, Massachusetts on behalf of children with disabilities who were denied the chance to go to school....to drive real progress, you have to change both hearts and*

laws. .... our work helped convince Congress to ensure access to education for all students with disabilities.” The current SBE effort will read publicly as a descendent of that early CDF initiative.

One area I will be attentive to is the reciprocity between NH and VT. Laura Pelosi expressed some concern that the rules might affect the current reciprocity of students between NH and VT. I believe the new rules protect the reciprocity better than the current rules—I believe St. J is currently at risk given recent developments in NH. This is a critical concern, because their number of VT students has dropped dramatically, but has been backfilled by NH students. I will meet with Laura to respond to concerns.

Pepper asked for context, and so I thought it might be interesting to provide a few numbers to help you put the sector in context. Below is a sample of other numbers that we have been tracking.

**Table 1** shows the population change in the historical academies since 2003. Until the early 1990’s, these schools in statute, were referred to as “public schools with a different form of governance.” At their request, they have been renamed by the legislature as “independent schools,” and with the exception of Thetford, no longer have the same explicit public obligation. I think the student declines speak to the problem: almost all schools, including independent schools, are feeling cost pressures. Declining numbers mean higher per pupil costs. That affects the quality of programs if not addressed. Burr and Burton is unique, and its success in part reflects the acute fiscal challenges in the few remaining public schools in the its region.

**Table 1. Number of publicly funded tuition students in 2003 and 2016 in the historical academies**

	Cot. 2003	Oct. 2016 (Turned public)	Change
Bellows Free Academy	1170		NA
Burr & Burton Academy	584	610	26
Lyndon Institute	610	515	-95
St. Johnsbury Academy	979	660	-319
Thetford Academy	349	297	-52

**Table 2** below speaks to the reality that as the total number of tuition students has declined, we have increased the number of private schools competing for those students. This also has implications for the vitality of those programs. Note that we since 1998, we have approved 51 new schools but closed 26.

**Table 2: Number of Approved Independent Schools in 1998 and 2016**

	1998	2016
Number of approved independent schools	68	93

\*New approvals: IS that have been initially approved since 1998: 51

\*\*Closures/Endings: IS that have closed or given up approval since 1998: 26

Table 3 suggests that not only are there fewer publicly funded tuition students in SY16 compared to SY04, but also that publicly funded students represent a smaller proportion of the student population in these schools. That suggests that some schools (and we see this in the historical academies) have been pulling proportionally more students from other places, including out of state.

**Table 3: The number of publicly funded students in approved independent schools in SY2004 And SY2016 (count as of October 1) as a proportion of all students and all VT students**

	All Students	VT IS Students	Publicly funded IS students	% Publicly funded vs. VT Approved IS Students
2004	9870	8669	4361	50.3%
2016	8830	7431	3392	45.6%

Most publicly funded tuition students tuition to public schools. Of those who tuition to private schools, the group appears to be wealthier on average than VT students as a whole. Table 4 below suggests that the proportion of students in independent schools who are FRL is about 23%, compared to 39% for public schools.

**Table 4. Publicly funded students who are eligible for FRL as a proportion of public school and approved private school enrollments**

School Year	Total	Publicly-funded students in VT public schools		Publicly-funded VT students in privately-operated regular education schools	
		Enrollment	Percent of total state K-12 Enrollment	Enrollment	Percent of total state K-12 Enrollment
2016	79424	76639	96.49%	2785	3.51%
Enrollment of students eligible for Free Lunch	Total	Number of students eligible for Free Lunch	Percent of students eligible for Free Lunch	Number of students eligible for Free Lunch	Percent of students eligible for Free Lunch
2016	30562	29922	39.04%	640	22.98%

**ACLU/FOIA/Law suit**

We got sued on Friday by the ACLU for refusing to release school level discipline data. We feel releasing would be a violation of FERPA. The data is in a database. We would have to create a record for them. The ACLU wants to look at school level racial disproportionality.

The numbers are so small we feel releasing this would provide sensitive personally identifiable information.

### **Media Contacts:**

**Shay Totten, Seven Days:** Shay is working on a project to find out how much standardized testing costs school districts. He asked Haley if there is a standard, ballpark cost per student or by district size that the AOE uses. Haley forwarded the question to Michael Hock. The AOE does not collect data on assessment costs for individual schools/districts, and it's hard to determine what we would collect. Michael shared the Agency's direct cost for SBAC (about \$39 per student), and the direct costs for the schools (nothing), and explained that an actual cost is an elusive figure.

**Katie Titterton, KidsVT:** Katie emailed Haley to follow up on questions she previously asked about the Kindergarten Readiness Survey. Haley had explained in the past that the survey would be ready before school starts, and that previous survey results had been taken down because the data is too small that it could be a violation. Katie asked if the old survey data is public information, and if the sample data from previous years now negates the statistics drawn from it (that 40-50 percent of kindergarteners arrive unprepared.) Haley forwarded the question to AOE Info Officer to see if the previous survey data are public information. Judy Cutler is working with the data team.

**Dylan Giambatista, State Treasurer's Office:** Dylan emailed Haley as the new Director of Outreach and Financial Literacy. He asked for a contact list of principals around the state for the JumpStart Coalition's fall conference. Haley sent him a list that VPA Executive Director Ken Page sent to his listserv several weeks ago and referred Dylan to Ken's office for additional help. Dylan said Ken had told him the AOE could provide a more complete contact list. Haley explained that it could be a privacy concern to share principals' private email addresses and offered to share any information Dylan may have in the WFM.

**Howard Weiss-Tisman, VPR:** Howard emailed Stephanie to get connected to someone at the AOE who could comment on the SBE guidance about ESSA guidelines. He asked if the House Appropriation cuts referred to the U.S. House or the Vermont House. He also asked for more detail on where these fund cuts will show up. Haley forwarded the questions on to Amy Fowler, who sent Howard information about the law and answered his questions. Stephan Morse told Haley he would be available to answer more questions about this after the SBE meeting.

**Alex Hanson, Valley News:** Alex emailed Secretary Holcombe to see if she is aware of any reference material on the history of school choice in Vermont. Secretary Holcombe forwarded the question to Haley, saying she would try to suggest something . We are unaware of any research on this.

**Kira Bacon, Vermont Arts Council:** Kira emailed Haley to see if the AOE would be announcing the new arts content specialist at the agency, and asked if the arts council could announce it with approval from the AOE communications team. Haley and Robert agreed that it would be OK if the arts council announced it.



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July 28, 2016

Stephan Morse, Chair  
Vermont State Board of Education  
PO Box 218  
Newfane, VT 05345

**SENT VIA EMAIL ONLY**

RE: Draft Rules regarding Independent Schools

Dear Chair Morse and Members of the State Board:

My apologies for the lateness of this correspondence. The issues addressed in the draft rules with regard to equal opportunity and equity in admissions and provision of services to students with disabilities by independent schools in Vermont just came to my attention.

I wanted to register my appreciation that the State Board is looking at this important public policy issue. If you are not familiar with the Human Rights Commission, my agency enforces the Fair Housing and Public Accommodations (VFHPAA) statute, 9 V.S.A. §4500 et seq. Under our statute, schools are specifically defined as places of public accommodation. Because independent schools market their services to the general public and accept public monies, they would be considered places of public accommodation under our statute.

This means that from our perspective, admissions policies that excluded certain students because of their disabilities would violate the VFHPAA as would policies that excluded students because of any other protected category including race, color, national origin, sex, sexual orientation or gender identity.

A parent whose child was so excluded by an independent school based on their protected status would state a *prima facie* or initial claim of discrimination that would be investigated by my office.

These rules address this important issue in a proactive way and I am pleased to see the Board moving forward with the draft rule which would guarantee what the VFHPAA requires: that all Vermont children have a right to enjoy the privileges, benefits, and advantages of any place of public accommodation. If there is any assistance that I or my staff can provide to the Board in the context of this discussion, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen", with a long horizontal flourish extending to the right.

Karen L. Richards  
Executive Director

cc: Sean-Marie Oller, Vice Chair  
William Mathis

## The Vermont Tuition Program In a National Context

Vermont has administered its Town Tuitioning Program since 1869, making it the oldest school choice program in the nation. Along with Maine, it is one of only two states that allow towns lacking an elementary or secondary school to pay tuition for their students to attend another public or private school. A unique feature of the Vermont program is that students may also take their “town tuition” to a school out of state.

According to the Friedman Foundation, 3,585 Vermont students participated in the program in 2013-14, or approximately 4% of the total state public school enrollment. News accounts reported that 110 of those students attended schools in New York and New Hampshire, and an additional 331 students had tuition paid for their schooling in “more than a dozen other states and several countries.” The estimated cost of the out-of-state placements was \$4.7 million in 2013 (VTDigger, 2015).

Like school voucher programs, town tuitioning provides taxpayer dollars to students that they can use to pay for private school. But Vermont’s program differs in several ways, too. What follows is an attempt to put the state’s program into a national context:

**Eligibility:** Eleven states and DC have school voucher laws. Of these, 10 states extend eligibility to students with disabilities; 4 states include students who attend low-performing schools; and 6 states offer vouchers to students from low-income families. In addition, eligible students must have been previously enrolled in a public school in 9 states, although 3 states provide exceptions for students with special needs or for foster children. Eligibility in both Vermont and Maine is open to all students from a tuition paying town (NCSL, 2014).

Nationally, voucher participation represents less than ½ of 1% of the total school-age population (CPE, 2015).

**School participation standards:** All 12 states/DC require participating private schools to meet health and safety standards and comply with nondiscrimination requirements. Eight require background checks. Eight states ask schools to submit annual financial reports; 7 require proof of financial viability (Alliance for School Choice, 2015). Four states call for private schools to be accredited – either by an approved accrediting agency or the state board of education – in order to receive voucher students. Indiana further requires participating private schools to implement annual teacher evaluation plans (NCSL, 2014).

Vermont's approval process is similar to accreditation but is conducted by the state. The process includes an examination of such characteristics as the independent school's staff qualifications, financial capacity, facilities, course of study and operating schedule (Vermont Department of Education, 2001).

**Religious school participation:** There is wide variation among state programs as to whether they allow students to take vouchers to religious schools, and often courts are the deciding factor. In 2002, the U.S. Supreme Court upheld an Ohio law that included religious schools in its voucher program, arguing that the provision "is entirely neutral with respect to religion" because the action is "a result of [parents'] own genuine and independent private choice" (*Zelman v Simmons-Harris*). Challenges under state constitutions, however, have sometimes been successful. The Colorado high court, for example, recently found a Douglas County voucher program unconstitutional because it included religious schools. In contrast, the North Carolina supreme court upheld that state's voucher program thereby allowing tax dollars to continue to be used in religiously affiliated schools.

Louisiana, North Carolina and Indiana are among states where vouchers can be taken to religious schools (Friedman Foundation, 2015). Both Vermont and Maine restrict tuition-receiving schools to nonreligious schools only (NCSL, 2014).

**Academic accountability:** Eight of the 12 states with voucher programs require receiving schools to administer standardized tests to voucher students; in 5 of these states, the test must be the state assessment. In addition, 6 states require participating private schools to publicly report the results, and 5 states require an independent evaluation. Programs in 5 states must fulfill all of these academic requirements (Alliance for School Choice, 2015; NCSL, 2014).

Maine requires tuition receiving schools to participate in the state assessment if 60% of the student enrollment is publicly funded (NCSL, 2014). Vermont does not require state test participation or the administration of any assessment. The state does require the tuition receiving schools to deliver the state-prescribed course of study, but there are no performance indicators (16 VSA §906).

**Funding:** Most states with a voucher program determine the dollar value based on state per pupil funding, although a couple also include the federal share in the calculation. Vouchers in 4 states represent the full or nearly full (90%) state per pupil funds. Two states base the voucher amount on the full state and federal per pupil cost. However, these programs only serve special needs students. In two states, the voucher amount is based on a graduating scale based on family income; the amount represents a portion of the state per pupil cost. Another four states offer fixed amount vouchers that are less than the state per pupil cost (NCSL, 2014).

The Vermont tuition payment is based on a state calculated average (Vermont Department of Education).

**Impact:** There have been numerous studies of voucher programs over the years, but generalizing findings is difficult because the programs are small and vary from one jurisdiction to the next.

Researchers who have looked across studies tend to conclude that the programs may provide some advantage to some students, but in general have made little difference. For example, a 2007 RAND meta-analysis determined that:

*[E]vidence on the academic achievement of students in existing, small-scale voucher programs can be characterized as promising for low-income African Americans; showing neither harms nor benefits for other participating students (based on a very small amount of data); and limited in its scope and breadth of applicability.*

A more recent report from the Center on Education Policy found that “[a]dditional research has demonstrated that vouchers do not have a strong effect on students’ academic achievement.” Other studies suggest that voucher students may have higher graduation rates, particularly in DC (US Department of Education, 2010).

Neither the Maine nor the Vermont programs have been studied for impact on student achievement (RAND, 2007, CEP 2011).

**Comment:** The Vermont program seems to be an outlier in many respects, most notably in its long history and the ability to carry vouchers across state lines and even national borders. Vermont also seems to have minimal accountability for student performance for tuition receiving schools, whereas the trend across the country is to establish some kind of performance indicators for schools accepting vouchers.

At the same time, like most voucher programs, the Vermont town tuitioning serves a small proportion of the school-age population, making it difficult to gauge how effective such programs are.

*Prepared by NSBA’s Center for Public Education  
For the Vermont School Boards Association  
November 2015*

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Vermont Independent  
Schools Association

July 28, 2016

Stephan Morse, Chair  
Vermont State Board of Education  
via email & personal delivery

Dear Chairman Morse:

I request the Board not move to a vote at the Board's July 29 meeting on Item J, the independent school rule proposals prepared by the Agency of Education. I make this request for two reasons: evidence of likely rule implementation problems and questions about the enforceability of the proposals.

Several difficult implementation issues already have been brought to my attention. Several more likely will be discovered as we further study the proposals. An example of a simple issue is the proposed exclusion of the religious independent schools from gaining approved status. A much more complex issue involves how very small schools or very specialized schools can comply with the special education proposals within their limited financial means and their educational missions.

Our legal advisors are concerned about whether the proposed rules can be enforced within the scope of federal and state law. Vermont Title 16 is quite clear about the sorts of conditions the Education Board may establish for independent school approval. Federal law and federal court precedent raise serious questions about whether the state may make any special education requirements for independent schools. These concerns should be thoroughly addressed ahead of an Education Board vote.

Because of these problems and concerns, I respectfully request the Vermont State Board of Education to defer action until all interested parties are fully prepared. We also request the Board set a process for the Agency of Education, the State Board and the independent schools community to have a dialogue

about policy goals and implementation procedures. The issues at hand are not yet ready to be brought to the public hearings portion of the rulemaking process.

Sincerely yours,

Mill Moore, Executive Director

Copies: Education Secretary Rebecca Holcombe  
CIS Co-chair Michael Livingston  
CIS Co-chair Mark Tashjian

## NOT FOR RELEASE

### Comments from 39 superintendents and 43 special education directors in response to SBE proposed changes for Independent school approval

It is critical for independent schools to maintain a rigorous curriculum for students who attend their school. The curriculum should align with the public school curriculum. It is also essential for students to return with a solid transition plan in place and human resource support from the independent school. We appreciate the focus on behavior intervention from independent therapeutic day treatment facilities, but want to ensure students maintain and grow academically as well as socially and emotionally.

7/21/2016 11:39 AM [View respondent's answers](#)

Independent Schools receiving public funds should serve all students and be responsible for meeting all student needs. Independent Schools should be required to adhere to the open meeting law provision and public records request statute if they receive public funding.

7/20/2016 12:37 PM [View respondent's answers](#)

It can be very contentious when a parent wants an independent school and the sending school has to state that the independent school cannot meet the child's needs. Often the independent school calls us to talk about the child and somehow we become the giver of the news, so it appears we don't feel he can go there when actually the independent school does not want him. Independent schools do not tend to accommodate well or provide supports for students in special ed and if they do take the student and the student struggles, we get called again. Truly, many special education students with disabilities more severe than needing accommodations do not have the same span of choice as students without disabilities.

7/19/2016 3:22 PM [View respondent's answers](#)

The level of certification of the teachers needs to match that of public education.

7/18/2016 2:23 PM [View respondent's answers](#)

Tech schools are unreasonably restrictive due to funding constraints. We are not able to place students with disability due to pre-entry requirements.

7/18/2016 1:36 PM [View respondent's answers](#)

Approval of residential schools in Vermont in order to reduce the number of students placed into out of state residential facilities or whose needs are left unmet because of inadequate level of programming.

7/18/2016 12:52 PM [View respondent's answers](#)

Independent schools fill a need. That said, high cost independent schools that serve special populations consume large resources that might otherwise be used to build capacity in the public schools so that fewer students are removed from their local communities.

7/18/2016 12:11 PM [View respondent's answers](#)

no

7/18/2016 12:01 PM [View respondent's answers](#)

Yes, ensure independent schools have to follow all the rules, regulations, requirements of public schools.

7/18/2016 11:41 AM [View respondent's answers](#)

Most of our secondary students attend Burr and Burton Academy and we have a good relationship with them regarding accepting all students. However, we have four other independent schools in our area and access isn't guaranteed. I struggle with the use of public funds being directed to schools who won't and/or can't accept all students.

7/18/2016 11:33 AM [View respondent's answers](#)

Control the cost of tuition. Especially costs associated to special education. The New School's tuition is over \$100,000 per child. They may service the most intensive needs students but at a very high price. Choices of programs for high intensive needs students is limited however, what controls are in place for assuring the tuition is reasonable. Now that special education costs and services are under the SU, the district that has tuition (school choice) for their students pays the SU and the school the student attends via excess cost billing. If the students would attend the middle/high school in their supervisory union the special education costs would not be extra, they are built in to the the SU assessment the district is paying but students are not receiving.

7/18/2016 11:22 AM [View respondent's answers](#)

I would suggest that in the spirit of Act 46, independent schools be accountable for educational quality, fiscal effectiveness, high quality staffing, and sustainability.

7/14/2016 10:29 PM [View respondent's answers](#)

Independent schools charge significant amounts for special education and 504 services. They are not reasonable. Independent schools need to follow the same process of accounting for special education services and costs for students as do the public schools. In one case, an independent school charges us more than \$9000 plus tuition for a student to attend the learning lab one period a day. In another case, an independent school down the road from us charged us excess costs, the school day is modified, they do not assess student progress, and do not track student data. Independent schools need to play by the same rules as public schools and account for expenditures the same way as public schools. I had one special educator from a private school tell me that they charge more for special education students because they only get the average tuition rate - not their costs. Thank you for asking.

7/14/2016 3:15 PM [View respondent's answers](#)

Announced tuition is often distorted. For example, an independent school might announce tuition at \$15,000. What they don't declare for all to know is that students in special education are charged additional moneys, or that the local district will still pay/employ the para-educator that works at the independent school, or that the independent school does zero case management, leaving that to the local district. Independent schools sound like a great deal because they do not disclose their true cost per pupil.

7/12/2016 1:16 PM [View respondent's answers](#)

I am confused about why our independent schools in Vermont are not subject to the federal rules of Charter Schools. It seems to me that there is a linkage between our private schools that function as public schools (based on the amount of public tuition they accept) and this set of rules. The provision of

special education services in independent schools in this state deserves a careful look by the AOE. I would suggest a work group to find a way to ensure that all schools accepting public tuition dollars and serving a general population be required to admit in a blind fashion - similar to tech centers. We continue to need special education specific schools for students who cannot have their LRE needs met in a general education setting.

7/12/2016 1:11 PM [View respondent's answers](#)

I have a lot to say. This survey is a great start but does not capture the essence of the strengths and challenges that exist when students are tuitioned out of district. By and large, most of the public schools outside of our SU work hard to meet the needs of our students and charge us reasonable rates for special education services. They do not charge us for 504 services. We partner well and LEAs work through student specific issues. We have 5 independent schools within our SU boundaries, some approved to provide special education services, and others are not. I have worked extensively this year regarding service delivery and costs with the four schools to which the majority of our students attend. This has been a difficult, often frustrating process that has not been completely resolved. I have A LOT to say about specifics related to this, but would rather engage in a conversation than try to capture it here. Part of the confusion comes back to the Agency of Education related to Independent School requirements and Special Education Excess Costs versus Special Education tuition. There is not consistency in the information being communicated and so independent schools feel like they can charge "tuition" for special education services, rather than paying for the excess costs connected to the costs for the special education services. The unreasonable charges for 504 services, that are equivalent to the charges for special education services is another significant issue that we are working hard to address...

7/11/2016 5:22 PM [View respondent's answers](#)

There is, I believe, a civil rights problem in my district because students with disabilities are not able to attend the same private schools that non-disabled students can in the choice grades in three of my towns. In addition, there is a huge equity problem because students from low SES families simply do not have the same opportunities to attend private schools or even out of the district public schools that other, wealthier families do. Keep in mind that there is substantial overlap between these two groups. Many students on IEP's are also from low SES households. Ironically, while our middle school has been under school improvement for many years because of low test scores, historically, the most talented students have been skimmed off because of the towns' choice arrangements so almost all of the special ed kids and low SES students from the choice towns end up at our middle school. I believe that some of the "elite" private schools that some of the wealthier families send their kids to under school choice do not accept all students that apply. I believe that the State Board should only allow public money to be used at independent schools that offer the full array of special ed students and that admit any child who applies under public school choice. There remains the problem that many low SES families do not have the means or the inclination to have their children attend these private schools. So long as Vermont continues to embrace choice, it is hard to see how

this part problem is going to be solved.

7/11/2016 10:32 AM [View respondent's answers](#)

I recommend that the AOE somehow distinguish between independent schools that have a quasi-public character (e.g. Thetford Academy) and those schools that are more purely independent and private. I suggest that the criteria for the distinction rest in operations like admissions, special education, and even lunch programs as well as their current or projected contract status with local districts.

7/7/2016 1:33 PM [View respondent's answers](#)

I am concerned that there are some programs within Vermont that schools are using for students eligible for special education. These programs are not approved or recognized by the Vermont Agency of Education, yet schools are being reimbursed for the tuition. One program in particular had questionable costs on the invoice submitted to my district (the student moved in from another district). This program was charging over \$100,000.00 for the student yet didn't have any type of curriculum or specialized instruction. It appeared to be "babysitting". I challenged this program on some of the charges on the invoice. We were also calling an IEP meeting to discuss change of placement. At this point, the parent moved to another district. I will not send any students to this program. They are charging astronomical fees, yet are not recognized or approved. I know other special education directors in my region had similar concerns. I would strongly recommend that the AOE not reimburse districts for programs that are not recognized or approved. Our students deserve high quality programs that meet strict guidelines for becoming approved independent schools.

7/7/2016 12:36 PM [View respondent's answers](#)

Requirements put into place such that independent schools rates are itemized and consistent. Billing for the services in some schools seems to vary and school districts are paying different negotiated rates. Should there be a state-wide contract between the state and the independent schools rather than every school contracting separately with these schools?

7/7/2016 9:59 AM [View respondent's answers](#)

1. Districts/SUs need to be able to evaluate the effectiveness of independent school programs; we invest loads of money (in our District well over 5 million) into independent schools but have no way to provide input on what these schools do for students (special education is a major example).
2. I find the fact that there are independent school lobbyists problematic; they put the needs of independent schools first, not the needs of students. I don't know how that can be controlled/curbed.
3. Independent schools in our area accept all students (almost all), but they don't have to keep them, and can put them out for infractions that would not be considered reasons that public schools could exclude students.
4. In our District, drop out rates are not accurate because independent schools can say they are sending students elsewhere, but no one tracks what happens to kids. That may be something that we should be doing in District, but we may not be able to do it without some kind of data support.
5. There need to be clear guidelines on what responsibilities Districts/SUs have for high school students in cases where students are tuitioned into independent schools -- beyond the special education guidelines.

7/6/2016 8:21 PM [View respondent's answers](#)

It is important that when students attend private schools that case management responsibilities are clearly outlined. It is more beneficial to have on-campus staff completing necessary paperwork for special education than the LEA who is removed from the day to day interactions. The LEA needs to be present. A documented process for how LEA responsibilities will be completed and a common agreement across the state for services rendered when students are tuitioned or placed.

7/6/2016 4:48 PM [View respondent's answers](#)

A provision, readily accessible, to track public school students success a the high school. Specifically, disaggregated by sending town (and their previous middle school) how students do in high school. For example, all the children who attend Burke K-8 or Lyndon Town School K-8 -- how do they perform on their SATs, NECAPs, ACTs, graduation rates, ASVAB etc.

7/6/2016 1:29 PM [View respondent's answers](#)

I think that the SBE considerations are the right one. It appears that there's a focus on equity and accountability to the system and to the students.

7/6/2016 1:20 PM [View respondent's answers](#)

I would like the State Board of Education to consider the same requirements for teacher licensure in Independent Schools as they do in public schools, to look at data regarding academics and behavior as they do public schools, and to ensure students in Independent Schools are getting a quality education that leads to success in adulthood.

7/6/2016 1:12 PM [View respondent's answers](#)

Consider another model of evaluation besides NEASC.....what about Global Best Practices?

7/6/2016 10:54 AM [View respondent's answers](#)

Equitable access for students with all disabilities to all independent schools receiving public funds is essential as is the requirement for all state/federally required testing and public sharing of all student data. As we move to Proficiency Based Graduation Requirements, consideration should be given to comparability with independent schools planning to continue to use Carnegie units. Financial stability and competent administrative management is a crucial consideration for small schools specializing in serving students with disabilities. At one point 3 years ago a school serving 2 of our students was unable to reimburse an overpayment (due to their overcharging the district) in the year of service. The money due back to the district was eventually netted out the following year from tuition due for another student. The tradition of operating on a "shoe string" also creates challenges for the quality of the programming as well as the long term or even short term stability of the independent school. Deeper financial and program monitoring by the AOE is needed.

7/6/2016 10:48 AM [View respondent's answers](#)

Independents should have to play by all of the same rules as public schools: licensure, accepting and keeping all students regardless of ability or disability, not dismissing "problem" students.

7/6/2016 10:39 AM [View respondent's answers](#)

no

7/6/2016 10:06 AM [View respondent's answers](#)

If the state's independent schools are going to continue to receive public funds then they must abide by the Education Quality Standards, accept all students and provide a robust education for every student who receives public funding.

7/6/2016 9:35 AM [View respondent's answers](#)

All schools, receiving State education funds, independent or otherwise, need to follow the same rules and regulations.

7/6/2016 8:53 AM [View respondent's answers](#)

Independent schools should have guidelines/rules outlining specific triggers for Special Education evaluation. We have seen children who are not performing in independent schools who should have been evaluated and placed on an IEP to receive services. We have seen children who did not receive any type of intervention or remedial services who cannot read, and make great strides after working with our reading specialist. Independent schools who receive funds should have to report on student progress to the state as public schools are required to do.

7/6/2016 8:50 AM [View respondent's answers](#)

To continue to monitor their ability their ability to service special education students

7/5/2016 2:46 PM [View respondent's answers](#)

I would ask that they are capable of meeting the needs of students with disabilities and that they have strong general education as well as special education offerings. Often students who are sent to independent schools have less access to grade level content.

7/5/2016 1:41 PM [View respondent's answers](#)

Discipline policies/procedures for publicly funded students in independent schools should be the same as in public schools--- due process, limits on numbers of days of suspension, and so forth. Review the notion of an "independent center for technology education"-- esp for students generally enrolled in St Johnsbury. All students are not receiving a technical education or experience generally, however tuition is paid as if all students are. There is no system or process for accountability for academic outcomes for publicly funded students in independent schools. In addition to requiring independent schools to have a system for that, can there also be requirements that information regarding systemic and individual student outcomes be sent to the fiscally responsible district? In tuition paying districts, there is no reasonable way to measure or report on the efficacy of choice placements or fulfil a district's obligation to ensure the educational well-being of resident students. The system should probably align with VT's chosen accountability system (SBAC) if it is to be meaningful.

7/5/2016 11:55 AM [View respondent's answers](#)

Independent schools that receive tuition from public entities should be held to the same standards as the public schools, including but not limited to assessment systems and special education.

7/5/2016 10:36 AM [View respondent's answers](#)

No

7/5/2016 10:13 AM [View respondent's answers](#)

I would really like to see some kind of rules/recommendations for how SUs can

work more closely with independent schools when it comes to the delivery of services for special education students. I am responsible for the delivery of services at a local independent school in which a non-operating district has determined to be its home school. As the LEA, I make decisions on the delivery of services, but I have no real "input" into how those services are delivered. I know I can't choose who delivers the service in that the independent school hires the staff, but I have some real concerns about the ability of the personnel to carry out what services need to be delivered, yet I have no say in this. I think it compromises the service delivery to students to whom I am responsible.

7/5/2016 9:07 AM [View respondent's answers](#)

The majority of our students attend independent secondary schools, including students receiving special education. Independent schools accept most of our students with special needs, however, establishing a system of accountability for services IEPs are challenging. Our SU is responsible and held accountable for all students receiving FAPE according to special education law, however, independent schools enjoy a large degree of latitude for providing that FAPE. The AOE counsels us that we should work those issues out in the individual excess cost contracts with schools, however, that is unrealistic. Public schools are held to a higher standard for special ed compliance.

7/5/2016 9:06 AM [View respondent's answers](#)

Equity. The independent schools that I am familiar with (St J Academy, Lyndon Institute) retain the option to refuse admission to special education students, and they also maintain their right to dismiss (expel) ANY student at any time for any reason. This gives them the ability to "cherry pick" students and leave the responsibility for educating the most difficult students to another independent school that is willing to take them. The problem with this, in my opinion, is that the quality of the programs at the "lesser" independent schools is substandard in comparison to the programs at these two Institutes. St J Academy refuses any responsibility for assessment and case management of special education students who are placed there from one of the sending school choice towns. They do not allow any of their teachers or staff to sign or acknowledge any special education paperwork. In essence, their model of special education support is to provide "special classes" and often students are not being educated in mainstream classes. Teachers are not required to be licensed at independent schools. I can't be assured that my special education students are being taught by teachers who have an understanding of how to teach special needs students.

7/5/2016 8:16 AM [View respondent's answers](#)

My concern with independent schools is their ability to get AOE approved tuition rates that are excessive. These rates include far more costs (whole school) than what SUs determine excess cost when servicing sped students from other SUs.

7/5/2016 8:14 AM [View respondent's answers](#)

All schools are expected to have a continuum of services and a multi-tiered system of support for all students. There should also be a process that starts with the educational support team and moves through to a potential special education evaluation. This seems to be missing in some independent schools. They only are aware of part of the regulations. The level and quality of support and remediation for 504 and IEP students is severely lacking in some schools. Some

schools believe all of the expense of providing support for students is the responsibility of the home district. All schools need to understand the regulations and implement them uniformly. Cost needs to be clarified. Independent schools charge and "administrative fee" where public schools cannot include administration in their cost. There is definitely a double standard and a variety of contracts with independent schools. It is also very difficult to monitor progress and quality in special education services at independent schools. They are not required to do special education paperwork so the LEA does it and it can be very difficult to assess progress and monitor it. Independent schools need to be required to do the special education paperwork since that is a big part of the accountability in serving special education students.

7/5/2016 8:06 AM [View respondent's answers](#)

1. Review of staff licensing if needed and specific to special education. 2. Role of the independent school in working with the public schools on student assessment of state tests.

7/5/2016 7:58 AM [View respondent's answers](#)

Nothing new . . . only that independent schools should play by the same rules that the rest of us play under . . . or they should not receive state and federal funding.

7/4/2016 9:42 AM [View respondent's answers](#)

It is simply not a level playing field and it should be.

7/4/2016 9:31 AM [View respondent's answers](#)

Often the educational and behavior intervention used at private schools are not best practice. The independent schools are not held accountable to provide current best practice and often provide sub standard curriculum. It is a tough decision to send a child to an independent school as a result, yet some students need a different learning environment. Rules that require best practice for behavior, at minimum, PBIS practices, best practices are Applies Behavior Analysis (ABA) standards. As for curriculum, requiring a licensed teachers with the ability to teach specialized instruction with current research based curriculum. The long term outcome for students we send to independent schools is drop out and/or minimal skills for a successful adult life.

7/3/2016 9:39 AM [View respondent's answers](#)

There is a need for increased placement availability with a wider range of academic and therapeutic options in Franklin County. This may mean a flexibility with some of the rules. There is a need for increased options at tech centers for students who need "hand's on learning and apprenticeship programs that will also provide adapted academic content. Tech Centers are often very choosy about academic levels in accepting students. We have had several parents ( who are successful electricians) tell us they would never have been accepted into tech centers today. This decreases options for kids who have different learning styles. This may mean increased flexibility with the rules. Residency is becoming very difficult to determine; there are many factors for this. For example, Increasing homelessness; kids moving in and out of custody; school districts creating MOU's with the school of origin and not including the school where the student is now attending; and state placed notifications can be very slow in getting to us. Students may be staying with family members, parents may divorce, keep a PO Box and both live in separate towns. It is unlikely having

districts hire " a residency officer" will be well received. It is likely to be thought of as one more mandate that will increase costs.

7/2/2016 3:40 PM [View respondent's answers](#)

If independent schools are receiving public dollars, then they need to be held accountable in all areas that are required of public schools. The SBE's requests are very appropriate in addressing the requirements that independent schools should follow.

7/2/2016 10:08 AM [View respondent's answers](#)

If independent schools are taking public money they should be made to have to conform to all rules and regulations that public school must conform to. They are currently only taking the kids that they want to take. This is not fair to the public because it is a misuse of public money for "all kids."

7/2/2016 5:26 AM [View respondent's answers](#)

I do not think we should allow public school dollars to go to any independent school that doesn't accept all students. I also don't think we should be sending tuition dollars outside of the country.

7/1/2016 6:53 PM [View respondent's answers](#)

Equal access Financial Accountability Quality standards review Educational accountability- same assessments and reporting as required of public schools Some private schools which special on providing services for special education students have questionable quality, limited oversight and insufficient outcomes, again more should be required by state authorities. Concerning moving a pinlively funded school to independent status, this should not be permitted due to the fact that these schools were built and supported by taxpayers and the resulting independent schools are discriminatory in their practices I.e. North Bennington.

7/1/2016 4:42 PM [View respondent's answers](#)

I'm not supportive of lessening the restrictions on the establishment of independent schools.

7/1/2016 3:55 PM [View respondent's answers](#)

**Executive Privilege**

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

**NOTES FOR GOVERNOR**

**Middlebury Tunnel**

This project will be delayed one year due to the design consultant miscalculating the time this new contracting method would take to get shovels in the ground during 2016. The work that was to begin in 2016 was site preparation for the removal of the two town bridges. This information has been communicated to the Town in a meeting on Thursday. They were, as expected, disappointed but understood while VTrans has a responsibility to review the contractors work and I owned that responsibility, they nevertheless were very disappointed in the consultant that they hired to design the project. The meeting ended well; I committed all of the resources of this Agency to make sure the rest of the planning and construction process went smoothly. I introduced them to the new VTrans employees that would be part of the core management team on this project and they left reassured that we were prioritizing this project appropriately.

**Vermont Strong License Plates**

The price of the remaining Vermont Strong plates was reduced to \$5 on Monday. Our remaining inventory is being exhausted quickly and our latest count is fewer than 300 plates. DMV does not intend to order any more production. It is the Commissioner's hope that when we are down to a single plate, the Governor will sell that plate to the Commissioner in a photo op.

**I-91 Derby Border Port of Entry**

On Wednesday morning Deputy Secretary Tetreault attended a US GSA briefing in Derby Line on their plans to build a new I-91 Port of Entry for US Customs. Construction is slated to begin in September 2016 and take about 21 months to complete. VTrans has a bridge project slated to begin 2018 just to the north carrying Caswell Avenue over I-91. GSA will be working with VTrans on Public Outreach as we approach the construction phases. Maintaining traffic through the border station while construction is underway will no doubt create some delays and alternate routes to other crossings. This work has

been a long time in coming and the US, State, and Local officials are all looking forward to the end product.

## **NOTES FOR STAFF**

### **Chester Oversized Load Incident**

Hurricane Specialized, LLC submitted a Super Load Permit request to DMV's Permit Unit to move a structure identified as a Gen Set from South Point, OH to Quincy, MA. The dimensions were 15'10" high, 14' wide, 95' long and 108,000 lbs. The original routing request was denied due to inadequate vertical clearances on VT 313 in Arlington. A second permit request was submitted with two alternative routes, but neither had been reviewed or approved. When Inspector Jeff White measured the first load it was 15'10" high in the back and 16'3" high in the front due to damage. The second load measured 15'8" in the front and 15'10" in the back. Both loads were approximately 100' long and 14'8" wide which are over the reported permit dimensions. With the permit request, the company did file a certificate of liability that should more than cover damages incurred.

From a permitting perspective, Vermont DMV would have required two amber light and two blue light escorts for each load. Based on the dimensions, we would have required a permit verification at the NY/VT state line and verified the measurements of the loads which is common practice. At this point we are looking at, at a minimum, a no-permit violation, an over-dimension violation and an overweight violation times the two vehicles. Additionally, reviewing the ability to suspend the carrier's right to obtain permits from DMV for oversize/over-dimensional moves.

Several of what appeared to be cable and phone lines were torn down north of Church Street on the north side of Chester. Did not appear to be any damage through the town, and a large utility line, including phone, cable fiber optic and power was torn down and lying across 103 at the Sylvan Road intersection. Southbound traffic last night was being diverted onto VT Route 11 for most vehicles and secondary roads for local traffic.

The first load was escorted to the Rockingham Northbound Rest Area and grounded with no further incidents. The second load was escorted through town by Chester PD and a V-Tel bucket truck. The bucket truck had to raise a few wires through town. The second load will be grounded at the above location.

### **Northern New England Intercity Rail Initiative**

All final documents are on the Study web site:

<http://www.massdot.state.ma.us/northernnewenglandrail/Home.aspx> .

### **Right of Way Management Plan**

The Circ Right of Way Plan was submitted to FHWA Regional office for review and comment. This plan will allow for uses of the Circ ROW that doesn't impact the

underlying ability to eventually build the project, should someone ever decide they want to undertake that effort.

### **Quechee Gorge Hope Holder Initiative**

VTrans staff continued correspondence with local stakeholders regarding legislative requirements contained in the TBill. VTrans staff facilitated a July 22 meeting with a sub-group of stakeholders (mental health professionals) to review final plans and related messaging/materials for the Hope Holders/structures (Department of Health, Department of Mental Health, Vermont Suicide Coalition, Hartford Community Coalition, and Health Care and Rehabilitation Services). We are working with our consultant to finalize the scope for Phase 2. We continue to meet internally to discuss potential communication capabilities at the bridge, general project updates, and preparing for Phase 2.

### **Bennington**

PPAID & Highway Divisions coordinated regarding the request from the Bennington RPC, Representative Corcoran and the Town of Bennington for a potential swap out of the Kocher Drive legacy project for a roundabout at the intersection of VT 67A/Silk Road/College Drive intersection. Kevin Marshia, Chief Engineer spoke directly to Dan Monks, Town Manager and Rep. Corcoran regarding the fact that VTrans, this summer, is investing resources into this area as a part of the Ninja Path project and that until that project is implemented and outcomes for the area of the intersection can be analyzed, that it would be premature for the Agency to commit to including a project to explore a roundabout in the VTrans program.

### **Return of Service to Montreal**

Brian Searles met with VTrans staff to review recent efforts on the return of service and discuss upcoming opportunities for meetings or sharing of information that will support our work. The release of the FONSI for the NNEIRI study and it's look at the potential for service to Montreal from both Boston, MA and New Haven, CT might be important for furthering discussions on the long-term potential for passengers and the secure clearance facilities being planned for Montreal Central Station. We also discussed follow-ups for support of the legislation in US Congress that will need to pass this year to keep us moving.

### **Northwest RPC**

The NRPC released an RFP for the Grand Isle County Park & Ride Scoping Study. Proposals are due August 22. The council for the Missisquoi Valley Rail Trail (MVRT) will met on July 18. The VAST trail coordinator for the Lamoille Valley Rail Trail (LVRT) attended and outlined the construction schedule for the section of the LVRT from Sheldon to Swanton and opportunities for the two groups to work together. The other main agenda item was mowing along the MVRT. Because of contracting issues, the mowing has not been done yet this season and the NRPC has received several complaints from the public.

### **Champlain Parkway**

A final appraisal document and negotiation package regarding the rail rights should be available by mid-August to begin negotiations with the remaining parties which are Vermont Rail Systems and a Mr. Havey.

### **VT Department of Buildings and General Services and Vermont Technical College**

The project consists of the construction of a 2-story 38,000 square foot laboratory for testing agricultural and environmental samples, with an associated 2,200 square foot wood chip plant on the leased 13.12-acre lot. Construction includes reconfiguration of Digester Drive and two new driveways (550 feet and 450 feet) and a 300 square foot truck access. The project had no traffic issues nor were there any Act 145 capacity projects in the area. The new site will generate 31 AM and 30 PM trips. A Hearing Recess Order was issued on this project and two of the questions on that order were concerning transportation. 1) Were there any state projects in the future to address the skewed intersection of VT 66 and East Bethel Rd? 2) What is the current Level of Service of this intersection during AM and PM peak and will that change with the addition of this new traffic? A response letter was written and sent on June 27 addressing these two questions. The responses were that there are not any state plans to improve the intersection of VT 66 and East Bethel Road and that the intersection has very few crashes (it is not a High Crash Location). The other answer is that the Level of Service for the VT 66 and East Bethel Rd. continues to be at level A even with the addition of the 31 AM and 30 PM vehicles. UPDATE: This application is scheduled for a re-hearing on July 28. VTrans has responded to the questions from the HRO and there has been no controversy or further questions from the district coordinator.

### **Automating Review of Electronic Records**

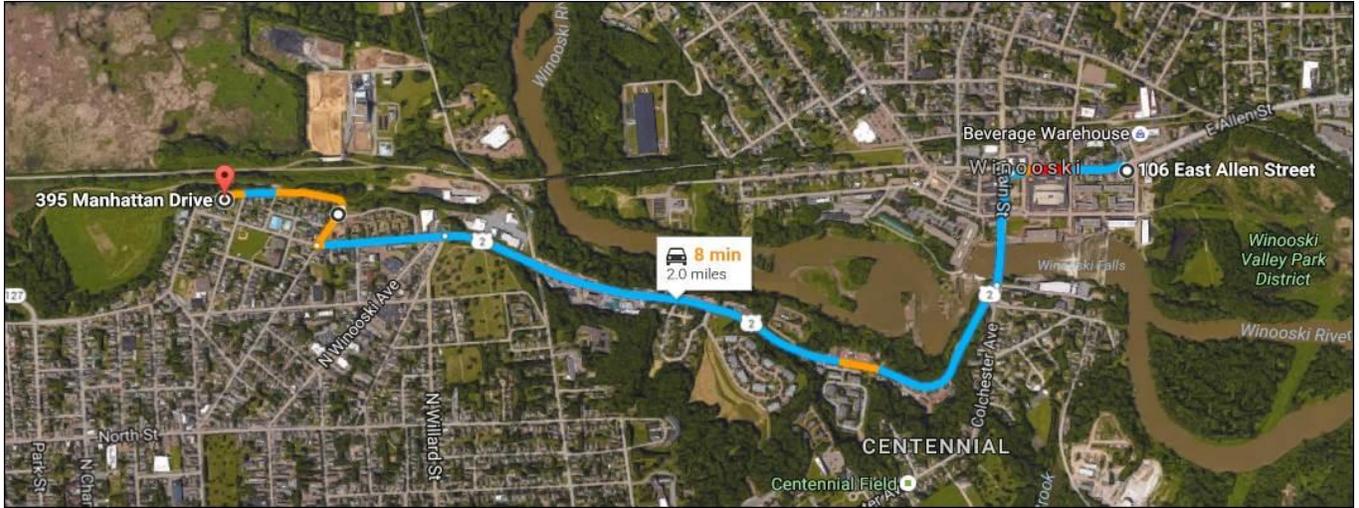
VTrans AG's and legal staff joined Chief AAG Bill Griffin for a meeting with representatives of the Secretary of State's Office and the Department of Information & Innovation (DII) to discuss tools for automating review of electronic records. The need for such review generally occurs in the context of responding to broad requests under the Public Records Act (PRA), litigation holds, pretrial discovery, and internal investigations. Fortunately, in "eDiscovery in Office 365" State government has a new tool which looks like a very promising way of automating initial searches for potentially responsive documents. Although eDiscovery does not eliminate the need for subsequent manual review to determine applicability of various exemptions, privileges, etc., it is supposed to screen out duplicates, etc., thus reducing the number of records that need to be manually reviewed.

### **Super Load Moving**

DMV and VTrans have received a request for a Super Load permit to move the former Cameron House from its current site at 106 E. Allen Street, Winooski to its new location in Burlington at 395 Manhattan Drive. To move the entire house, this process will require road closures due to the size of the house. The permit was for 32' wide, 27' high, 57' long and 78,000 lbs. The home is expected to begin its journey from Winooski

to Burlington on Saturday morning at approximately 5AM and will travel west on East Allen (VT 15) through the top of the circulator, then continue south down Main St. (US 2/7) and across the bridge into Burlington and along Riverside Avenue. Motorists should expect temporary road closures and or traffic delays in the area for approximately 2 - 4 hours. A rain date of Sunday, July 31 has been set (if needed). Contractor has already made arrangements with Winooski and Burlington regarding traffic control, utilities and will have a traffic control plan in place for this move.





**Construction**

We have 50 active work zones: 23 bridge, 12 safety, 6 paving, 4 reclaim, 3 roadway and 3 rail. We anticipate 90 contracts active this year.

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

Tel: (802) 828-1294  
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Deborah L. Markowitz  
Agency Secretary

Trey Martin  
Deputy Secretary

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

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**

**From: Trey Martin, Deputy Secretary, Agency of Natural Resources**

**Date: July 29, 2016**

**Subject: ANR Weekly Report**

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**Governor Level Issues:**

**Pownal Fire District 2 PFOA:** Drinking Water and Groundwater Protection division staff assisted with sampling and shipment of water samples at Pownal Fire District 2 public water system. Samples were collected from ten different residences for analysis of PFOA concentrations. Samples were also collected for analysis of total coliform bacteria. The Waste Management and Prevention Division arranged for the EPA Region 1 laboratory to perform PFOA analysis. We expect results by July 29, in advance of the Governor's visit August 1.

**Shaftsbury Landfill PFOA Detection:** On July 20, results from the testing of a downgradient monitoring well at the closed Shaftsbury landfill were received, with 25 ppt PFOA detected. Town officials were contacted and a press release was issued the same day. A public meeting was held Monday, July 25. It was decided that wells within a ¼ mile radius of the landfill would be sampled and any resident within that area would be supplied with bottled water, if they wanted it. A letter was sent to the Town stating it was their responsibility to either conduct the groundwater monitoring (in accordance with an approved plan) or reimburse the Department if they preferred the Department to conduct the monitoring. The Town has been very cooperative in initiating the investigation and evaluating the status of the water supplies. Rep Miller was present and engaged in the discussions, including the future contingencies.

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## **EVERYTHING ELSE:**

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

**Fishing Access Areas Not Safe for Swimming:** The VTFWD reminds the public not to swim at fishing access areas due to safety concerns. The primary use of the fishing access areas is for launching and retrieving motorboats. The VTFWD maintains more than 180 developed fishing access areas on lakes and rivers throughout the state. These areas have allowed uses determined by law, and swimming is not one of them.

**Other FWD Press Release Headlines include:** VT Gas Withdraws Application for a Threatened Species Taking Permit; and VT Turkey Brood Survey Starts Aug. 1.

**Chittenden County Forester:** Ethan Tapper, FPR's newest County Forester, was interviewed last Friday by WCAX.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Office of the General Counsel**

**Court Upholds Issued Permit in Costco Stormwater Appeal:** After the close of evidence in R. L. Vallee, Inc.'s prior appeals of Costco's land use and ANR permits for its gas station expansion project in 2014, Costco applied for an amendment to its stormwater permit. ANR issued the amended permit in June 2015, and Vallee promptly appealed the decision to the Superior Court Environmental Division. The issues on appeal relate to Costco's addition of a pump in one of the stormwater retention ponds and whether the inclusion of that pump meets the applicable stormwater rules. The parties to the appeal are R.L. Vallee, Inc., Costco Wholesale Corporation, Timberlake, LLC, and ANR. The merits hearing for that appeal took place on Tuesday, July 26, 2016. At the conclusion of the hearing, the Court issued its ruling from the bench, upholding the issuance of the amended permit.

**ANR v. Meadowcrest Campground - Administrative Order Entered as a Final Judicial Order:** Meadowcrest owns and operates a Public Transient Non-Community (TNC) Water System which serves the Campground. The system serves approximately 56 people through 12 travel-trailer sites, 2 tent sites, and a one-bedroom house. On March 15, 2011, Meadowcrest received authorization from the Agency to operate the system under the General Operating Permit for Class 1 A TNC Public Drinking Water Systems. Since 2012, Meadowcrest has been issued eleven Notices of Alleged Violation (NOAV) for failing to conduct coliform sampling, and three additional NOAVs for failing to conduct inorganic chemical monitoring, as required by the General Operating Permit and Vermont Water Supply Rule. When multiple efforts to reach a resolution failed, the Agency filed an Administrative Order with the Environmental Court on July 10, 2016. The Administrative Order requires Meadowcrest to pay a penalty and bring the campground water system into compliance with their General Operating Permit and governing

state and federal regulations. Meadowcrest did not request a hearing. On July 21, 2016, the Court issued a final Judicial Order affirming the Agency's Administrative Order and imposing a penalty of \$9,000.00. In addition to the penalty, the Court imposed corrective actions designed to address the campground's outstanding compliance issues and to protect public health.

### **Office of Planning and Policy (OPP)**

**Commonwealth Dairy HQ Building (Brattleboro):** Commonwealth Dairy, producers of a popular Greek yogurt, have an existing production facility in Brattleboro and are looking to develop a new headquarters building either on an adjacent parcel in Brattleboro or in Arizona, where they also have a production facility. The current site plan requires that a parking area for the new HQ building encroach in the 50' buffer of a small perennial stream on the site. ACCD requested OPP engage with Commonwealth to trouble shoot the issue. As those conversations were beginning it became clear that Commonwealth had already cleared the trees and vegetation that constituted much of the riparian buffer, which may be a violation of their existing Act 250 permit and may make it more difficult to find a way to accommodate the new facility at the parcel. A meeting is scheduled for Tuesday, August 2, among Commonwealth representatives, OPP, FWD and DEC staff to discuss the situation.

**VTrans Airport (Newport):** VTrans has filed an Act 250 amendment for the Newport airport for modifications to the airport perimeter fence, perimeter access road, and grading on the north side of the airport in order to make safety improvements; placing fill material, which will be excavated on site, on airport property along Airport Road; reconfiguring a vehicle access road to meet the south end of Taxiway A rather than extending it to Airport Road; and paving an 80-foot long segment of the gravel access road. The application was noticed as a minor with comments due on August 4.

ANR has notified that the application does not include sufficient information to address some of the substantive natural resource criteria, specifically those related to wetlands and stormwater. Typically, applicants rely on DEC permits as a presumption of compliance for those criteria, but VTrans has stated they do not intend to rely on those presumptions and do not intend to obtain DEC wetland or stormwater permits prior to obtaining the Act 250 permit. Although this is a deviation from normal practice, we are working with VTrans to identify a path forward and a meeting among relevant program staff from both agencies is being scheduled for next week.

**Vermont Gas ANGP Phase 1 – Harsh Sunflower Taking, Peyser Property (Monkton):** VGS's preparation for a HDD at the Peyser property in Monkton has been on hold since last Tuesday, July 19, when VGS contractors impacted approximately seventy threatened Harsh sunflower. Before work can resume, ANR required VGS to develop a comprehensive Avoidance Plan so that no additional impacts occur at the site. OPP and FWD reviewed drafts of the plan all week, providing substantive and numerous comments, resulting in a final plan that was approved by FWD late Thursday, July 28. VGS has indicated they will resume preparations

for drilling on Friday, July 29. VGS notified the PSB of the unauthorized take last week, but the Board has yet to take action. FWD is also exploring enforcement options.

**New Applications for the Week of July 17:** OPP received 5 new Act 250 applications and 8 new Section 248 petitions.

### **Environmental Conservation (DEC)**

**Construction Permit Process Improvement:** The Construction Section had a meeting with Aldrich + Elliot, PC to discuss Construction Permit applications and the Construction Permit program generally. We received good feedback on the process from A+E, including a request to expand the Engineer's Certification program and to improve consistency between reviewers regarding what technical information is needed for permit approval. The Construction Section discussed upcoming process improvements for the Construction Permit application, including clarification of the Engineer's Certification and application improvements generally. The meeting was also useful for building the relationship between the Section and A+E.

**Swanton Village Dam:** DEC Dam Safety Staff contacted the Public Service Board (PSB) this week to find out if the Swanton Light and Power Department had submitted a CPG application to modify the dam for generation of hydroelectric power. Filing of a CPG application triggers a transfer of state jurisdiction of the dam from DEC to the PSB. We were informed that a CPG application has not yet been submitted, though the PSB is aware of a request for a FERC preliminary permit. If an application is filed, ANR will be notified of such action and will receive a request to transfer copies of all records pertaining to the dam to the PSB.

**North Bennington PFOA Collaboration and Studies:** Aquifer characterization of groundwater in bedrock and surficial materials in Bennington is underway. Middlebury College and Bennington College are collaborating with the Geology Division to sample groundwater for a geochemical "fingerprinting" study. Targeted wells in five neighborhoods were correlated with well logs and selected for geochemical analyses and will help identify groundwater flow paths and recharge domains.

**E-Cycles Success:** Friday, July 15, the E-Cycles program conducted its third collector's conference call for the new contract term for recycling discarded electronic devices. Approximately twenty collectors were on the call together with the State's contractor NCER, NERC, and our two SW inspection staff. The new contract, which began July 1, has ninety-seven permanent collection facilities. The program has ranged between ninety-five and 100 collection sites since its implementation in 2011. This year, the contract includes specific compensation to collectors based on the capacity that has been dedicated to the collection of electronic waste. The collectors are very satisfied with the new program and relationships are being restored with the State Program.

**Wastewater Program:** There was a release of between 10,000 to 100,000 gallons of not-fully treated wastewater from the Shelburne WWTF to Shelburne Bay during the night of Wednesday,

July 20 due to a system failure. Shelburne responded quickly upon discovery, and corrected the problem, notified media outlets, the public health officer, ANR's on-line reporting system, and posted the FWD access off of Harbor Road in Shelburne. The signage remained in place for 48 hours after the discharge stopped. The incident has been referred to DEC's Enforcement Division for investigation. This is the second plant malfunction this year at this facility involving the discharge of less than fully treated sewage to the Bay.

**CSO/SSO Public Alerts:** A subscription service is now available whereby the public can sign up through the WW Program website for immediate public alerts of CSO/SSO discharges, follow up incident reports and notices of unpermitted discharges that the Secretary determines pose a threat to human health or the environment. This is an enhancement to the public posting requirements of Act 86 and will provide immediate public notice of these discharges to anyone who signs up. We will figure out a way to "get the message out" to the public next week about this new service.

### **Fish & Wildlife (FWD)**

**Trout Habitat in Southern Vermont:** District staff conducted trout population surveys of the Batten Kill, East Putney Brook and Williams River. Batten Kill sampling included a section that is to have trout cover improvements done this September. Currently cover habitat is extremely low in the 700-foot section and the survey produced very few trout. A post-treatment survey (2017) will be done to measure trout response to the structures. Two other sections of the Batten Kill that were treated in 2010 and 2014 to improve cover were revisited with electrofishing sampling done to determine trout use of large wood structures, trout relative abundance and size. Most structures had trout associated with them with fish sizes ranging from yearlings (5-6 inches) up to 18+ inches in length. This activity was done in partnership with USFWS Manchester Regional Office staff.

**Bear Troubles:** Bear complaints and requests for advice and assistance have been coming in at an alarming rate. Wardens and other FWD staff are getting to as many as possible, but they are picking the ones that seem the most serious as it is physically impossible to respond to all of them at this time. Another red-tagged bear from CT has shown up in southern VT and appears to act like similar ones we've had where it lacks fear of people and travels from backyard to backyard in search of birdseed. Staff may do a press release on this bear trying to help our effort to have bird feeders taken down and garbage secured better.

**Father Directed Son to Shoot Deer out of Season:** Wardens received information that a 12-year-old shot a deer under the direction of his dad about a month ago. Wardens obtained a warrant and executed it along with VSP. Their findings and seizures were: 50 marijuana plants, loose marijuana, and 66 deer steaks. Follow up interviews are needed to hopefully obtain confessions.

## **Forests, Parks and Recreation (FPR)**

**State Land Transactions:** We received the final, recorded deed for the Vinton donation (addition to Victory State Forest). We are making steady progress on the Davidson donation as well. Work continues on numerous other ANR land transactions including several Forest Legacy easement projects (Backus, Bullard, and Deer Lake projects), sale of Lafreniere homestead parcel, transfer of FPR land to the Town of Duxbury for use as a town forest, amendment of a conservation easement in Tinmouth that is co-held by the Department and the Vermont Land Trust, acquisition of a replacement parcel associated with a minor Land and Water Conservation Fund (LWCF) conversion project on Rt. 100 adjacent to Gifford Woods State Park, and other projects. We are working with partners for submission of Forest Legacy for FY18.

**State Parks Visitor Numbers:** Total state park visitation is now tracking 5% behind 2015 to date. Day use is down 3% and camping is down 7%. Total 2016 visitation is 426,205 to date.

**Update from the Habitat Restoration Crew:** As of July 15, the Habitat Restoration Crew has had 372 volunteers participate in their invasive species program in the southwest State Parks and Forests. The volunteers have been from a wide variety of backgrounds including school groups, companies, conservation groups, churches and a camp. This is the third year of a three-year program through which volunteers learn hands-on management of invasive species and make a positive impact on our state lands. The Crew has more volunteer programs lined up and will continue their successful work throughout the season!

**Outreach and Education:** Windham/Windsor County Forester Sam Schneski has invested many hours as part of the Maplerama planning team. Maplerama, an event celebrating Vermont's maple sugaring heritage, is being hosted by Windham County this year. It begins on Thursday evening and runs through Saturday. For more information, visit the website at: [http://vermontmaple.org/ai1ec\\_event/maplerama-2015/](http://vermontmaple.org/ai1ec_event/maplerama-2015/)



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**State of Vermont**  
**Department of Public Safety**  
103 South Main Street  
Waterbury, Vermont 05671-2101  
[www.dps.state.vt.us](http://www.dps.state.vt.us)

**To:** The Honorable Peter Shumlin  
**From:** Joe Flynn, Deputy Commissioner of Public Safety  
**Date:** July, 28, 2016  
**Subject:** Weekly Report

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Priorities:

At approximately 0800 yesterday, we successfully transferred the Dispatch / PSAP function from the Rockingham PSAP facility to the Westminster PSAP location. Because of the critical nature of this operation it required an all-hands effort by DPS Radio Technology Services personnel. Much planning and testing has occurred during the past several months to ensure a flawless transfer. With the exception of few minor issues that were addressed quickly, the center operated flawlessly.

After receiving information from Sarah London that Pretrial Services for Vermont has been moved from the DOC to the AGO, Willa Farrell (who we were informed will become the point person for Pretrial Services) to familiarize her with the National Criminal Justice Association Justice Reform Project (NCJRP). NCJA granted DPS a 1-week extension (previously due July 25<sup>th</sup>). Vermont's response to the NCJRP RRI is now due Monday, August 1<sup>st</sup>. We are working on the letter of interest to provide the Governor's Office for submission. Sarah London is our 5<sup>th</sup> Floor contact for processing and obtaining the Governor's signature.

DPS (DEMHS Director) and Entergy have reached agreement regarding their (ENVY) financial support for emergency planning activities in the EPZ for the next two years. This agreement has been approved by the Attorney General's office. Perhaps the highlight of the agreement is ENVY will provide \$300,000 to DPS each year for the next 2 years.

Note from last week\* - This will be rescheduled (TBD) due to Bennington Battle Day being a State Holiday - Information Sharing Program (VJISS) - The Police Data Initiative (PDI) project is moving forward steadily. Due to scheduling conflicts, August 16th has been settled on for the public release event in Montpelier at the Pavilion building, from 5pm to 7pm. The 3 final VSP data sets will be presented to VSP Command staff next Tuesday morning for final review and feedback. We are still moving forward with setting up White House representation at the event.

## CJS

### Forensic Lab-

1 DNA analyst (grant-funded) position posted (closes 8/2).

#### Contracts in process:

Proficiency testing samples (1 yr. contract) ~\$8K [with Contracting].

Calibration/Maintenance of pipettes/thermometers (2 yr. contract) \$10K [with Contracting].

Maintenance of Laboratory Information Management System (3 yr. contract) \$50K [in preparation].

#### Backlogs (as of 6/30/2016):

Blood Alcohol (0)

Drug Chemistry (741)

Serology (76)

DNA (casework) (154)

DNA (CODIS) (258)

Firearms (29)

Latent Prints (497)

Arson (0)

We are still working with (and waiting for) BGS, with it's contractor, to calibrate all fume hoods, check ceiling for stray air leaks, and install valves to allow adjustment of equipment and balance all rooms. BGS is also still waiting for warranty roofer to come to repair the persistent ceiling leaks in one exam room.

As stated last week the 9<sup>th</sup> Annual Green Mountain DNA Conference will be next week August 1-3. The Vermont Forensic Laboratory is the host.

VFL hosting regional training August 4-5 for DNA analysts in kinship analysis (required for paternity cases or unidentified human remains); currently not within our scope of services.

### Communications-

The message switch upgrade system is in place and we have been testing it functionally over the past several weeks. The tests that we have conducted have been successful and confidence is high that the transition will go smoothly. We are planning to go-live this Sunday and we have internal staff and our vendor available to assist the user community in the event they experience problems.

### VCIC-

Interviews are being scheduled for the vacant Deputy Director position. The vacant Criminal Record Specialist position is being reclassified for the Marijuana Registry (due to continued increases in patient application volume).

Previously agencies requesting criminal history record checks from VCIC were required to provide self-addressed stamped envelopes to receive a return in addition to the \$30 per check fee (due to the inability to fully fund the program from the generated fees). As a result of recent legislative changes allowing the program to fully recover costs we are in the process of changing this policy and will expense those postage costs against the revenue stream (estimated to be approximately \$10,000 per year).

Significant time is being allocated to assisting with the upcoming information switch upgrade by CPI, specifically in regards to attempting to prepare agencies and staff for the new user interface. Several VCIC employees have reviewed the Messenger interface and provided feedback as appropriate.

Clarification is still pending from the courts concerning several issues which have recently come up concerning the Sex Offender Registry, specifically registration length requirements as noted on various orders.

Language around child-resistant packaging (CRP) and advertising are being reviewed with regards to the Marijuana Registry as dispensaries continue to respond to recent legislative changes. Currently the Registry plans to refer CRP inquiries to federal standards as noted by the Consumer Product Safety Commission. Similarly questions around the use of social media by dispensaries (Facebook etc.) is being reviewed for compliance with the rules governing the program.

### DEMHS

DPS has struck a deal with Entergy regarding their financial support for emergency planning activities in the EPZ for the next two years. This agreement has been approved by Scot Kline at the Attorney General's office. Perhaps the highlight of the agreement is the ENVY will provide DPS \$300,000 each year for the next 2 years.

Vigilant Guard has launched and is consuming all DEMHS focus this week.

### Fire Safety

The Division received \$2.5 Million in new plan review construction valuation collecting \$20,000.00 in permit fee revenue.

We are prepared to offer Peter Lynch the Chief of Fire Service Training position at the academy as his reference checks came back excellent.

DFS Director scored 44 tax credit applications for the Downtown Board and awards will be announced soon.

The last of 2 public hearings on DFS rules were conducted today and once the comments have been documented we will be moving forward to adopt the new standards.

There was a house explosion this morning in Gilford and a limited USAR Team response was requested. Initial reports are the owner was rescued and transported to Brattleboro Memorial Hospital with non-life threatening injuries. An investigation is ongoing.

The water storage tank at the academy has been drained and cleaning should commence soon.

Grand-Isle Fire Dept. has requested a variance from installing a sprinkler system in the new 7500 square foot fire department building. Bill Brown, Williston Regional Manager denied the request and therefore, a reconsideration request on the variance can be made to the DFS Director. Once received it will be reviewed and a decision rendered.

### Vermont State Police

A Troop-

FF

18 Total Arrests, 2 DUI.

Raftapalooza event was held in Colchester. The storm caused multiple Search and Rescue calls and one male died.

We continue to work hard on the interstate and high speeds. We had 5 arrests from that this week. We worked on a large scale theft from VELCO power last week. This involved most of day shift and most of BCI. Concluded with 2 search warrants, 4 arrests, and the recovery of over \$40,000.00 in tools and equipment.

BCI

Trooper Background investigation completed.

VT Soldier alleging she was sexually assaulted while on duty. Military conducted an investigation and wanted to pass along to State Police for criminal follow up. Speaking with the Commanding Officer of the victim, the soldier alleges she was forcibly kissed while on duty by another soldier. Reviewing the information without interviewing the victim, who has not made a criminal complaint, this allegation does not appear to rise to the level of criminal behavior. Attempting to make contact with the victim.

Report of an 8 year old female being sexually assaulted by a 29 year old family member. CUSI assigned.

Fire investigators attended FBI bomb training at Ethan Allen Firing Range.

Arson unit responded to a large structure fire in Bennington. Fire ruled not suspicious.

Arson call in Newport for a suspicious fire. Fire ruled an arson. Det. Sgt. investigating.

Assisted Milton PD with a search warrant on a known drug house in Westford.

Assault case at NWCF. Inmate assaulted guard causing injury.

Follow up to a possible threat posted on a Facebook account regarding gun access and rights. Unable to locate male who was believed to be in Franklin Cty.

Large scale theft in Highgate. The person broke into a construction site and stole up to \$40,000.00 in tools and fuel. Search warrants and interrogations lead to the arrests of 5 persons and the discovery of all missing items. Case worked with uniform troopers and BCI. Case still pending as other crimes identified during case. Stolen vehicles and drug possession.

Death investigation in Isle La Motte. 76 year old male with extensive medical issues. Det. Tpr. responded to scene with AME. Death ruled natural.

Overdose of a 10 mo. old baby who was transported to UVM medical center. Investigation revealed that mother was prescribed Suboxone and had inadvertently left some of the medication in her bed. The child who sleeps with the mother found the medication and swallowed half a Suboxone strip. Child admitted to UVM. Det. Tpr. still investigating. Parents are cooperative. DCF also involved with the investigation.

Missing person case assigned to Det. Sgt. 24 year old male left work claiming he was going to commit suicide. Male later returned to work and is seeking mental health help.

Det. Sgt. conducted a CSST presentation to Northfield school district.

Continued work on follow up with Harley Breer investigation.

Call out for death investigation in Williamstown. While in-route rescue was able to resuscitate the victim who was transported to UVM. Det. Sgt. completed death investigation as it was unsure if the victim would make it through the night. This will be a natural death if the victim passes. Numerous health concerns.

B Troop-

FF

15 Total Arrests, 8 DUI.

VSP St. J. handled 182 cases this week.

BCI

Correctional Center Case involving two inmates fighting.

Follow up on Groton, VT overdose case – Interviews.

Suspicious regarding behavior of 7 yr. old child wetting her pants. Mother called to speak with someone believing it may be from possible sexual abuse taking place. No other details provided to support anything. DCF was notified.

Multiple SOR registry Checks completed.

Sex abuse case involving child in Hardwick.

Continued barcoding at Derby Barrack for Evidence room.

Sex offense – Male attempted to sexually assault a female.

Sex offense – 14 yr. old male forced sex on 14 yr. old female who is now pregnant.

Wells River, VT. 51 yr. old female with medical history – Natural.

Derby, VT. 73 yr. old male with medical history – Natural.

Derby, VT. 51 yr. old male with medical history and drug use history found deceased at the Border Motel. Nothing suspicious on scene – Autopsy Pending.

East Haven, VT. 56 yr. old female with extensive medical history – Natural.

Coventry, VT. 32 yr. old male found deceased in Camper – appears to be overdose. Autopsy pending.

C Troop-

FF

17 Total Arrests, 8 DUI.

Large Thunder storms moved across the area. Numerous boats broke free on Lake Bomoseen, as the Troops worked with Castleton PD on numerous issues.

During the storm, a tree came down on a 60 year old male in Hubbardton, breaking his leg and rupturing a main artery, the male died.

Serious Injury crash on VT. 103 in East Wallingford. MTCY passed a TT Unit, headed south, and struck a northbound vehicle.

Responded Bartlett Falls for a swimmer in distress after diving into shallow water.

Agency Assist to Middlebury Police Department for a male subject wanted in connection with a double stabbing.

New Haven Troopers with additional support were prepared to handle issues at the "Outlaws MC – Veterans Appreciation Jamboree.

BCI

New Case/Agency Assist: Assist Pittsford PD with suspicious skeletal remains, transported same to OCME; determined to be non-human.

Ladue suicide by firearm: Follow up included numerous interviews in Addison/Rutland Co., meeting with OCME, investigation ongoing.

Goesbeck untimely death: Case write-up completed, cause and manner pending.

Investigated a suspicious person in Monkton photographing houses.

Background – Keith Toribio.

Case follow up – Domestic/Sexual Assault – contacted victim regarding sexual assault. Victim did not want to speak with me about incident or move forward with the process. Case review sent to Addison SA.

New case -Death Investigation – 83 y/o male found unresponsive inside his residence at The Gables in Rutland Town.

Work on scanning Shaftsbury evidence room. Complete evidence destruction reports when needed. Send email for return of evidence.

Work on Gathright sexual assault case. Attempt to locate case file, exhibits, and media accounts.

Processed evidence from Search Warrants executed the week prior.

Follow up on new leads in Schaff/Missing Person case. Individual called and advised his friend confessed to committing two homicides, one was Schaff.

Spent time with Det. Trooper watching and going over Forensic Interviews.

Requested by Rutland S.A. to conduct follow-up investigation on Christopher Sharrow reference his claimed defense for the Pittsford homicide.

New Case: Assault at MVRFC: Inmates Marsh and Stevens engaged in altercation. Investigation continues.

New Case: Assault at MVRFC: Inmates Williams and Pratt engaged in altercation. Investigation continues.

Met with North Carolina family at Advocacy Center reference status hearing on sex offense.

Completed special from Hartford.

Case Follow-Up: Sex Offense. City of Rutland. It was reported a 13 year old girl may have been sexually trafficked. Victim Interviewed.

New Case: Sex Offense. Town of Brattleboro. It was reported a 23 year old autistic male subject sexually abused his 15 year old niece. Victim Interviewed. Offender interviewed attempted in the Town of Brattleboro.

New Case: Sex Offense. City of Rutland. Assisted Detective Corporal of the Rutland City Police Department with the CHINS of a 4 ½ month old baby. The baby suffered a broken legs and broken ribs by an unknown subject.

New Case: Sex Offense. City of Rutland. A 48 year old female reports being sexually abused by her 43 year old ex-boyfriend. Victim Interviewed.

New Case: Sex Offense. Town of Castleton. It was reported a 6 and 8 year old were sexually abused by a 15 year old autistic subject. Victims Interviewed.

Follow –up on new leads for Schaff missing person case. Interview conducted with Christopher Burns in Fair Haven, VT.

Call out - Untimely, Accidental Death – Tree fell on a man from a severe wind storm, Hubbardton, VT.

Call out - Untimely, 89 Yr. old woman, declining health, Orwell, VT.

D Troop-

FF

10 Total Arrests, 2 DUI.

Arrested one in Westminster for Aggravated Domestic Assault; female put a gun to her ex-spouse's head, no injury.

Investigated a dispute over gas left in a U-Haul rental that escalated to a physical confrontation and then a gun displayed. One male was charged with Simple Assault.

Busy this week with motor vehicle crashes and dealing with storm damage.

BCI

Inmate death in Infirmary at SSCF. 59 year old male, medical issues. Sent to OCME.

Meeting with potential CI/NIU.

Victim ID Stolen Property

Accreditation Meeting at CAC-Brattleboro.

Assist to FF w/interview on Assault/Robbery – Wardsboro.

Sentencing Hearing - Windham County - Poss/Traffic/Import Heroin.

Secure more video for NHSP - Homicide/Report write up.

Consent Search Comm. Meeting – Royalton.

Inmate VCR/TRO violations - review phone calls - prep for court.

Move evidence from Brattleboro and Royalton to Westminster Station.

New case involving a 15 year old male having sexual intercourse with his 12 year old female cousin, investigation ongoing as to whether this was consensual or not, nude photographs and videos also sent to 15 year old from 12 year old, forensic interview scheduled for Monday.

Untimely of 75 year old male of natural causes (presumed heart attack) in Royalton Saturday night. No autopsy.

Moved CSST van from Shaftsbury to the Westminster garage.

Bomb Squad Training – Wednesday & Thursday.

Assigned new case in which 60 year old reporting (he left message at HQ) possible sexual assault at summer camp in Plymouth, VT in the past – left voicemail for complainant asking him to call me back. Left messages on three different days. No return call received.

POLYGRAPH-

2 pre-Employment polygraphs.



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*Justin Johnson, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Justin Johnson  
**DATE:** July 29, 2016  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Issue Updates:**

Security Director Position – We conducted interviews on July 27<sup>th</sup> and July 28<sup>th</sup>. Meeting is scheduled with Justin on Monday, August 1<sup>st</sup> to discuss the 2 candidates.

**FINANCE AND MANAGEMENT**

Nothing new to report.

**HEALTH CARE REFORM**

**Issue Updates:**

Global Commitment: The Global Commitment waiver continues to move forward very slowly due in large part to the federal CMCS staff document requests and turn around times. The state still does not have a complete set of terms and conditions back from CMCS (the state made an initial proposal). There remain fundamental issues with the staff level proposals around financial flexibility for MCO Investments, limits on MCO Investments, and CMCS approvals, which Lawrence and Steven are elevating to CMCS leadership. We remain concerned that the limitations will impact the All Payer Model and seem inconsistent with the state's innovations.

SIM: On the financial front, the SIM Team spent the last couple of weeks developing our performance period 2 carryover request (due to the feds in early August) and finalizing agreements for remaining 2016 work. We are also submitting our quarterly report to CMMI and the Legislature early next week.

The quarterly report will highlight some of the incredible successes in our sub-grant program, which has been a signature piece of our work to date.

Programmatically, the DVHA Team has begun negotiations with the apparently successful awardee for the ACO payment model that would begin on 1/1/17. This is an area of significant SIM/APM alignment and will continue to be over the coming months. The Medicaid Pathway work continues and we are finalizing the proposed payment methodology for the mental health and substance use component. The proposed methodology will be sent out for public comment in mid-August to ensure we obtain significant stakeholder feedback on the change. The near-term (7/1/17) impact of this reform is on the services provided by the Designated Mental Health Agencies and Specialized Service Agencies and will include a framework for expansion to preferred providers and others who offer substance use services in subsequent phases.

Other SIM work is beginning to wind down as we near the end of the project. The wind down was anticipated in our project plan, but there are some project participants who are not yet fully apprehending that the project (and money) will end. Hopefully the sustainability work we are engaged in will support a smooth transition for these individuals as well as the project in general.

### **All Payer Model:**

Federal Negotiations: The negotiating team continues to make incremental progress. Only a handful of substantive issues remain. The current timetable calls for a final draft agreement to be completed by the end of August and a signed agreement to be executed in September. That timeline is in jeopardy for two reasons. (1) The GMCB's negotiating pace is too slow. (2) The GMCB must put a draft agreement through its public process prior to voting to approval. The Administration has no control over either issue. The GMCB view is that the Administration wants to go too fast because it is too eager to make a deal, however, we do not agree.

DVHA Preparedness: DVHA remains on track to launch a Next Generation ACO program with OneCare Vermont on 1/1/17. This will enable DVHA to implement the all payer model. Key progress below:

- Direct negotiations with OneCare Vermont are underway
- DVHA sent OneCare a complete draft contract for review
- DVHA's actuaries are approximately 1 week away from providing DVHA and OneCare with a per member per month (PMPM) financial number, the number on which the rest of the negotiations depend
- HP is ahead of scheduling on the operations
- Staff has identified sufficient funds to address the short term cash flow problem that occurs when transitioning from fee for service to a prospective payment, resolving a major financial obstacle to success

We are on track, but there are two major risks. First, as staff has said many times, the implementation timeline is so tight that even a modest delay will endanger the entire project. Second, we continue to battle an internal culture at DVHA that badly resists change. Commissioner Costantino is doing an excellent job moving people along thus far, but this problem will likely flare up as DVHA needs to commit to letting go of some of its control through its contract with OneCare Vermont.

Data Utility: The Governor met with IBM earlier this summer to discuss how IBM's Watson Health may help the all payer model. The GMCB convened a follow-up meeting this week attended by IBM, GMCB, the Administration, VITL, and other state data contractors. The day was a productive preliminary meeting, but was not conclusive. It is not clear what the GMCB wants from a data utility and how that squares with what IBM offers and what the state and private entities have already bought and have in place.

### **Transition Preparation:**

We have begun work on a transition binder for the next Administration, which would include a complete transition memo and key documents and deliverables due to the legislature. In addition, Robin and Devon met with Sarah London to discuss archiving health care policy documents and emails for the Governor's Office. Our office will have a separate archive for items that the next Secretary of Administration will need, such as contract files, legislative reports, and other public documents for on-going reports and responsibilities of the office.

## **HUMAN RESOURCES**

### **Communications Update:**

Completed performance management audit was made public. Received one press inquiry from VTDigger.

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

Worked on statewide security policy and procedures with BGS.

Participated in interviews for finalists for Security Director position at BGS. Two strong finalists. Decision by next week.

A small subgroup of HR field, recruitment and VTHR met to discuss system changes to add efficiencies for hiring managers, and HR admins. Technical specifications are in the process of being created, as is a communication plan for rollout.

Met with union benefits advisory committee with presentation by ESI re: prescription drug trends/spend and recommendations on possible cost controls. Some were well received (limitations on compound medications and quantity controls), others were not (prior authorization changes). More discussions to be had.

Our talent acquisition/recruitment folks met with the economist at Labor to see what his shop might be able to support us in terms of labor market data. Real opportunity here for collaboration.

DPS relocated Brattleboro and Rockingham PSAP's to new Westminster site this week.

## **INFORMATION AND INNOVATION**

Nothing new to report.

## **LIBRARIES**

Nothing to report.

## **TAXES**

### **Issue Updates:**

IN-155/Software Error Update: We have signed agreements with four out of the five vendors: Intuit, H&R Block, Lamson, and Liberty. Lamson and Liberty were for very small amounts. Our plan is to issue a press release upon Mary's return the week of August 8 to update folks on those two agreements and say that CCH has not agreed to an amount, nor have they admitted there was a problem in their software.

We have started to process the refunds for those taxpayers who amended and paid before we had the agreement with Intuit. Folks should start to get checks for any tax they paid when the amended to include an IN-155.

Refunds: We currently have 6,000 refunds suspended for review by tax examiners. The dollar amount is about \$3.5M. That number will absolutely change before the refunds go out the door since these are the ones that have been marked suspicious and will either be marked as fraud entirely or reduced because of errors. Since the beginning of last week (July 18) we have roughly halved the number of refunds on the worklist.

This does not include the 5,000 or so returns we have being reviewed for the IN-155 related abatement/refunds.

### **Legislative Build Update:**

Act 100 – Ag Exemption: Candace has been leading the charge internally to finalize our new exemption form and fact sheet to provide guidance to farmers and ag equipment dealers about the new law. Plan is to get that pushed out over the next few weeks. Part of the conversations in the legislature was that we would also update our Sales and Use Tax regulations to reflect this change and some other changes over the last six years. That process is starting internally.

Dr. Dinosaur 2.0 Report: Rebecca Sameroff has been coordinating with Michael Costa on data for this report. We are waiting to move forward on a data use agreement for RAND until Mary returns. We have a draft one that has been shared with Michael Costa.

VEGI Studies: Rebecca Sameroff is participating in the technical review of VEGI. They had their first meeting on July 26. Nothing major to report after the first meeting – they asked Rebecca to chair the group, but she declined since we didn't want to get caught in the middle of it. There was no decision on who should lead it, but it sounded like they chose to not have a formal structure. Kirby Keeton is participating as Tax's representative in the policy group for VEGI – their first meeting is today, July 28.

### **Operations:**

VTax Phase 3 testing continues, but is on schedule. We are anxiously awaiting a decision on the grant agreement waiver for our payments to towns. Gregg has sent over documentation asking for those payments to not be considered part of the grant process. It was a very lengthy process last year that we will need to gear up for now if we cannot get a waiver.

### **Presentations/Press/Inquiries:**

We received a request for information surrounding audit documents or reviews for Jay Peak (VT Digger). Our General Counsel replied that those documents are exempt from public records requests due to taxpayer confidentiality. The letter was not explicitly clear that that covers audit documents, as well as tax returns. Once Gregg contacted Digger, they understood and did not press further.

We have received a few inquiries about the valuation of cell phone towers. The question came from JFO, but was being asked on behalf of Rep. Bill Botzow and Rep. Janet Ancel. In short, the income from a lease agreement is included in the valuation of the land that a cell phone tower rests on. As a result, some land values may be increased. Candace and Doug Farnham worked to craft a response – it's not a change in policy, but because different towns are on different reappraisal schedules, folks might just be seeing this change now.

**CONFIDENTIAL and PRIVILEGED**

**To: Governor Peter Shumlin**  
**From: Patrick Delaney, Commissioner**  
**Date: July 29, 2016**  
**Re: Weekly Report**

**Vermont Department of Liquor Control**

Legislative Issues/Contacts/Updates:

Press Issues/Releases/Contacts:

I spoke to a reporter from the Valley News regarding the department's position on craft Distillers. I indicated that the Department was supportive of all local business and views them as economic drivers. Upon their inquiry about Vermont Distillers I informed them that I was unable to comment on specific companies that we do business with. An article was published the following day with miss-quotes.

Anne Holloway from Vermont Digger called to request annual sales numbers from our agency stores under the freedom of information act. We provided the requested information.

Significant Events/Meetings:

Started and completed a three-day project to re-locate the special order inventory section of our warehouse. Received the first shipment of new shelving pieces. Project to re-configure a portion of our warehouse to increase capacity will commence next Monday. This was the first step to implementing suggestions from the warehouse modernization report.

Summary of Key Department Activity:

*Agency Issues:*

The agent transition for the Harmonyville store is on schedule to be completed at the end of the month.

The new Bradford liquor agency store was shipped and stocked with inventory this week. A press release was prepared and released to introduce the new store to residents in the Bradford area. I am going to Bradford tomorrow to do a ribbon cutting and to highlight the grand opening of the store and to generate some press for the department.

We wrote up a policy and added it to the retailer's manual to articulate the Department's policy and procedure for accepting returned merchandise.

The contract bid submission for the Pownal agency has been completed. The Dept. will make a recommendation to the Board on August 8th.

*Staffing:*

We are working with DHR Classification to reclassify a Warehouse position to a driver position, after which we hope to reclassify the vacant driver position to a Warehouse Supervisor position.

*Warehouse Reorganization:*

First step of this process has been completed as noted above. Bumper guards to be installed on all shelving uprights were received today to minimize future damage and maintenance costs.

Shelving installation on the lower floor of the Warehouse will commence next week. The installation will be done at night to insure that we can ship product on a normal schedule

**Commissioner's Commentary:**

Ready to commence the warehouse re-configuration. Project is expected to take two weeks. This new storage space will accommodate an additional 250 pallets. This additional storage will allow the department to implement a new inventory management process that will assist in minimizing out of stocks and improve both our distribution and retail operations.

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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:** July 29, 2016

PFOA – DEC has taken a water sample from a small commercial dairy farm that sells its milk to Agri-Mark/Cabot. Agency is working with DEC to have a POET ready that would be large enough to manage water flow for a 20 cow dairy. Agency will work with farmers to insure that dairy buyer is in the know and will work with State of New York lab to test milk prior to the water sample being completed. From the literature, there is little expectation that the milk will have PFOA levels but Agency wants to be prepared. Water sample was taken this week and results are expected in 2 to 3 weeks. Agency and DEC will coordinate announcement of results.

Several complaints were received by the Agency concerning flies on an egg farm in Caledonia County. Water Quality Staff have scheduled a meeting with the operator to determine if the farm will need to apply for an MFO permit based on the number of birds and to inspect the facility.

Rebecca Sananes from Vermont Public Radio contacted Alan Graham, State Entomologist by for a phone interview this afternoon about the recent VDOH report of the second case of WNV in Windsor County. State Entomologist does not have an explanation as to why we are seeing WNV in Windsor County this year. State has not found any mosquito borne virus in any of the batches of mosquitoes tested to date. Last year the primary vector species of WNV (Culex mosquitoes) was trapped in high numbers and reported 97 positive mosquito pools with this virus. Some sites had several consecutive weeks with WNV activity. There were no veterinary or human cases of WNV. Agriculture is increasing mosquito surveillance in Windsor County and to obtain more mosquitoes for arbovirus testing.

Chief Policy Enforcement Officer, Stephanie Smith spoke with Representative Adam Greshin concerning a constituent in Warren that brews beer. Rep. Greshin asked whether an individual that raised hops and brewed beer would be exempt from local land use regulation because brewing beer occurred on a farm where a portion of the ingredients come from that property. Ms. Smith explained that the facts concerning any value added processing matter, and are the foundation for any determination made by the Agency whether an individual is “farming” and using “required agricultural practices.” While cultivating hops is an activity regulated by the VAAFM, brewing beer is not. The primary ingredient in beer is water, and regardless of whether water was gathered from a spring on the property, water is not an agricultural product, and therefore beer is not an agricultural product principally produced on the farm. When a property owner operates a “farm” and uses “required agricultural practices” regulated by the VAAFM, other businesses on the property (brewery), including some forms of direct marketing of agricultural products, could be regulated by other jurisdictions such as a town, Health Department, ANR, Division of Fire Safety, etc. A property owner must obtain the appropriate permits or approvals prior to starting a new business located on the farm property.

Staff from the Agency of Agriculture, the Department of Public Service, and ANR’s Solid Waste Program met to decide on grants from the Clean Energy Development Fund (CEDF), for \$79,000 worth of farm energy project(s). The RFP requested projects statewide to recover heat from composting operations, and for projects to digest manure at farms with fewer than 200 cows (or the equivalent quantity of manure). The CEDF will recommend funding two projects to recover heat from composting, one at Vermont Natural Ag Products in Middlebury, and one at Vermont Compost Company in Montpelier. The Middlebury site expects to save 16,700 gallons of propane, and the Montpelier site expects to save 5,200 gallons of propane, both annually. Both sites also expect to increase production and/or decrease material handling costs, including diesel costs, from having to turn the compost fewer times.

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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:** July 29, 2016

**Press Issues/Releases/Contacts:**

- Susan Smallheer from the Rutland Herald contacted Alan Graham, State Entomologist, about WNV human cases in Windsor County and to find out more about mosquitoes.
- Rebecca Sananes from Vermont Public Radio contacted Alan Graham, State Entomologist by for a phone interview this afternoon about the recent VDOH report of the second case of WNV in Windsor County. State Entomologist does not have an explanation as to why we are seeing WNV in Windsor County this year. State has not found any mosquito borne virus in any of the batches of mosquitoes tested to date. Last year the primary vector species of WNV (Culex mosquitoes) was trapped in high numbers and reported 97 positive mosquito pools with this virus. Some sites had several consecutive weeks with WNV activity. There were no veterinary or human cases of WNV. Agriculture is increasing mosquito surveillance in Windsor County and to obtain more mosquitoes for arbovirus testing.

**Significant Events/Meetings:**

- Assistant State Veterinarian is completing follow up tuberculosis testing of a heifer that was a suspect on the caudal fold test performed by the accredited veterinarian.
- Animal Health Section provided technical assistance and regulatory oversight to a fallow deer producer transporting purchased deer from another farm back to his own premises. Some of these deer will be placed with the producer's herd for breeding and the rest will go to a local slaughter plant next week. Prior to loading, the identification of the deer will be recorded and any missing tags will be replaced by field staff. Intrastate movement of deer requires the issuance of a movement permit by the Section. The herd inventories for both producers will be updated in USAHerds.

**Evolving Issues:**

- Assistant State Veterinarian participated in the NASDA Regulatory Training Subgroup for the Produce Safety Rule Implementation. This group's focus is to create a plan for regulators that will be inspecting/enforcing the Produce Safety Rule. The training courses for the regulators has already been created by FDA. However, it is likely that VAAFMs state program will need to develop additional on-farm training to ensure staff are familiar with produce farms and able to provide technical assistance, in addition to inspection and rule enforcement.

**Summary of Key Agency Department Activity**

**Administration:**

Deputy Secretary Bothfeld met with representative from Ben & Jerry's to discuss water quality and Ben & Jerry's "Caring Dairy" program. Caring Dairy is a dairy farmer self assessment that is web based and has requirements for continuous improvement. Farmers that are taking part – 90+ members of St. Albans Co-op- are eligible for sizable premiums from

Ben & Jerry's. Ben & Jerry's is willing to meet with Agency Water Quality Staff to review the program and to determine how the program overlaps with the proposed Environmental Stewardship program being proposed by the state.

### **Agricultural Development:**

Food Systems Staff Promotes Buy Local Market on Across the Fence

- Senior Agriculture Development Specialist Ali Zipparo and Produce Program Coordinator Kristina Sweet taped an episode of Across the Fence which will air on Monday, August 1 at 12:10 pm on WCAX TV, Channel 3.
- The team shared information about the 2nd Annual Vermont Statehouse Buy Local Market on August 10 in Montpelier and the successes of last year's inaugural market.
- The Buy Local Market will feature than 45 vendors offering a wide variety of Vermont products, including fresh fruits and vegetables, prepared food for lunch, meat, cheese, milk, yogurt, pickles and jams, popsicles, ice cream, baked goods, maple syrup, and yarn, as well as live music and a free yoga class on the State House Lawn. More information is available at <http://bit.ly/vtbuylocalmarket> .

Produce Program Coordinator Meeting with ARM Division Water Quality Staff

- Produce Program Coordinator Kristina Sweet met with water quality staff Ryan Patch and Michael Middleman to discuss the potential for greater collaboration between the produce program and water quality teams.
- Sweet shared the produce team's timeline for implementation of the Food Safety Modernization Act (FSMA) Produce Safety Rule, and the group discussed the possibility of cross-training staff in produce safety and water quality as well as effective data sharing.
- The group will meet again to share updates on significant dates and program developments once the Required Agricultural Practices (RAPs) are finalized.

Land Use

- Chief Policy Enforcement Officer, Stephanie Smith spoke with Representative Adam Greshin concerning a constituent in Warren that brews beer. Rep. Greshin asked whether an individual that raised hops and brewed beer would be exempt from local land use regulation because brewing beer occurred on a farm where a portion of the ingredients come from that property. Ms. Smith explained that the facts concerning any value added processing matter, and are the foundation for any determination made by the Agency whether an individual is "farming" and using "required agricultural practices." If an operation changes, then an individual could come under local regulatory jurisdiction. While cultivating hops is an activity regulated by the VAAF, brewing beer is not. The primary ingredient in beer is water, and regardless of whether water was gathered from a spring on the property, water is not an agricultural product, and therefore beer is not an agricultural product principally produced on the farm. When a property owner operates a "farm" and uses "required agricultural practices" regulated by the VAAF, other businesses on the property (brewery), including some forms of direct marketing of agricultural products, could be regulated by other jurisdictions such as a town, Vermont Health Department, Agency of Natural Resources, Division of Fire Safety, etc. A property owner must obtain the appropriate permits or approvals prior to starting a new business located on the farm property.

Renewable Energy

- Staff from the Agency of Agriculture, the Department of Public Service, and ANR's Solid Waste Program met to decide on grants from the Clean Energy Development Fund (CEDF), for \$79,000 worth of farm energy project(s). The RFP requested projects statewide to recover heat from composting operations, and for projects to digest manure at farms with fewer than 200 cows (or the equivalent quantity of manure). The CEDF will recommend funding two projects to recover heat from composting, one at Vermont Natural Ag Products in Middlebury, and one at Vermont Compost Company in Montpelier. The Middlebury site expects to save 16,700 gallons of propane, and the Montpelier site expects to save 5,200 gallons of propane, both annually. Both sites also expect to increase production and/or decrease material handling costs, including diesel costs, from having to turn the compost fewer times.

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

#### **Animal Health:**

- Working the poultry super for the Orleans County fair to move the poultry testing from Tuesday, August 16th to Wednesday, August 17th due to Tuesday being Battle of Bennington day. Birds will still be checked in that day

so the super will need to record the name and addresses of the owners in addition to the age of the birds so the Animal Health Specialist will know who to test and will have traceability for any positive Pullorum or avian influenza tests.

- Attended the weekly livestock auction at the Addison County Commission Sales to monitor Animal Disease Traceability compliance and complete the livestock market report.
- Tested turkeys in Orwell VT. Owner had reported weak and dying birds.

### **Meat Inspection:**

- Reviewing applicants to interview for the vacant inspector position
- Beginning work on the annual self-assessment for USDA
- Consulted with producer in Barnet wishing to start a State Inspected bacon operation. Checking in with contacts to determine safety of the procedures
- Consulted with individual in Ferrisburg interested in starting a canned beef operation, gave contacts for the Mad River Food Hub and information on HACCP and SSOP plans
- Due to the poultry season being in full swing, Inspection staff including supervisors and Chief are straight out covering establishments

### **Agricultural Resource Management:**

#### North Lake Contractor Initiative

- Staff continue to coordinate with North Lake contractors as projects move forward. Many work plans have been received and are under review.
- Several activation letters have been signed and returned to the North Lake contractors.
- Onsite visits continue with North Lake Contractors, farmers and AAFM staff
- Now that several projects are well under way VAAFM staff will meet at least every other week for status updates. NL contractors will be invited to call in to these meetings if they feel the need.

#### Small, Medium and Large Farm Operation (SFO, MFO and LFO) Programs:

- Staff had consultation meetings with 3 LFOs and discussed Agency direction, LFO's permit compliance, and reviewed insufficiencies with LFO's nutrient management plan.
- Staff are continuing to work on and test the FoodSafety Water Quality database.
- Staff conducted 1 LFO inspection in Orleans County and started writing reports.
- A majority of the zones have been defined for the MFO and LFO farm inspectors. The previous project managers are introducing the new project inspectors on many of the upcoming inspections.
- Staff are making additional improvements to the LFO file structure.
- Staff are currently reviewing 5 applications for LFO permit amendments or applications to become an LFO.
- 2 MFO inspections were conducted in Franklin and Orleans County
- Staff are gathering data and beginning to visualize the SFO territories for each staff member
- Staff are coordinating Lake Memphremagog Water Quality – Agricultural Work Group meeting for August 11<sup>th</sup>.
- Complaint investigations were conducted on 2 SFOs in Chittenden and Rutland County.
- Inspection and complaint report write-ups are ongoing.
- RFP planning meeting was held with staff
- Staff attended several trainings including RUSLE2, GIS and FarmViewer
- Staff developed a list of contacts for educational institutions with agricultural programs in Vermont that may benefit from having VAAFM speak to students in those programs about regulations in the state
- Several complaints were received by the Agency concerning flies on an egg farm in Caledonia County. Staff have scheduled a meeting with the operator to determine if the farm will need to apply for an MFO permit based on the number of birds and to inspect the facility.

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

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

none

**Legislative Issues/Contacts:**

none

**Press Issues/Releases/Contacts:**

none

**Significant Events/Meetings:**

none

**Evolving Issues:**

none

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**Summary of Key Agency Department Activity:**

The Powerball jackpot continues to reach higher levels on almost every jackpot run since we made the change to the odds in Oct 2015. We do see more sales and wider participation so it appears to be functioning as designed.

We just completed the VLC outside audit and the Tri-State outside audit with no concerns raised by either audit group. We will receive their written reports in Sept.

**Executive Director's Commentary:**

Our gaming vendor, Intralot, has approached us requesting the extension of our contract for the final available two year period – July 2018 through June 2020. If we decide to go out to bid instead the entire process takes approx. 18 months and shuts down much of our ability to work on other initiatives. I am discussing this with the Commission and evaluating what criteria we may want to include in this proposed amendment.