

# WEEKLY REPORTS

Checklist  
3/8/2013

Elizabeth Miller/Aly Richards

☒ Agency of Commerce and Community Development – Lawrence Miller

☒ Department of Labor – Annie Noonan

☒ Department of Financial Regulation – Susan Donegan

☒ Agency of Education – Armando Vilaseca

☐ VT Commission on Lottery – Greg Smith

Louis Porter/Drusilla Roessle

☒ Agency of Transportation – Brian Searles

☒ Agency of Human Services – Doug Racine

Sue Allen/Leigh Appleby

☒ Agency of Agriculture – Chuck Ross

☒ Agency of Natural Resources – Deb Markowitz

☐ Public Service Department – Chris Recchia

Sarah London/Carolyn Wesley

☒ Department of Public Safety – Keith Flynn

☒ Agency of Administration – Jeb Spaulding

Susan Spaulding

☐ Boards and Commissions

Other

☒ Irene Recovery Office

**To:** Governor Peter Shumlin  
**From:** Lawrence Miller, Secretary - Agency of Commerce and Community Development  
**Date:** March 8, 2013  
**Re:** Weekly Report

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Dave Hakins was extremely grateful for the Governor's letter. Thank you. I will be appointing Sky Barsch Associate Publisher for Vermont Life to ensure continuity of critical projects.

We are in the final stages of making the proper arrangements to appoint Lars Hasselblad Torres to the Creative Economy Office. Lars is deeply plugged into the digital economy folks.

**Home Buyouts:** With Josh, met with Two Rivers Ottauquechee Regional Commission and representatives of the Vermont Disaster Relief Fund on plan to assist homeowners whose properties are ineligible for FEMA funding. Goal is to contact town and homeowners with offer of assistance next week.

**Accessibility Rules:** Consternation about the Division of Fire Safety's Accessibility Rules continues. With Commissioner MacKay, Jen met with Housing Vermont on the impact on housing development, historic buildings and smart growth and possible solutions.

**Tuckerville MHP, Ludlow (sale):** Elisabeth Kulas shared the good news that the Housing Trust of Rutland County closed on their purchase of Tuckerville from RACLT. They plan improvements in the next several months to make it the "poster mobile home park" in Vermont.

**Wings over Vermont Air show:** Deputy Commissioner Cook attended a marketing discussion with the planning team for this summer's Wings over Vermont air show. The air show is facing some challenges due to the sequester in Washington. A number of the service providers supporting this event are finding themselves in a holding pattern in their ability to provide support. The main performing act, the Thunderbirds have canceled all shows for this coming summer season. As of now the Air Show is still scheduled to take place, however there is a chance that it may be cancelled.

**Washington DC Marketing:** Deputy Commissioner Cook has secured the matching dollar requirements for this summer's Washington DC advertising campaign. Partners Cabot, Long Trail Brewery and Orbitz worldwide are matching \$230,000 in media dollars as required in the budget adjustment language for this campaign.

**Vermont College of Fine Arts/Make Vermont Home:** The CMO met with David Rocchio to discuss how the new MFA program at the Vermont College of Fine Arts can integrate Make Vermont Home into their program launch and outreach nationally. A film maker, Mr. Rocchio also offered to support the Make Vermont Home initiative by creating video case studies of Vermont business/entrepreneurial personalities to convey 'why Vermont?' attributes and stories.

**VTel -** Lawrence and Kiersten met with Michel Guite and his team to talk about the RUS project. Their fiber-too-the-home project is going well and only one location (Killington - Sherburne) remains to be contracted. The unknowns around the potential development that is in permitting are the delaying factor. On the wireless side, they anticipate having the majority of the project done by the end of the year with full operation occurring during the first quarter of 2014. This was surprisingly good news. We were also able to clarify the fact that the RUS three year clock started ticking upon the first requisition of funds. We conveyed all of this to Senator Sanders, who asked for a conference call to discuss the project. He was fully supportive of our efforts and we will continue to work closely with David Weinstein and the Sanders team. David is also setting up a time for us to meet with the new head of RUS. There has been one fundamental change in their approach which is that rather than exclusively

collocating on existing towers they are deploying a lot of monopole installations (wooden poles from 40' to 90'). This is both less expensive and will substantially increase the number of sites, both good, but adding permit and deal volume and they are staffing up to deal with that. The first WOW site will be up in North Springfield within 3 weeks. Ericson is on site doing the installation now. Out of 156 "Gold" or "silver" level towers (priorities for number of people served) only 10 still need final spots identified within know search rings.

SoverNet - Kiersten met with Rich Kendall of SoverNet this week and learned that they have about 50% of their project finished. Their funding comes from an NTIA grant in the amount of \$33mIn and is used primarily for middle-mile construction. As a result of this project, SoverNet has been able to hire 8 new people who will likely stay on after the project is completed.

Memorandum

To: Honorable Governor Peter Shumlin

From: Labor Commissioner Annie Noonan

Re: Weekly Report - Week Ending March 1, 2013

**Issues of Critical Note:** Sequestration - I spent a good deal of this week in discussion with our federal partners about the cuts, and then with VDOL managers about how we will address these shortfalls. I will have the memo for you at Cabinet meeting on Monday. UI Issue for Newspaper Carriers at LCAR: We received a letter from James Hoffa Jr. seeking VDOL to institute the UI Newspaper rule. VDOL wrote to LCAR and advised that we will respond within the 14 days (which is Monday) with some indication of our decision. I will discuss this with the 5<sup>th</sup> floor on Monday. I met with DHR (Tom Ball and John Berard) today to go over the RIFs from the loss of half our Reach Up contract. We did get AHS last week to specifically tell us which districts they want to continue staffing. I have asked AHS to consider keeping VDOL in the Reach Up work past FY14 based upon competitive performance measures. I believe it will be difficult, if not impossible, to keep staff in the Reach Up positions that are left if they know they are predetermined for job loss in June 2014. I met with the Teamsters this week to discuss UPS' worker comp carrier issuing mandates to injured workers that are not consistent with the statute or VDOL's rules. Re: WC Rules, I have asked Susan Donegan to work with me post-session to draft/rewrite WC statute. VDOL will be submitting our WETF expenditure report to the legislature next week. The asbestos exposure to the Barre City Firefighters (and other departments that provided mutual aid) is rather serious, and VDOL's WorkSafe Unit has been called in to assist. We have communicated to Matt Vinci about the exposure and remedies. VOSHA budget is a significant problem (recent classification upgrades for the Inspectors will only add to this problem).

**Legislative issues:** VDOL's bills - UI, WC and Wage and Hour --- met with Chairman Botzow to ensure that they are on the agenda for upcoming week. WC - labor and the chamber each have a bill of their own. UI - Tax Assessment for Irene related businesses - spoke with Jeb and Michael Clasen yesterday about the very significant issues and costs. I also went and spoke with the Speaker on 2/28 to alert him to the problems. Firefighters Presumptive - NCCI is saying "sky is falling", of course.

**Unemployment Comp & Wage:** Call Center Stats: For the week ending 03/2/13 we took 3,308 calls. This is an increase of 422 calls from the week ending 02/23/13. We processed 710 initial and 913 additional claims. This is an increase of 181 initial claims and an increase of 89 additional claims from the week ending 02/23/13. 12 claimants exhausted all tiers of benefits with the week ending 03/2/13 compared to 8 claimants who exhausted all tiers of benefits during the week ending 02/23/13. We paid 9,050 claimants during the week ending 03/2/13 compared to 8,930 for the week ending 02/23/13. 228 Mass Claims were processed for week ending 02/23/13. Bus companies - 73; Sodexo - 93; (both bus companies and Sodexo are related to the schools being closed for the February break). Ethan Allen: 6; Fitz Vogt: 51; Granite Sheds: 5. GMP also laid off 14 meter readers as a result of Smart Meter technology. We are doing Rapid Response in Rutland on 3/28.

**NEK UPDATE:** Next steering committee meeting is this Monday afternoon. I had to settle a complaint from Gloria Bruce, NEK Travel & Tourism who was demanding that Monday's meeting be cancelled and complaining that she was not being included, etc. Alex and I talked on Wednesday night and decided to put her on the committee.

**Other Notable Meetings:** Phil Fiermonte from Senator Sanders office stopped by and met with us (me and division managers) about sequestration; USDOL Boston regional conference call today.

Correction: Last week's report said it was for the week ending Feb 22<sup>nd</sup>. I pasted the wrong date; I hope this was not confusing.





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

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

## CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin  
From: Susan L. Donegan, Commissioner, Department of Financial Regulation  
Date: March 8, 2013  
Re: Weekly Report

### Legislative Issues/Contacts:

David Reynolds, deputy commissioner of the Health Care Administration, this week submitted a report on the use of telemedicine outside of a health care facility to the House Committee on Health Care, Senate Committee on Finance and the Senate Committee on Health and Welfare. The report, mandated by Act 107, "strongly" recommends expansion of telemedicine services outside a health care facility and considers it an easy way to improve care and maximize cost efficiency for health providers. Expanding telemedicine will reach some of the most rural Vermonters and ensure that as many people as possible will have access to essential health services.

### Significant Events/Meetings:

Personnel from the Banking Division recently attended this year's annual meeting of the National Mortgage Licensing System and Registry. Utilization of this licensing process has greatly enhanced the efficiency of the Division as it moves to paperless licensing.

### Producer Licensing Status for Renewals:

Renewals for insurance producer (agent and broker) licenses is in progress. To date, 34,177 licenses have been renewed resulting in \$5,081,099 in fees. The renewal process continues for approximately three months ending in May.



Banking  
802-828-3307

Insurance  
802-828-3301

Captive Insurance  
802-828-3304

Securities  
802-828-3420

### Summary of Key Agency Department Activity:

The Coalition for Captive Insurance Clarity continues to gain momentum in its effort to amend the National Risk Retention Association (NRRA) part of Dodd-Frank to clarify that NRRA does not apply to captives. As reported in "Captive Insurance Times," law firm Anderson Kill & Olick has published a white paper stating that the ambiguity in the NRRA's wording, if not clarified, could result in unnecessary litigation, inconsistent rulings, and waste of both private and public resources. In a statement, Phil England, head of the alternative risk and captive insurance services practice group at AKO, said: "A strong case can be made that the NRRA does not apply to captive insurance and an even stronger case can be made that the NRRA was not intended to apply."

Vermont was also highlighted in the March issue of "Captive Insurance Times:"

*"In 2011, Vermont licensed 41 new captives, but in 2012, the figure dropped to 32. David Provost, deputy commissioner of the captive insurance division in the Vermont Department of Financial Regulation, explains that the drop is not a concern to the state.*

*He says: "41 new captives was considered an extraordinary year, and 32 is pretty close to our long-term average. Other than 2002 and 2003, which saw 70 and 77 captives formed post-9/11, and 2008 at the depth of the recession, the 2000s have seen formations of between 30 and 40 new companies each year."*

*With a steady stream of captives being licensed in Vermont year-on-year, Provost has witnessed a number of popular lines of business and continued trends.*

*The state has seen a continued growth in the use of captives by healthcare professionals for professional liability, as well as a growth in small captives and interest from the construction industry. It has also seen a spattering of captives being formed for cyber liability alongside existing captives adding the line to their plans.*

*"But one of our longest-running trends is the lack of a trend. In other words, we regularly have a wide variety of business organizations form captives each year—we are not reliant on a particular source," says Provost.*

*When it comes to competition, Provost is clear that Vermont will not try to predict the state's future success.*

*"[Last year] was a very good year, and I expect 2013 to be very good as well. Six new captives or 60 is irrelevant—we welcome any good program that fits our statute and environment."*

*"We do not set projections or targets for new licenses. As a regulator, that would be imprudent. Our entire focus is on quality, not quantity," explains Provost."*



120 State Street, Montpelier VT 05620-2501  
(p) 802-828-3135 | (f) 802-828-3140

**CONFIDENTIAL AND PRIVILEGED: NO SHARING  
MEMORANDUM**

TO: Governor Shumlin  
FROM: Armando Vilaseca, Secretary  
SUBJECT: Agency of Education (AOE)  
DATE: March 8, 2013

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**Stafford Technical Center:** Thank you for inviting me to join you on this visit. It was great publicity for you, for flexible pathways to learning, and for our education agenda.

**Flexible Pathways Initiative:** My Op Ed titled "High School Today" was published by VTDigger and can be found here: <http://vtdigger.org/2013/02/24/vilaseca-high-school-today/>

**Media Events:** On Monday I started the day on WVMT's Charlie, Ernie and Lisa Show. On Wednesday I participated in "The Vermont Conversation" with David Goodman. You can listen to the interview here: <http://vtconversation.dgoodman.net/2013/03/06/the-vermont-conversation-8-362013.aspx>. I took advantage of both of these opportunities to support your education agenda by discussing dual enrollment, early childhood education and flexible pathways to learning.

**School Budgets:** As you are most likely aware by now, at this year's Town Meeting 230 school budgets passed, 16 failed, and 24 will be voting later this month or in April. It was interesting to see that two of the budgets that passed, passed with cuts; eight passed with increases. This year 23 districts were subject to the two-vote provision. Of those, in fifteen districts both votes passed, in four districts the first vote passed, the second failed; one district both votes failed; and three two-vote districts vote on a later date, so are still pending. We are working with the four districts falling under the two-vote requirement that had the second vote fail. There are some questions as to the timing of further attempts to get a revised second vote passed. As the law is written, this is the last year of the two-vote requirement.

**Barre Place:** Wednesday I accompanied the AOE Barre Planning team on a tour, hosted by BGS, of the new State of Vermont open office space located at National Life. This visit was well-received by the team and it is planned that there will be more field trips offered to AOE staff in the future.

**AHS/VDH:** On Wednesday I met with Secretary Racine, Commissioner Yacovone, Commissioner Chen and VDH Director of Maternal and Child Health, Breena Holmes, to discuss your directive on pursuing a comprehensive community school services model. Last month staff from DCF, VDH and AOE joined together on a field trip to Southwest Vermont SU. It is here that Suzanne Maguire, MAUHS principal tested the ground for a "full-service school program" at Molly Stark School and then continued this work at MAUHS when she moved there as principal. This model offers on-site dental hygiene, mental health



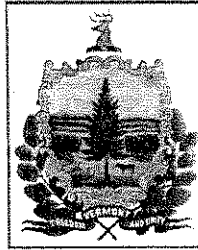
services, pregnancy/contraceptive support, medical care, and internships/community work in an effort to connect the school with families in the community.

**School Visits:** On Thursday Vaughn Altemus and I visited Roxbury School, Northfield Elementary and Northfield Middle and High Schools. Staff and students were very eager to show us what was happening in their classrooms. Despite the fact that these small schools seem to be doing some good work and the students appear actively engaged and enthusiastic, Vaughn and I discussed that one of the reasons we visited was because this district is under a Supervisory Union boundary study. We talked about how increased opportunities for students could be gained by joining an adjacent supervisory union and we agreed to meet again, in Montpelier, to further discuss this topic.

**Vacation:** I will be on vacation starting Friday of this week. I will be returning to the office on Wednesday, March 13.



116 STATE STREET  
MONTPELIER, VERMONT 05620



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

Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

TO: Gov. Peter Shumlin  
FROM: Chuck Ross, Secretary of Agriculture  
RE: Weekly Memo  
DATE: March 8, 2013

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**Secretary's Top Issues:**

**Sequestration:**

- Meat Inspection: The Agency is closely monitoring the impact of sequestration on meat inspection and Vermont's meat industry in general.
- Animal Health section -- work conducted in collaboration with FDA on animal tissue residue may be affected. Monitoring.
- Specialty Crop Block Grant:
  - We will have a 5.1% cut to our SCBGP allocation from USDA (normally 225K)
- EPA Grants: Expecting 5% cuts in at least 2 grant programs.

Representatives from DEC, AAFM and the AGs office met on Wednesday to discuss protocols relative to the management of enforcement cases and how and when they would be referred to the AGs office for legal action. The meeting was productive and will result in a matrix that can be used by DEC and AAFM in deciding when to make these referrals. It was also decided to inform the AGs office when substantial administrative actions are taken that may rise to the level of the AGs office.

State veterinarians are currently working with Dept of Health veterinary colleagues to develop a written policy on the management of rabies cases in livestock species. This policy, once finalized, will provide guidelines for quarantine terms and other restrictions placed on farms that have a rabies diagnosis in one or more livestock animals on the farm. The policy will also address the sale of raw milk from these farms. It is expected to be finalized by the end of the week of March 11<sup>th</sup>.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

Fax: (802) 828-3522

**Executive Privilege**

**TO:** Governor Peter Shumlin

**FROM:** Secretary Brian R. Searles

**DATE:** Friday, March 8, 2013

**SUBJECT:** VTrans - Confidential Report to the Governor

- **Legislature:** We continue to work through some final iterations of the T-bill in House Transportation. Working closely with the committee, legislative council and JFO to ensure the bill, and revenue package, will have a smooth sail. No anticipated changes to the revenue proposal (reflecting the joint party agreement) that has been reviewed in House. House Trans. has made several adjustments to our "cut list" proposal (\$4.5 mill.), but we are remaining flexible to their approach (regardless of the fact that we have disagreements). Pat Brennan is working hard on his R Caucus, and has been a terrific asset in all this. We are also connecting with different members on the H Ways & Means, and Approps. In spite of anti tax media and petitions, at this point, we still feel the overall support remains solid. Fingers crossed! We expect a vote in House Trans. Early in the week, and through HW&M & HAC by the end of the week. Considering a media announcement regarding the agreement for Thursday (this from Louis).
- **Sequestration:** Still no clarity on definitive impacts. Federal Highway, our most significant federal funding agency, appears to be safe from cuts, while Federal Railroad Administration (FRA), and Federal Aviation Administration (FAA) will sustain cuts. Not certain how this will affect Vermont at this time.
- **DMV Report:** Enforcement division reports that the vehicle in which the 17 year old boy died in St. Albans had significant exhaust leaks that allowed carbon monoxide into the car. On Friday, the Vermont Rider Education Program (VREP) opened the phone lines, listed course information on the DMV website and commenced registering students on-line for the upcoming motorcycle training season. By Monday morning, over 110 students had registered for a VREP course using the new on-line system.
- **Overtime Issues:** Working hard with staff to reinforce the importance of weeding out any abuse of the system; reviewing timesheets carefully, with a laser focus on OT. Discussing strategies to address challenges of the timesheet review process and one investigation is underway with DHR.
- **Go! Chittenden County:** Participated in a media event with Cong. Welch to launch Go! Chittenden County, a program of transportation alternatives to solo driving & reduce Green House Gases, that replicates what Vtrans supports throughout the state: ride share (automated ride matching system), car share, van pools and transit services.

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

**To:** Peter E. Shumlin, Governor  
**From:** Douglas A. Racine, Secretary of Human Services  
**Re:** AHS Weekly Report  
**Date:** March 8, 2013

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I met this week with Armando Vilaseca, Dave Yacovone, Harry Chen, and Breena Holmes (VDH director of Maternal and Child Health) to develop the Full Service/Community Schools concept you endorsed in your Inaugural Address. We will be meeting with Sue Maguire (Molly Stark and Mt. Anthony principal) to explore models, success stories and currently available services.

Planning for the Early Childhood summit is underway. We have been working with Kim Friedman (of Windham County) as a consultant. Together we are assembling a planning committee. Aly in your office was not aware that we had taken on this responsibility, and now she knows, much to her relief.

**Vermont Department of Health (VDH)**

Rutland Methadone (Hub) Program Development: The Green Mountain Care Board (GMCB) has concluded that the Rutland Regional Medical Center (RRMC) expansion project is not subject to Certificate of Need (CON) review. Specifically, they note that RRMC currently offers the same scope of services to be offered at the opiate treatment center with the exception of the addition of methadone to existing Subutex medication treatment for opiate addicted patients. This is good news for the continued expedited development of these services under RRMC's leadership.

Board Passes Motion Formally Opposing Legislation Regarding Standard of Care: At the monthly meeting held on March 6<sup>th</sup>, the Board of Medical Practice unanimously approved a motion expressing opposition to two bills currently being considered in the Legislature, H.123 and S.112, acts relating to Lyme disease and other tick-borne illnesses. Each of the bills would prevent professional licensing boards from disciplining a health care provider for providing or prescribing long-term antibiotic therapy for Post-treatment Lyme Disease Syndrome, or what advocates refer to as "chronic Lyme disease." Foremost, members were opposed to any legislation of the standard of care, which is not set in rules or law, but rather is a reflection of science and the experience and professional judgment of practitioners. The standard of care evolves and adapts to changes in the collective knowledge and understanding of physicians; it is not a static concept. With regard to the Lyme proposals, the Board specifically opposes statutory establishment of long-term antibiotic therapy as appropriate care based upon the overwhelming scientific evidence that it does not offer therapeutic benefit and carries the risk of significant harm to the patient, as well as known side effects.

## Department of Mental Health (DMH)

### **Legislative Week:**

Senate Health and Welfare has been the Committee for origination of "all things mental health" this year. Senator Ayer has a strong interest in seeing S. 128, Title 18 clean-up and summer study bill, moved out next week prior to cross-over. Last week there was a desire to include language in the bill that would allow inmates from the DOC with a serious functional impairment (SFI) to access the secure residential facility for treatment under certain conditions. We are awaiting the language re-write, but this has changed considerably to address only those with mental illness who meet criteria for an Application for Involuntary Treatment. This is a narrow window but will address significant issues raised through the Act 87 report. With this expected revision, which will be presented by Senator Sally Fox, we are actually talking about the same people as would be headed to a hospital. Essentially, we would be diverting 2-3 people/year from much-needed hospital beds.

Interim Commissioner Moulton has gotten out ahead of the Agency and the Administration on this. I have concerns, which are shared by Secretary Spaulding and Commissioner Reardon, that this proposal may be opening the door to a new program that could involve far more than the 2-3 people/year anticipated. The costs of a new alternative for individuals with mental illness who are in Corrections would be higher. There could also be issues of possible discrimination if only those with mental illness are included and those with developmental disabilities or traumatic brain injuries are not included. There is a great deal of interest in the legislature and in my Agency in looking at better services for incarcerated individuals who have mental illness or disabilities. In the Act 87 report, I recommended further evaluation to determine: 1) the need for in-patient psychiatric treatment for incarcerated individuals; and 2) whether a DOC secure facility is needed to provide mental health treatment for SFI designated individuals who are in crisis but do not need hospitalization. The need for these new facilities and services has not yet been evaluated. A more thorough approach, working with the anticipated legislative summer study committee, is warranted. I do not want take on a new responsibility with uncertain costs until the ideas have been fully explored.

House Human Services: Representative Sandy Haas has sponsored a bill for a summer study committee on SFI supports within communities. The designated agency system, through its Vermont Council, has also assembled a group to examine supports, gaps and recommendations. This is very good news all around.

Court Appearance: The Attorney General's Office (AGO) has requested that Interim Commissioner Moulton file an affidavit regarding the case for which the Commissioner must prove why she should not be held in contempt. This involves the discharge of an individual from the Brattleboro Retreat without having returned to criminal court. This was a case managed by the AG's office. Interim Commissioner Moulton has consulted with the AHS General Counsel as the AGO is refusing to have their lawyer testify, which leaves the Commissioner as the sole person describing a legal process managed by the AGO and other attorneys. Interim Commissioner Moulton will also meet with the AGO on this matter prior to Tuesday's hearing.

No Refusal System Negotiations: Negotiations begin this week with Brattleboro Retreat and Rutland Medical Center. Interim Commissioner Moulton and Interim Deputy Commissioner Frank Reed will be leading this process.

Lamoille County Mental Health Services (LCMHS): The LCMHS has been receiving numerous complaints, most of them anonymous, regarding layoffs and quality of care. There have been articles in the local paper and the DMH has received three or four anonymous letters, voicing criticism around job loss. The DMH Quality Division conducted a review last week with Lamoille's CEO and Clinical Director. Interim Commissioner Moulton is awaiting recommendations but has suggested to the CEO that she hire a facilitator to conduct focus groups within her community to gather suggestions and develop a plan to implement suggestions brought about through public input. There has been a significant culture shift at LCMHS to the good, and many of the employees there are very pleased and proud of the quality of care being delivered. The LCMHS Board is well-informed, and the CEO has been reaching out to DMH for assistance consistently and appropriately. We will continue to monitor the situation.

Suicide Prevention: This was a major topic of discussion last week at the State House and there was an excellent presentation through our grantee, The Center for Health and Learning. We continue to work on this critical problem and have requested an additional \$50,000 in our FY14 budget for an adult program over the current \$50,000 allotted last year for focusing on children and suicide; the expansion will be granted to the same provider with intent to work on prevention through a public health model that will reach across the life span.

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

#### **Ongoing Issues:**

Adult Protective Services (APS) Litigation: The settlement offer is still under review.

Program of All-Inclusive Care for the Elderly (PACE) follow-up: Local advocates for Rutland Home Health Director, Ron Cioffi, continue to raise questions about Dan Quinn's (Executive Director of InterAge/Rutland Mental Health Services) commitment to adult day services. PACE VT is leading the delicate lease negotiations and Commissioner Wehry remains hopeful this will be resolved by the end of the month when PACE closes.

#### **Emerging Issues:**

Licensing: DAIL/Division of Licensing and Protection (DLP) has posted the process for applying for a floating license on its website. Floating licenses allow greater flexibility in residential care bed use. Residential care operator Greg Beldock, who operates a large number of such facilities, had complained that our process was insufficiently clear and transparent.

C.L.: C.L., a 61-year-old man with dementia and a conviction for lewd and lascivious behavior, completed his three year sentence and is now awaiting transfer to a setting that can meet his needs for long term care. At this point, we are preparing to serve him in a hotel with round the

clock supports until a more permanent solution can be found. Commissioner Wehry is working with Commissioner Pallito and the Secretary's office to establish better protocols and resources for this potentially growing population.

Angry Caller: An administrative support person in DLP received a threatening call from a Mr. Jim Lamoureux. Mr. Lamoureux complains that he was injured in an unnamed hospital some years ago and has never gotten a satisfactory response from the state; wanted to confront someone at DLP or in the Governor's office. It is unclear if he intended to call the Governor's office or head to Montpelier. We did look at our records and discovered we did investigate his claim against Fletcher Allen in 2010; there were no findings against Fletcher Allen.

Per usual practice, the Director, Suzanne Leavitt, has notified the Commissioner's Office, Buildings and General Services (BGS) Security, and Human Resources (HR). Fletcher Allen Health Care (FAHC) security was also advised of the situation.

While such calls are not rare, this caller's phone behavior allegedly exceeded the norm for complaints which is why we are alerting you. If you hear from him, Commissioner Wehry and the Director are more than happy to sit down with him, which would take place in the Commissioner's Office with BGS security in attendance as needed.

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

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

C.L. (same story as in DAIL's report): Inmate C.L. (61 YOA - with mental and geriatric needs) maxed his corrections incarcerative sentence on March 1, 2013. At the time of his scheduled release, family members were unable to provide housing and care, while Agency efforts to identify community assisted placement proved difficult. Mr. Landry remained in corrections custody beyond his maximum release date (with approval of his guardian) until such time an appropriate living placement could be identified and arranged. As of March 7<sup>th</sup>, Mr. Landry remained in corrections custody.

#### **Population:**

The Department continues to absorb a high level of detention inmates comprising 19% of the overall population. The population broken down by gender shows the detention population is 35% of the female population and 18% of the male population.

#### **Other:**

United States Marshals Service (USMS): The US Marshal and Deputy Marshal met with Commissioner Pallito to explore the use of more Vermont beds for people in USMS custody. The current imposed cap for these beds is 40, for which the USMS pays \$129 per day, per bed. The USMS is concerned that the recent budget cuts will affect their transportation budget and their ability to move people throughout New England.

Attachment: Article from "Local Banquet" Winter 2013 edition

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

#### **Evolving Issues:**

Vermont State Employees Association (VSEA) attempts to halt the Tracker in the Economic Services Division (ESD): The next step to support process management in ESD is to purchase a database tracking system called "Pathos." It allows for the ESD to manage the caseload statewide, rather than office by office. This system tracks the flow of applications, reviews, and changes and allows management to determine where resources are needed to insure timeliness. Other features include the ability to identify bottlenecks and to identify employees who may need assistance or additional training. The VSEA is not comfortable with this type of performance monitoring and have started an email campaign to "Hate the Tracker!" The tracker is an important tool in the ESD's efforts to meet performance standards.

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

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

Provider Tax: DVHA will be hosting a hearing this week to consider the final appeal of the provider tax. The final hearing is with Central Vermont Hospital. All the other hospitals that have appealed have been notified that the Department has confirmed the original assessment amounts.

Graduate Medical Education: CMS is moving forward with approving the \$30M Graduate Medical Education (GME) initiative and have requested a few more changes in the Medicaid Funding for the GME MOU. DVHA is scheduling a meeting with Fletcher Allen Health Care (FAHC) to discuss the MOU details in the next week.

One obstacle to approving the GME state plan amendment (SPA) has been questions that CMS has raised about Vermont's implementation of the provider tax. It is unclear to DVHA why it is appropriate for CMS to hold approval of state plan amendment requests due to questions not specifically related to the amendment request as proposed.

CMS had been holding the GME SPA based on the provider tax questions but has agreed to move forward with the GME SPA and apply the provider tax questions to a different SPA request.



# BARNSTORMING

INCARCERATED VERMONTERS HELP SAVE TREASURED BUILDINGS



by Sarah Alexander

Barns, of course, are a staple in Vermont agriculture, providing a place to house livestock, store hay and grain, and keep farm vehicles and equipment. Unfortunately, though, their upkeep can be dauntingly expensive and time consuming, especially with cows to milk and food to produce.

Joe and Sylvia Maille of Shelburne have been farming for as long as they can remember. Joe's parents purchased the dairy operation in 1919 and now Joe and his son Jim have further developed the original operation. The Maille family milks around 50 cows today and sells their milk to Dairy Farmers of America, a dairy marketing cooperative.

Until late October of last year, one of the Mailles' barns was in rough shape. Built in 1939, its interior sills and exterior siding had become rotten, it needed jacking up, and the silo called for a complete restoration.

"Honestly, I thought this barn was going to be something we would never be able to completely restore," Jim told me. "The price of milk just keeps dropping while the price of fuel and labor continues to go up. When I first got the phone call I thought—c'mon, nobody seriously offers to paint your barn for free."

The phone call was from the Vermont Barn Painting Project, which provides farmers with free labor and maintenance. The project's rehabilitation work focuses on deteriorating barns and is performed by inmates in Vermont correctional facilities. For the Mailles, the restoration was performed in October by a work crew of women from the Chittenden Regional Correctional Facility.

When I asked about the progression of the project, Jim said, "They're only on their second week here, but it looks great. They never stop."

The pilot project is a partnership between the Vermont Agriculture Agency, the Vermont Corrections Department, the Preservation Trust of Vermont, the Vermont Division for Historic Preservation, the State of Vermont Chief Marketing Officer, and Vermont Works for Women. Allen Lumber, Sherwin-Williams and Pizzagalli Properties provide donations and necessary funds.

This cluster of state agencies, nonprofits, and private businesses constitutes a unique collaboration. It meets the Agency of Agriculture's mission to directly enhance landscapes for the growth and viability of local agriculture. And through the support of Vermont Works for Women, it assists women seeking purpose and a sense of accomplishment. It allows inmates to work as a team in a beautiful outdoor setting, provides them with useful vocational skills, and prepares them to enter the work force after the completion of their sentence.



Upon my arrival at Maille Farm, I met Rachel Jolly, the director of programs at Vermont Works for Women (VWW). Rachel spoke of the extensive history that VWW has in making huge strides among women and girls. "We've done numerous carpentry training programs with incarcerated women, but nothing to this caliber—nothing that has them this engaged."

I had arrived at 11:00 a.m., 30 minutes before the crew took a lunch break. In that half hour, I observed six women—all non violent offenders—smoothly applying new coats of paint on the milk parlor door and removing siding from the top of the barn with the help of a gigantic boom, all while talking, smiling, and laughing.

Amanda Griggs was there, too. An organic farmer, potter, woodworker, and yoga teacher by trade and passion, Amanda was hired by VWW as the onsite safety and carpentry instructor for the Maille Farm project. "I love this role," she told me. "It's an opportunity and, of course, a challenge, but so rewarding. I get to see women do things they never thought they'd do."

Amanda begins each morning with a basic carpentry lesson and leads the women in a short yoga class. Then they write down goals for the day, making sure to cross off each task as they finish.

"My favorite part is seeing how truly unselfish these women are," said Amanda. "At the beginning of this project, I had the women write down their goals, and each and every person wrote servicing farmers, supporting agriculture, and helping others. They are truly happy to have an outlet for giving back to the community."

To my surprise, many of the women, who chose to remain anonymous for this article, were more than willing to talk to me—excited, even, at the thought of a new face and fresh perspective.

Asked about what it was like working on the project, one of the women commented, "Your days go by faster, you leave tired, and you get to be outside. It's also great to be able to help someone, especially a farmer, and in this current, weakened economy."

Some women spoke of the joy of using a skill saw or a hammer, others of how they overcame their fear of heights by going up in the boom lift.

The women on the crew were all from a housing unit of nonviolent offenders at the correctional facility called the Delta Unit. They were interviewed and chosen to join the crew based on their hopes and vision for the project as well as their experience.

As for the Mailles' Shelburne barn, it was not the first to be restored through this project. This past summer, the Gingue Farm in Waterford received a facelift thanks to an all-male work crew from the Northeast Regional Correctional Facility in St. Johnsbury. And almost three years ago, the Molly Brook Farm of Danville was restored.

The farms that participate in the program are chosen for their geographic location. They must be close to the correctional facility where the workers would come from, but also near a highly traveled area, so that visitors and Vermonters alike can relish in a beautiful, restored agricultural landscape.



As a writer, I usually leave an interview with quotations and scenes swimming through my head. I wonder how I can capture a certain idea, what will my catchy headline be—the list goes on.

But on this particular drive home, it was only the sound of laughter that echoed in my head. It was then that I began to realize just how much I have in common with these women from the Chittenden Regional Correctional Facility. Their mid-work smiles and laughter sent me back to the summers I spent on farms—the working landscapes where I have felt the most in my element, the best, most true, version of myself.

Working on these farms provided me relief from the fast-paced college lifestyle I was so desperate to get away from. I imagine a similar relief was felt by the women at Maille Farm—serving their time in the open air, rather than behind bars. Whether it's a freshly painted barn door or a bountiful harvest of beaming orange carrots, that incredible feeling of pride and accomplishment is the same.

*Sarah Alexander lives in Burlington and is majoring in environmental studies at UVM. Her future plans include living on a few acres and merging her passions for writing and agriculture.*

*For now, she daydreams of raising pigs and driving her Volkswagen bus across the country.*



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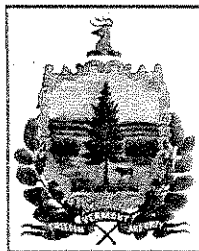
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Chuck Ross, SECRETARY

STATE OF VERMONT  
AGENCY OF AGRICULTURE

**Confidential and Privileged**

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

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**Status of Governor's Priorities:**

**Jobs in Agriculture**

**Press**

- Consumer Protection Chief Henry Marckres joined Jane Lindholm, VPR, for a segment devoted to the maple syrup grading changes. The tide of public opinion seems to have shifted with the majority of callers voicing their support for the grading changes. Sec. Ross opened the segment with a pre-recorded message outlining the benefits of the changes and the path VAAFM has taken to address the issues methodically and with public input. Sec. Ross is currently working to co-author an Op-Ed with the VMSMA president, Jacque Couture, in support of the changes.
- Consumer Protection Chief Henry Marckres, is being interviewed on Friday by Colin Nickerson of the Boston Globe on the Vermont maple industry. He is also being interviewed on Friday by Zach Howard of Reuters News Service on the proposed maple grades.
- CP Chief Henry Marckres was interviewed by Warren Cornwall, Slate magazine, regarding maple flavors and terroir.
- Marc Paquette, Weights and Measures Specialist, provided inspection information on gas pumps to ABC'S Nightline program.
- Marc Paquette, Weights and Measures Specialist, is participating in a segment of the Channel 3 News on Friday on our weights and measures lab, and various inspections that our field specialists do in Vermont. This coincides with National Weights and Measures Week, March 4 – 7.

**Legislative Issues**

Raw Milk Sales at Farmers Markets: State Veterinarian Dr. Haas met briefly with Louis Porter from the Governor's office on March 7<sup>th</sup> regarding the proposed legislation that allows the sale of raw milk at farmers markets. The topic of Administration's position on a potential registration requirement for raw milk producers was mentioned, and information pertaining to prior instances of raw milk-related Vermont human illness outbreaks was touched on. Additional information will be provided per request of Sue Allen, Deputy Secretary by Monday, further outlining the issue.

Hemp: Sec Ross and Agency staff met with Louis Porter, Sue Allen and Public Safety Deputy Commissioner and staff about S.29, Hemp, currently working its way through Senate Ag. Ag and PS discussed their different perspectives and reached resolution on how to proceed (Agency will draft outline and share w/PS and Governor's office before legislature returns next week). One major question was left regarding finger printing that Porter is going to raise with the Governor.

GE Labeling: Sec Ross discussed w/Sue Allen regarding clear, consistent message as bill moves through House towards cross-over.

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

Representatives from DEC, AAFM and the AGs office met on Wednesday to discuss protocols relative to the management of enforcement cases and how and when they would be referred to the AGs office for legal action. The meeting was productive and will result in a matrix that can be used by DEC and AAFM in deciding when to make these referrals. It was also decided to inform the AGs office when substantial administrative actions are taken that may rise to the level of the AGs office.

State veterinarians are currently working with Dept of Health veterinary colleagues to develop a written policy on the management of rabies cases in livestock species. This policy, once finalized, will provide guidelines for quarantine terms and other restrictions placed on farms that have a rabies diagnosis in one or more livestock animals on the farm. The policy will also address the sale of raw milk from these farms. It is expected to be finalized by the end of the week of March 11<sup>th</sup>.

The 66th Annual Meeting of the American Association of Pesticide Control Officials (AAPCO) which will be held March 18-20, 2013 in Arlington, VA; President-elect and agency staff Jeff Comstock has been the lead in planning this meeting over the last 8 months and represents the culmination of over 20 years Jeff has been active with AAPCO.

### **Evolving Issues:**

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#### **Summary of Key Agency Department Activity:**

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##### **Administration**

The Agency is in the process of drafting a letter to Long Trail to cancel the contract for the 2013 Eastern States Exposition. This regrettable action is a result of an impasse with the Eastern States management, which has forbidden the sale of alcohol in the state buildings. It is unclear if the Eastern States Expo has the legal authority to do so, but due to the timing of the fair we must move forward with replacing Long Trail with another exhibitor. We lack the resources, as well as the time, to engage in a legal battle at this juncture.

March issue of Agriview will focus on the value of maple as well as the contributions of women in agriculture, in honor of women's history month.

Grants Management Software: The agency is in the final stages of reviewing software programs for agency-wide grants management – over \$3 million in grants allocated annually with no centralized program. DII is aware of our process and will be actively involved in software selection and providing a program manager.

##### **Agricultural Development**

**Apple Industry Strategic Planning Session:** Secretary Ross and Agency staff addressed representatives of the apple industry and support organizations on the role that VAAFM plays in partnering with tree fruit growers. Programs highlighted included the Working Landscape Enterprise Initiative, Specialty Crop Block Grant, Farm-to-School, Dig-In VT and other agritourism initiatives, GAP audits and support for capital infrastructure. During the afternoon discussion, opportunities were identified to enhance a vibrant and robust apple industry.

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

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State veterinarians have had several conversations with NY Dept of Agriculture officials and with USDA colleagues this week regarding the **Animal Disease Traceability rule** that becomes effective on March 11<sup>th</sup>. The implementation of this rule has caused considerable concern on the part of the livestock markets and commingling point managers/owners in NY and in VT, and further regional discussions are needed to answer existing questions. Conversations will be ongoing through the implementation period of the rule prior to the time that any enforcement of the rule is initiated.

The quarantine on live animal movement that was placed on a goat dairy for incidence of Listeriosis in late January has been lifted by the Animal Health section. The owner of the farm used to engage in raw milk sales and was found to be substantially out of compliance with existing laws and requirements pertaining to this activity during an inspection performed by animal health and dairy personnel immediately after the quarantine was placed. The live animal quarantine

release notice was combined with a letter of warning on raw milk sales informing the producer that the future sale of raw milk is prohibited unless she comes into compliance with 6 VSA Chapter 152 and the associated requirements.

### **Evolving Issues:**

State veterinarians are currently working with Dept of Health veterinary colleagues to develop a written policy on the management of rabies cases in livestock species. This policy, once finalized, will provide guidelines for quarantine terms and other restrictions placed on farms that have a rabies diagnosis in one or more livestock animals on the farm. The policy will also address the sale of raw milk from these farms. It is expected to be finalized by the end of the week of March 11<sup>th</sup>.

Drs. Haas and Mehlenbacher participated in a regional webinar outlining a product offered by GlobalVetLink that would allow horses to move interstate to competitions and shows on an equine passport-equivalent document. This adoption of this option in Vermont would provide horse owners with a more cost competitive means of engaging in regional interstate movement with their horses legally.

Drs Haas and Mehlenbacher are continuing discussions with Rich Horwitz, USDA contractor who is handling the New England Secure Milk Supply initiative, regarding a potential collaborative effort for a Homeland Security grant up to \$100,000. Securing this grant would enable the regional work on dairy continuity of business planning that has been funded by USDA to continue under HS funding. The grant application has to originate from a state regulatory agency and Vermont is a viable candidate for sponsorship given the significant dairy industry in the state. Conversations with the business office and internal Administration will have to take place before any decision is made on this opportunity. The grant application deadline in June 1, 2013.

Consumer Protection staff are conducting inspections of maple operations for the Vermont Maple Sugar Makers Association's voluntary certification program.

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### **Agricultural Resource Management**

Representatives from DEC, AAFM and the AGs office met on Wednesday to discuss protocols relative to the management of enforcement cases and how and when they would be referred to the AGs office for legal action. The meeting was productive and will result in a matrix that can be used by DEC and AAFM in deciding when to make these referrals. It was also decided to inform the AGs office when substantial administrative actions are taken that may rise to the level of the AGs office.

Representatives from all Ag related water quality groups (DEC, AAFM, NRCS, Conservation Districts, Extension etc.) met on Thursday to discuss common regulatory and technical assistance issues relative to agriculture. The meeting was very well attended and will result in more regular meetings to enhance communication and coordination.

Court date for the Nelson case originally scheduled for Monday was cancelled and will be rescheduled. This is the case related to discharge from a silage bunk directly into a stream.

Agency will send a letter to the USDA to inform that the new rates for the Conservation Reserve Enhancement Program (CREP) are far below the worth of the land for farmers. CREP essentially "rents" crop land from farmers to create environmental accommodations, such as buffers around stream banks. The Agency feels the rates are already too low for farmers, and a further reduction would essentially be a death knell for CREP in Vermont.

### **Secretary's Comments**

**Farmer Listening Sessions: Vergennes, Poultney, Morristown** - at time of writing attended first two meeting and third on Friday afternoon. Focus is on Irene Recovery, Conservation and general input. Irene still has impacts but much of conversation has been on water quality and profitability. Emphasized need to address Ag literacy and having farmers work together and support one another

**VT Ag & Forest Products Development Board:** Attended meeting of Board held in Fairfax at Amoskeag Woodworking. Discussed issues facing ag and forestry with emphasis on Current Use and agenda for board going forward. Board agreed its role on GMO legislation is over having completed panel discussion effort on Feb 15.

**Apple Industry Meeting, Montpelier:** Attended and spoke at conference and introduced Governor. Conference is about developing strategic plan for apple industry – emphasis may focus on specialty products.

**Whistle Pig, Agency office:** Sec Miller and Ross met with Raj Bachte (sp) to discuss his business and concerns with permitting. He was counseled to understand Shumlin administration likes his products and plans but he must comply with the regulatory framework.

Sec Ross met with Clark Hinsdale, Ron Shems and Diane Zamos to review the issues relating to Whistle Pig as Hinsdale has taken an active and concerned role in the permitting issue confronting Whistle Pig. It was explained that the Jurisdictional Opinion of Act 250 was well grounded in historic precedents. Hinsdale seems to understand the facts and this perspective but remains concerned about the implications for ag going forward.

**Land Use Meeting, Gov Ceremonial office** – attended weekly meeting where rich discussion on Rural Enterprise activities were discussed. This concept as it applies to agriculture and value added ag activities is rapidly gaining interests and relevance to the broader land use and economic development conversation. It was agreed that the Shumlin Administration must have an internal conversation about how to frame and advance this concept that will be relevant to issues like Whistle Pig, on-farm processing, value-added ag and the evolution of farm businesses to other kinds of businesses.

**Meeting with Sue Allen, Louis Porter, John Wood, Rosemary Gretowski and Leigh Appleby, Agency office** – reviewed many of the issues at play within the Agency with special focus on legislative agenda. The hemp bill was the focus on much of the meeting as Agriculture and Public Safety discussed their different perspectives and reached resolution on how to proceed (Agency will draft outline and share w/PS before legislature returns next week). One major question was left regarding finger printing that Porter is going to raise with the Governor.

**Dairy Vision and Dairy Producer Conference, Burlington** – Ross spoke at the Conference and Deputy Bothfeld and Ross attended the Dairy Vision meeting. The meeting outlined the opportunity to advance and tie a finance and technical assistance program together that is aimed at growing milk volume and lowering the environmental foot print of dairy. More meetings will ensue as the idea takes shape. This is an industry led initiative which both the Agencies of Commerce and Agriculture are actively supporting.

### **Legislative Bill Tracking Information**

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Deborah L. Markowitz  
Agency Secretary

Justin G. Johnson  
Deputy Secretary

**State of Vermont  
Agency of Natural Resources**

**CONFIDENTIAL and PRIVILEGED**

**To:** Governor Peter Shumlin  
**From:** Deborah Markowitz, Secretary, Agency of Natural Resources  
**Date:** March 8, 2013  
**Subject:** ANR Weekly Report

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**Governor Level Issues:**

**Federal Sequestration Impacts:** We received an e-mail from Jason Aronowitz about the Federal sequestration. In Fish & Wildlife it appears that there will be about \$100,000 to \$150,000 budget impact in FY13. In DEC the Number is likely to be a little more the \$1 million – much of it in the State Revolving Funds, but we are also expecting cuts of the water and air program grants. I have not heard of any specific sequestration line items that impact FPR.

**Meeting with Killington area officials:** DEC and ACCD staff and Lawrence Miller met with officials from S.P. Lands, Killington Town and Killington Ski Resort. The group officials wanted to meet with state staff to explain how the Town, S.P. Lands and the Resort are working together to increase tourism in the area. S.P. Lands expect to have their final stormwater permit next week so that they can proceed with Act 250. The Killington Town manager thanked DEC for the planning funding we provided for a feasibility study on an expansion of the municipal water system.

**DEC Move to National Life Completed:** All of the divisions of DEC are now in the National Life building. There will be some additional shuffling in April when FPR and DFW arrive. While there are some significant unresolved issues relating to large equipment storage and records storage, staff are excited to all be in one place after 18 months being divided.

**Camping Reservations:** Pre-season camping reservations are still strong, at more than 6% ahead of last year.

**Bottle Bill Report:** Several media outlets have requested copies of the draft report comparing the expansion of the bottle bill and zero-sort recycling. The report will be posted and available



for public review as soon as possible after receipt. A public hearing is scheduled for March 12 at the Pavilion Auditorium. Commissioner Mears appeared on WDEV's Mark Johnson Show to discuss the issue.

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## **EVERYTHING ELSE:**

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

**SFY14/15 Capital Bill:** Steve Bushman, Chief Dam Safety Engineer, provided testimony to House Corrections and Institutions on ANR's SFY14 and SFY15 capital appropriation request for the Dam Safety Program.

**Bottle Bill:** VPIRG released a report supporting an expanded beverage container redemption system on the eve of the deadline for release of a contracted report done for DEC in response to legislation (Act 148) ordering a cost benefit comparative analysis of the bottle redemption system versus single stream (or zero sort) recycling.

**Shorelands Protection:** The House Fish, Wildlife and Water Resources Committee requested DEC's help in developing a substitute bill that they can consider which addresses the concerns raised by a number of interests regarding the original bill.

**Joint Resolution:** FPR submitted its proposed Joint Resolution to the legislature last week to proceed with two land transactions: (1) a proposed land exchange with Markowski Excavation in Plymouth involving a portion of Coolidge State Forest, and (2) transfer of a portion of Grand Isle State Park to the Town of Grand Isle for outdoor recreation purposes.

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

**VPR Report on Agriculture Permit and Waterbury Enforcement Settlement:** VPR interviewed Commissioner Mears about the recent public release of a new confined animal feedlot operation (CAFO) permit and an agreed enforcement order with the Village of Waterbury. The CAFO permit is required by the Clean Water Act and complements the state Agency of Agriculture permitting program. The Waterbury enforcement agreement is necessary because Waterbury has been in violation of its permit limits for phosphorus. Both are connected in that they are components of the state's response to the petition filed by CLF asking EPA to withdraw the state's authority to implement the Clean Water Act.

**Fish & Wildlife Looking for 'Let's Go Fishing' Instructors:** The Fish & Wildlife Department is seeking volunteers who would like to pass on the tradition of fishing to the next generation of Vermonters. The department will be hosting two one-day training sessions for 'Let's Go Fishing' instructors on Saturday, March 23 at the Kehoe Education Center in Castleton, VT and on Saturday, April 6 at the Fish & Wildlife regional office in Essex Junction, VT.



**Vermont Fish & Wildlife Hosts Waterfowl Information Session at Camp Kehoe:** The Vermont Fish & Wildlife Department will host a waterfowl information session entitled “Boats, Blinds, and Buddies; The Waterfowl Experience” at Green Mountain Conservation Camp Kehoe in Castleton, VT on Friday, March 22 from 6:00-8:00 p.m. The event is free and open to the public, and no registration is required to attend. Game warden Rob Sterling will explain how waterfowl regulations are determined and why yearly changes can occur. He will also go over license requirements and safety issues.

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

**Clean Water State Revolving Fund Priority List Hearing:** DEC conducted the Fiscal Year 2014 Clean Water State Revolving Fund priority list public hearing this week for the purpose of receiving public comment on the proposed funding for pollution control projects totaling about \$38 million. The hearing included a substantive policy discussion about our proposal for municipalities to allocate and deposit funds into reserve accounts for future infrastructure improvements and to undertake asset management planning.

**Lake Champlain Water Quality Plan (Total Maximum Daily Load or TMDL):** EPA convened a technical workgroup meeting to discuss their consultants’ “scenario builder” tool for use in evaluating phosphorus reduction potential from various management practices. There was strong attendance and assistance offered to EPA by the Lake Champlain Basin technical community. About 25 individuals participated in the meeting from multiple organizations including state and federal agencies, University of Vermont, the Lake Champlain Basin Program and the Lake Champlain Committee.

**Geologist/Hydrogeologist Licensure Issue:** The State Geologist facilitated a meeting of programs that review applications for permits filed by geologists/hydrogeologists on behalf of applicants. With recent proposed changes to the licensed engineer statutes, the hydrogeologic community has been discussing their role and whether licensure is necessary and appropriate. It was agreed that knowledge of geology differentiates the work of hydrogeologists from engineers. Hydrogeologic analysis is supported and requested by the permitting programs when certain applications are filed as better outcomes are achieved. The group agreed to look into other state programs with emphasis on New England, do outreach to the community to garner feedback, and investigate any problems with any hydrogeologic submittals over the years.

**Winter Meeting:** The Green Mountain Division of the Society of American Foresters will hold its annual winter meeting Friday March 8 at the Lake Morey Inn. The meeting draws foresters and natural resource professionals from around Vermont, as well as New Hampshire and Massachusetts, for discussions on policy and recent advancements in the field of forestry. Governor Shumlin and Commissioner Snyder are both scheduled to speak at the meeting. A number of FPR staff, including Director of Forests Steven Sinclair and Operations Director Ed O’Leary, will be in attendance.

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## **SUMMARY OF KEY DEPARTMENT ACTIVITY**

### **Environmental Conservation**

**Climate Cabinet Staff Meeting:** Secretary Markowitz presided over the first Climate Cabinet Staff meeting of 2013. All the Climate Cabinet agencies/departments were represented. There were reports from each of the four working groups (Electric Vehicle-Transportation; Flood Resiliency; State Operations; Data and Metrics), plus from DPS regarding implementation of the Comprehensive Energy Plan. The group then heard a project update from DPS contractor the Regulatory Assistance Project (RAP). RAP has been engaged to conduct an analysis of state policies that could be applied for the state to meet its greenhouse gas reduction and renewable energy goals.

**Vulnerability Assessment/Adaptation Strategy for Natural Resource Sectors:** The contract with TetraTech for this project has been extended for an additional three months, and one of the contract tasks has been rewritten so that TetraTech will be available to facilitate the follow up to their final report. The new scope calls for TetraTech to prepare a summary of the process and final report suitable for a general-level audience; develop an inventory of state and regional climate change adaptation activities in the four sectors of interest; and participation in post-report stakeholder meetings to develop the next steps in this process.

**EPA RESEARCH FORUM / Extreme Event Impacts on Air Quality and Water Quality with a Changing Global Climate:** Several DEC staff tuned in to various presentations given during this 2-day webinar conference. Presentation topics focused on research projects exploring the nexus between climate change / extreme events and air or water quality. An update was also given regarding the process of developing the quadrennial *U.S. Global Change Research Program – National Climate Assessment*. The draft report for 2013 is available at <http://ncadac.globalchange.gov> and is open for public review until 4/12/13.

**Westminster Meats:** Westminster Meats has a new wastewater system to abate the previous health hazard from surfacing wash water from the slaughter house. The Drinking Water & Groundwater Protection Division moved quickly to review and approve the application allowing the owner a permit to build the new system.

**Whistle Pig Distillery:** Staff met with the company's consultant regarding disposal options for waste from Whistle Pig distillery in Shoreham. The company is exploring different options for the disposal of the process wastewater, including co-mingling it with domestic wastewater, or obtaining an indirect discharge permit for either land application on the distillery property (a former dairy farm) or disposing of it in a local manure pit. The strength of the waste is unknown because the whiskey that has been bottled was apparently distilled at a much larger facility in Canada. We reiterated that we need analytical data to determine the strength of the waste. With that information, we can then determine the appropriate disposal method.

**FFY2013 Performance Partnership Agreement with EPA Finalized:** The final signed version of the three year PPA (2013-15) was received this week from EPA. In the cover letter, Administrator Spaulding acknowledged the efforts of the Environmental Assistance and Planning division staff and Jenny Bryan in particular for completing this important task which lays out the state's priorities under our federally funded programs.

**Statewide Records Officers Collaboration:** The kick-off meeting of the Vermont Records Officers Collaborative was hosted by VSARA staff this week. Members of the group are at various stages of establishing records management systems for their agencies and agreed that all have things to learn from each other. The group will meet monthly and develop training that can be used across the state agencies.

**Interim Records Management System and Scanning set-up:** The team working on developing this system met this week (Pam Lowe, Peter Telep, Greg Lutchko, and Nancy Manley). Based on efforts to date, it appears the best interim tool to store and index/label scanned records is SharePoint Foundations 2013.

**Lead Paint and Asbestos Management workshop:** The VTDEC and VTDOH held their second of four scheduled lead paint and asbestos management workshops in Hartford on February 21. The workshops are two-hour "awareness-level" for contractors, solid waste haulers and operators, DPW staff, and property or facility managers.

**St. Albans Bay Watershed Initiative:** Watershed Management Division is working with the Town of St. Albans to develop a grant agreement (2013 ERP funds) which will assist the town undertake and complete a flow restoration plan for Rugg Brook. This effort will be conducted simultaneously with a similar effort by the City of St. Albans affecting Stevens Brook.

**Green Infrastructure:** Watershed Management's new Green Infrastructure - Low Impact Development Coordinator, Justin Kinney, began work on February 25. His first task will be to meet with members of the Green Infrastructure Council formed by the Governor's executive order 06-12 relating to Green Infrastructure to begin development of the implementation plans required by the order.

### **Fish and Wildlife**

**Active shooter training in Stowe:** Two wardens attend training at Stowe High School to learn about responding to and addressing an "active shooter" in a school setting. The training was well conducted and informative.

**Ice Fishing:** Light ice fishing pressure continues throughout the inland lakes except during the numerous ice fishing derbies. Northern Lake Champlain is experiencing much heavier fishing activity. Some anglers are already removing fishing shanties for fear of a quick ice breakup.

**VTANG:** Conducted site visit at VT Air National Guard facility in South Burlington. The visit was prompted by the Agency's role in review of their Integrated Natural Resource Management Plan. The presence of deer wintering habitat on site was confirmed. Biologists are reviewing sections of the draft plan ahead of the April 1 comment deadline.

**Uncommon Species:** Worked on finalizing release of new uncommon species layer to be made public through the Natural Resource Atlas and Vermont Center of Geographic Information. The new layer will combine data that is distributed with our rare species layer with a separate observation database. The purpose of separating the data is that uncommon species normally are not included in regulatory review, but are considered in environmental planning. This layer has been available for a while internally, but not publically.

**Class 1 Wetlands:** Met with FWD staff and then DEC Wetlands Office staff on their plans to pursue more Class 1 Wetland designations, which provide some stricter protections and a wider buffer. Fish habitat, wildlife habitat, exemplary wetland natural communities, and rare species are four functions particularly relevant to FWD.

**ANR Riparian Buffer Guidance:** Staff from across ANR met to discuss potential revisions to the ANR Riparian Buffer Guidance for Act250/248. Maintaining forested riparian buffers along stream, rivers, lakes and ponds is critical to the development and maintenance of quality aquatic habitats and the populations they support. In addition to the ecological benefits of riparian buffers, the isolation of development from surface waters helps protect these investments from flood hazards and reduces the need for future intervention.

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

**Land Transactions:** The Lands Division is working with the Fish and Wildlife Department and VTrans to finalize a series of conveyances associated with a completed bridge project at Willoughby Falls WMA that have been approved but were never executed. A request for Governor's approval to convey various temporary and permanent rights to the Village of Orleans will soon be sent in connection with this project. The Department will meet again next week with the Bolton Development Review Board for the final subdivision hearing for the Lafreniere sale parcel subdivision. Work continues on various ongoing ANR land transactions including Bolton Nordic property (Bolton), Alburgh Dunes State Park land exchange (Alburgh), Stone donation at Rupert State Forest (Rupert and Dorset), Fitzpatrick inholding in Coolidge State Forest (Killington), Benson inholding within Okemo State Forest (Andover).

**Parks Design Contest:** There were 42 entries for the Park Merchandise graphic design contest. Winners will be chosen soon so we can move forward with sale items for this summer. The design entries can be viewed here:

<https://www.facebook.com/media/set/?set=a.10151338457523182.1073741825.42094808181&type=1>

**Marsh-Billings Interpretive Plan Updates:** Conservation Education staff are contributing to the development of the next Long Term Interpretive Plan at Marsh-Billings-Rockefeller National Historical Park.

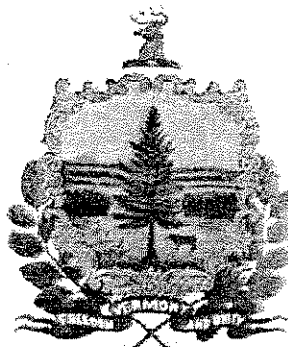
**Workshop for FPR Staff:** A workshop on public speaking and working with children was well received by FPR staff in the Springfield District Office. Five people attended the two-hour session on making presentations to adults and children.

**Envirothon Update:** Planning continues for the Envirothon competition, which will take place on Tuesday, May 14 at Kehoe Conservation Camp in Castleton. Eleven high schools and seventeen teams are slated to participate in the environmental science competition.

### **Business Office**

**DFW FY12 Financials:** KPMG, the independent auditor reviewing DFW's FY12 financials, sent us their initial draft of three audit findings from their audit. Our initial response to them helped to eliminate one of the findings. The other two are being further reviewed but it appears at this point that we may end up with at least one "significant deficiency" finding that would trigger annual re-audits and re-audit charges. We are hoping to provide some clarification that we hope might reduce the seriousness of the findings. The main issues relate to errors in federal reports and lack of a review process before submitting to those reports to the Feds.

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** March 8, 2013  
**SUBJECT:** Governor's Report

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## Division of Fire Safety

### Issues / Updates:

- The division reviewed \$28,900, 000.00 in new construction valuation collecting \$30,000 in permit fee revenue.
- Several interviews are scheduled for the Building Safety Engineer Position.
- Night inspections were conducted in the southern part of the State over President's Day weekend. 14 places of assembly were inspected and only one found over crowded and appropriate measures were taken to reduce the occupant load. Inspections focused on exiting, emergency lighting, exit signs, occupant load, and status of life safety systems in the building.

### Fire Academy

- March 23 – Fire Service Advisory meeting with Senator Sanders – location TBA – start time 10:30 am. (small invited group 25-30 participants)

## Emergency Management

### Issues/Updates:

- a. Regarding Sequestration, FEMA and DHS have notified all states and territories that the current sequestration issue does not impact existing funding but has resulted in a 5% reduction in the FFY'13 DHS Budget. The House has proposed to fund the rest of the government (including DHS and FEMA) under a year-long continuing resolution (CR) to be voted on hopefully this week. So long as the CR goes until the end of the fiscal year (highly likely) this will allow FEMA to award grants. However, the House proposal recommends funding levels at the post-sequester rates where some projections could take EMPG from \$350m to \$332.5m.
- b. Engaged in persistent follow-up by Ping4 regarding notification systems. This may be a system that eventually augments VT Alert.

- c. Answered question from Rep's Brennan and Lanpher regarding the structure of PA and the funding request for the positions under Recovery & Mitigation.
- d. Met at length with Rep. Fagan (HAC) regarding DEMHS structure, reasoning for the Recovery & Mitigation Section positions and funding necessary to apply that effort.

General Information/Other:

- a. Reviewing final draft of an RFP for facilitation services to create a DEMHS Strategic Plan, Mission Statement and Vision Statement.
- b. Along with Captain Hopkins attended the US Coast Guard Auxiliary meeting to discuss the Port Security program, possible exercise and training and meet with individuals potentially interested in EOC roles pertaining to increasing bench depth.
- c. DEMHS and the Vermont National Guard have been invited by the State of Louisiana to participate in an EMAC exercise with the purpose being how staff request resources via EMAC through other states.
- d. Deliberations continue on the selection for the Recovery & Mitigation Chief, in part due to the HAC and concern over funding the Section.
- e. Project requests, 34 Improved Project requests and 40 Appeals (of which 21 have been sent to Region 1, 10 are anticipated for debris PWs, 1 has been withdrawn, and 8 still need to be submitted to FEMA.
- f. Implementation of approved HMGP buyouts; offers made to Bethel, Bridgewater, Bolton, Hartford, Plymouth, Rochester and submission of 20 applications to FEMA for 4<sup>th</sup> round of HMGP

State Police

**A Troop**

FF

- The St. Albans Barracks continues to be proactive on traffic safety enforcement, with seven DUI arrests (four of which were DUI-D cases) this past week, as well as five DLS arrests.

BCI

- Sex Assault case from weekend- NUSI over flow
- Went to Newport for another sex case (inmate on inmate) from 2011- interview of suspect.
- Multiple Sex Offender Registry updates
- Returned multiple guns that were stored in Permanent Evidence
- Re-submitted Cabot Home Invasion case to State's Attorney, in hopes for prosecution.

- Worked on Plainfield theft case, Worked on Jenkins Homicide case, Worked on Northfield Sex Assault Case

## **B Troop**

FF

- Arrested Miller's Run School teacher Philip Hines for assault on secretary Heather Cookson for an incident that took place at Miller's Run School before Christmas break.
- Attempted Homicide where the wife discovered her husband having an affair with another woman. She went to the residence of the female and stabbed the husband.
- Local resident went through the ice on a tractor on Lake Memphremagog.

BCI

- Accidental Death – drowning Lake Memphremagog
- (3) Backgrounds Kinney Drugs – Patient Profiles reference Jonathan Kuhl case
- Drug Investigation into male who may be obtaining methadone through a couple sources, one being a methadone clinic
- Completed and forwarded court packet for two counts of prescription fraud

## **C Troop**

FF

- Armed Robbery at the Cumberland Farms in Wallingford. Uniform and BCI working the case (confession obtained Monday afternoon, 3/4/13). Trooper Johnson performed a drug buy, leading to further information-Search Warrant conducted at a Park Street, Rutland City location. Five individuals were located inside the apartment. Among them was 32 year old Eshone L. Williams. Williams and another male fled out a back door, but were quickly apprehended by police and escorted back to the residence. Williams was found in possession of 19 grams of Crack Cocaine and 62 bags of heroin. During the search of the residence, Police located an additional 71 grams of Crack Cocaine and an additional 300 bags of heroin in William's jacket. Police found a total of 94 grams of Crack Cocaine and a total of 362 bags of Heroin. Police also located \$13,676.00 in cash. Williams was transported to Vermont State Police Barracks in Rut-



land for processing and later transported to the Marble Valley Correctional Center. Williams is being held on \$500,000.00 bail.

#### BCI

- Meeting with Adult Protective Services for a case review relative to an elderly woman in Bristol subjected to inhumane living conditions.
- Drug case at MVCC
- Assisted uniform with Burglaries in West Arlington
- New sex offense. Reported grandfather touching 4 yo granddaughter in Wells.

#### D Troop

#### FF

- A van containing 8 Dartmouth College students hit black ice in the area of MM5SB & rolled over. All 8 occupants were restrained by seatbelts. One injury was reported.

#### BCI

- Bennett Homicide follow up (case work, meet with victim and family)
- Assault- Reported 14 y/o female touched 11 y/o cousin inappropriately.


#### TOPS

- Stopped suspicious vehicle in East Montpelier driver switched with passenger, 0099 due to numerous thefts in area.
- Albright taught PACE@RISP-HQ-Student from class hit 5.5 oz crack and 12,000 cash on stop the next morning

#### ICAC

- New H.S.I. CP/Luring Case - imaging and analysis
- Completed report for Rutland Child Sexual Assault

- Coordinating with Access Data Company for technical review of LaClaire murder case forensics.
- Worked on additional forensics and supplemental forensic report for Weisinger CP case.



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State of Vermont  
Agency of Administration  
Office of the Secretary  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.adm.state.vt.us](http://www.adm.state.vt.us)

[phone] 802-828-3322  
[fax] 802-828-3320

*Jeb Spaulding, Secretary*

**PRIVILEGED AND CONFIDENTIAL  
MEMORANDUM TO THE GOVERNOR**

**TO:** Governor Peter Shumlin  
**FROM:** Secretary Jeb Spaulding  
**DATE:** March 8, 2013  
**SUBJECT:** Confidential Report to the Governor

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**BUILDINGS AND GENERAL RESOURCES**

**Legislative Issues/Contacts:**

- Met the Speaker for breakfast, an opportunity to communicate, collaborate and cooperate.
- S. 144, the St. Albans state office building (20 Houghton Street) sale bill was voted out of Senate Appropriations and is on the Senate calendar for Action. The bill might serve as a good vehicle for warranty deed permission from the General Assembly for Building 617.

**Press/Media Notes:**

- Met with Dave Gram, AP, regarding the budget of the National Life reconfiguration. Think the interview went well. He went on a tour afterwards with Joe Aja.

**Significant Events/Meetings:**

- Toured the Blanchard Block Building in Barre, a stunning historic building, which is being converted into offices. The developers wanted to know if the state was interested. Will keep this opportunity on file.
- Called key legislators, including Sens. Flory and Cummings (not reached) and Reps. Emmons and Myers regarding the possible sale of Building 617; they were supportive of the offer to purchase.

### **Evolving Issues:**

- Met with Michael Walsh of Hackett, Valine & MacDonald regarding the REMI equipment maintenance program which guarantees (with the Secretary's mandate to use the service) a 25% savings over individual vendor contract costs. Purchasing is working on the details and will make a recommendation.

## **FINANCE AND MANAGEMENT**

### **Issues Update:**

The federal sequester went into effect this week. Of the \$85 billion in national reductions, it is estimated that Vermont's impact will be \$15-\$16 million, with the largest impacts likely to be in federal education grants and LIHEAP. The Office of Budget and Management is currently working with field departments to assess the specific fiscal and policy implications

## **HEALTH CARE REFORM**

Nothing to report.

## **HUMAN RESOURCES**

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

- Double Pay Grievance at VLRB continues. Next hearing dates are scheduled for April 19<sup>th</sup> and April 22<sup>nd</sup>.
- VTA Bargaining mediation session with Elayne Temple (federal mediator from Portland, ME) is scheduled for Friday, March 22<sup>nd</sup>.
- New Spring Training Activity program was launched last week to run from March 25<sup>th</sup> – May 19<sup>th</sup>, titled "Make Your Health a Homerun". The program will conclude at the Corporate Cup.

## **INFORMATION AND INNOVATION**

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

Healthcare: While many items continue to move along for our HBE/IE/HSE efforts, three significant items remain at the top of the risks matrix maintained by the healthcare project management office (PMO). Those issues are lack of effective governance, lack of state resources, and lack of effective contract management. All three issues are being dealt with by the PMO team and the HSE Ops Steering Committee, but none have reached complete resolution and the longer they are unresolved, the greater our risk. Below is a quick update on all three risk issues:

- Lack of effective governance: To succeed with our HBE/IE/HSE within the short timeline specified by our federal partners, we need a governance structure that allows individuals in critical roles to make decisions without having to seek consensus from all stakeholders. While we have made, and continue to make considerable forward progress with making the group effective, however there

continues to be incomplete buy-in from some business stakeholders, second guessing/questioning, and the standard cultural responses of needing consensus, inclusion and agreement from everyone that is slowing our critical decision making progress (e.g. it takes much longer for a group of 25 to come to a decision than a group of 8). This issue has been discussed at both the Ops Steering (OSC) and the Executive Committee (EC) levels and we expect more forward progress in tomorrow's meeting.

- Lack of state resources: While the bulk of the work on our projects (over \$200 million worth) is being done by CGI, they cannot do their work without the resources on the state side to provide direction, coordinate and deliver the tasks assigned to the state. The CGI proposals clearly identify the need and roles for these individuals. However, the state does not currently have the resources needed for either the business or the IT state tasks. Part of this is due to an inability to successfully recruit staff into limited service positions, especially when those staff will have a long term role (i.e. while we should ultimately be able to staff healthcare related IT without increasing staff, we need to maintain both new and old systems in parallel for at least the next 3 years, so need more staff now. Once the old systems are retired, those staff will no longer be required, but the ongoing positions we need will be maintaining the new system). In other words, we need to rob Peter to pay Paul and won't be in a position to pay Peter back for at least 3 years. The OSC is providing a recommendation to the EC tomorrow, to address this issue, but we at a critical point where immediate action is required to ensure our success.
- Lack of effective contract management: While this issue continues to cause confusion and delay (e.g. we've worked on staff augmentation contracts for over 4 months and don't have all the vendor resources we need yet), we continue to "make do". Instead of getting in front of issues, we are constantly playing catch up and having to make decisions without appropriate analysis or by using greatly abbreviated processes. This increases risks and makes it harder to hold our vendors accountable. The PMO is working on this issue and trying to integrate the various processes within AHS, DVHA, DII, the feds (CMS) and the rest of our State standard contracting steps to ensure we're getting out in front of these contracting issues sooner and with more predictable outcomes.

### Evolving Issues

- State of Vermont Fiber WAN Expansion, Fiber Connect Libraries, and State Police Barracks Wired Backup Connectivity remain at risk due to delays in Sovernet fiber installations
- ACCD completed a mock up for the VDOL website using the web standard. While Annie Noonan has made it clear that she greatly prefers to use their own design, she now has a standard compliant design for consideration.

## **LIBRARIES**

### Significant Meetings/Events/Project Updates:

Sequestration and Federal LSTA Funds: Marty Reid doesn't know how sequestration will affect the Institute of Museum of Library Services (IMLS) and their LSTA "States to Grant" program.

The Department of Libraries has spending authority for a portion of FFY13 LSTA funds, but we have yet to learn how much of the remaining allotment will be cut. Accordingly, Marty is preparing for an 8% reduction in FFY13 funds. At this point, she doesn't expect to take the reductions in employee salaries

and benefits, though that is where a big chunk of our LSTA funding occurs. Marty will be interested to know if the State entertains the idea of furloughs for federally-funded (or partially funded) positions in state government.

Libraries initial plan is to take reductions in one or more of these areas:

- *Vermont Online Library databases* (free to state employees and to citizens via participating academic, school and public libraries): reduce the number of online products we offer and/or require a larger cost share from participating libraries;
- Reduce (or eliminate, if needed) the resource sharing grants given to public and academic libraries each year to offset the cost of interlibrary loan to Vermont libraries;
- Eliminate the Public Performance Motion Picture license for public libraries which allows libraries to provide free use of motion pictures for library programming.

Other:

Public Libraries and Town Meeting Results: At first glance, it seems that library budgets fared well across the state this year. Marty will send out her annual survey to libraries next week to collect town meeting data.

FY2012 Public Libraries Statistical Report: Libraries published the annual report on Vermont Public Libraries this week and will send a print copy to every public library in the state. In the next few days we will post the report online at:

<http://libraries.vermont.gov/libraries/stats/plstats>

*163 libraries (of 183) submitted data. Some noteworthy findings from the report:*

Visits to libraries increased by 1.27% (3.7 million)

Hours of operation increased by 1.38% (average of 29.6 hours/week)

Number of computers for public use increased by 4.84%

(some of these computers came from federal and private grants via the Department of Libraries)

Local tax appropriations increased by 3.45% (\$27.19 per capita)

Other "local income" (fundraising, endowments, etc.) increased by 4.88%

Payroll expenditures increased by 3.37%

Libraries with the highest annual circulation: Burlington, Montpelier, Middlebury, Rutland

Libraries with the highest circulation per capita: Killington, Greensboro, Stowe, Middlebury

Libraries with the highest per capita tax support: Killington, Dover, Stowe, Stamford

Libraries with the highest total number of visits per capita: Killington, Middlebury, Pawlet, Putney

**TAXES**

Legislation:

Statewide Property Tax Rate: The question after Town Meeting is whether there will be any momentum in the legislature to examine spending with the high passage of budgets.

Miscellaneous Technical Tax and Policy Tax Bills: The technical changes are now in Finance, the question is whether they hang onto the bill given that Ways & Means does not appear terribly inclined to pass a policy bill.

**Operations:**

Integrated Tax System: The consultant has issued a final draft RFP and high level business requirements. The next task is to get AG, DII and BGS approval in order to issue the RFP in mid April.

Tax Season: We have processed over 100,000 income returns as of last Friday; about 95% submitted electronically. In February, our Taxpayer Services division handled over 12,000 phone calls and 1,500 emails. We did experience a disruption in reporting end of the month revenue figures due to problems with bank deposit software, however correct numbers were available within days.

**Irene Recovery Situation Report**  
**3/8/2013**

**IRENE RECOVERY OFFICE**

**WSOC-VSH**

- 4 of 6 anticipated improved or alternate project requests to enable funding eligibility for buildings slated for demolition to be transferred to various components of the planned build-out at WSOC have been completed, with the others on schedule to be done within the next 7-10 days. FEMA has a high degree of confidence that this schedule will allow them to provide EHP approval for asbestos remediation to begin by the first week in April. Demolition could then follow late spring or summer as soon as the bidding process can be completed.
- FEMA reiterated that they believe the path that will enable the greatest funding flexibility for WSOC is to make this a pilot project under provisions of the recently enacted Sandy legislation. However, it will take another 6-8 weeks for FEMA HQ to develop guidance documents needed.
- FEMA has responded to our insurers answers to their questions on WSOC coverage, narrowing the range of policy interpretation differences between them to only a few issues. Discussions will continue toward the goal of eliminating any gap between what Lexington will pay and the reductions FEMA will make from their payments to the state based on what they believe the policy covers.
- All FEMA personnel have moved out of 17 State Street as FEMA has reduced and consolidated to the JFO. The state temporary staff working on WSOC, Rossie Conklin and Sandy Lambert have been relocated to 133 State Street.

**FEMA PA**

- 3,300 project worksheets (PWs) have been written and entered into EMMIE by FEMA (up one from last week), of which 3,185 (97%) have been obligated.
- Federal funds obligated to date (based on 90% federal share) stands at \$142.6M.
- PWs related to Vermont State Hospital and Waterbury State Office Complex are expected to result in additional obligations of \$60-80M.
- Of approximately 450 "large projects" (defined as PWs of \$63,900 or more), 240 --52% --have been completed.
- We have fielded: 391 time extension requests; 121 Scope Change requests; 20 Alternate Project requests; 34 Improved Project requests; and 40 Appeals (of which 21 have been sent to Region 1, 10 are anticipated for debris PWs, 1 has been withdrawn, and 8 still need to be submitted to FEMA).
- More than \$1M in funding has been added to specific Project Worksheets as a direct result of State PA Team involvement.
- There is still approx. \$17.5M in projected municipal funding gap. We are working to minimize funding gaps on a case-by-case basis.
- We still have roughly 200 large projects to be closed out in the coming years. There is risk of federal "claw back"; we need to support towns during close-outs and audits.



### Individual Recovery

- Completed the Irene & Beyond January 2013 Summit Summary document and forwarded to all event participants, addressing key themes identified from stakeholders, as well as steps the IRO is committed to taking in response to those topics.
- Released an updated two page document regarding the resources still available to survivors of TSI for Town Meeting Day, to partners including the Speaker of the House, Vermont League of Cities & Towns, VDEMHS, VOAD, and can be found on websites including VTStrong.
- Met with DCMP Evaluator Sue Buckley of Brown Buckley Tucker, contracted with CVCAC to conduct a formal evaluation of the program, to provide feedback and learn of evaluation progress.

### ACCD

- Met with Two Rivers Ottauquechee Regional Commission and representatives of the Vermont Disaster Relief Fund on plan to assist homeowners whose properties are ineligible for FEMA HMGP Buyout funding. Goal is to contact town and homeowners with offer of assistance next week.
- Continued review and editing of drafts of the Act 137 Mobile Home Study – A Plan for the Viability and Disaster Resilience of Mobile Home Ownership and Parks.
- Met with Sharon Selectman Paul Haskell to talk about the town's effort to develop new affordable homes to replace those lost to Tropical Storm Irene.
- Interviewed consultants for the Downtown Assistance Program, which is funded with CDBG-DR funds and will assist towns with their long term recovery

### HMGP

- **Current Status of Buyout Properties:**

HMGP Approved	89
HMGP Pending	21
Appealing/RFI HMGP Determination	6
HMGP Ineligible	10
Round 4 (Potential)	5
Grand Total	131

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

## VTRANS

### Operations Division

All District Irene Related FHWA ER Sites	This Week
Total sites	688
Total sites complete	424
Total sites under construction	15
Total sites awarded	84
Total sites ready for bid	104
Total sites scoping/design complete	120
Total sites no activity	11
Total sites given to PDD	65
Total sites on hold ROW/ENV	46

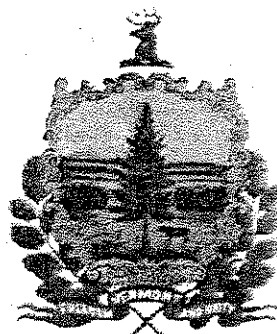
### Finance and Administration Division

- Transportation System Recovery Expenditures through March 4, 2013: **\$216,718,823**

	Totals	Federal	State	Local
FHWA-ER	\$108,706,635	\$102,398,237	\$3,796,677	\$2,511,721
FEMA - 4022	\$103,446,297	\$99,773,938	\$3,672,359	\$0
FEMA- RREW	\$4,565,890	\$0	\$4,565,890	\$0
	\$216,718,823	\$202,172,175	\$12,034,927	\$2,511,721

## DEPARTMENT OF PUBLIC SAFETY

# Memo



**TO:** Governor Peter Shumlin  
**FROM:** Keith W. Flynn, Commissioner  
**DATE:** March 4, 2013  
**SUBJECT:** Governor's Report

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We have met with HAC on a couple of occasions and have provided written information prior to meeting with them and following testimony. Rep. Peter Fagan has met with division directors, Major Sheets, and is meeting this week March 6, with Joanne Chadwick, Joe Flynn, and Paco Aumand, and has requested a meeting for March 11, with myself and division directors. He has requested a list of programs by priority of importance, he has indicated that if there are going to be cuts he'll suggest cutting the programs on the bottom of the list. We are not in a position to recommend cutting services or programs. This is a policy decision that should come from the administration.

### Division of Fire Safety

- The division reviewed \$5,000, 000.00 in new construction valuation collecting \$30,000 in permit fee revenue.
- Robert Patterson completed the bill review for home inspector certification he may be called upon to testify. If he is contacted you will be informed.
- Robert Patterson met with approximately 150 people mainly real estate agents and attorneys to answer questions about construction permits, purchase and sale inspections, and general permitting. This was well received and appreciated.
- The Annual Fire Marshal's Report is being drafted and should be available for proofing by March 8, 2013.

Baybutt Construction out of New Hampshire filed for bankruptcy. This impacts several major projects in Vermont including; (1) Brattleboro State Office Building – recently several subcontractors were let go when it was found that Baybutt had held the overall liability coverage for all contractors. This project, anticipated for completion in April of this year, is being delayed indefinitely. Most displaced workers have been relocated to space at the Brattleboro Retreat. (2) Rockingham Free Library, Bellows Falls- major renovations to this historic building have been put on hold. The town did not obtain a completion bond, and is paying for another contractor to enclose partially renovated areas to protect the building from the elements.

## **-Fire Academy-**

- New Scott air compressor/cascade/fill station being installed in fire station. The existing system to be transferred and installed at VTC for use at that burn building.
- Jim will be requesting a 3 month extension to the Sanders Grant in order to fully expend the funding. New closing date of September 30, if approved.
- Potential Fire Service "Advisory meeting" with Sen. Sanders – 3/23/13 – time, location TBA by Harper Gay of Sanders' office.

## **Emergency Management**

### **Issues/Updates:**

- a. DEMHS has spoken with funding source contacts regarding Sequestration, there are no known, immediate programmatic impacts should this occur.
- b. The VT Alert contract was signed and training is being scheduled with NY.
- c. Commissioner Flynn has requested a gubernatorial appointment for Christopher Herrick as Chair of SERC.
- d. Participated in an After Action Review with FEMA on the Spring Floods and TS Irene.
- e. Working with ACCD to complete the NTIA's Public Safety Broadband Network grant application. The availability of the state match of approximately \$180,000 will need to be agreed to for submission.

## **State Police A Troop**

FF

- Troopers were active in the "adopt a school" program with activity at the Essex High School, Williston Town Schools, Brewster Pierce School, and Browns River.
- Trooper arrested a male on an outstanding warrant for sexual assault in Calais. Acting on information from DEA, Trooper stopped a vehicle on I-89 in Middlesex. After a k9 alerted to the vehicle Troopers seized the car and obtained a search warrant, resulting in three pounds of marijuana being found in a cardboard box inside the car, two subjects were issued citations. Based on this confirmation of their info, DEA then executed a warrant at the residence in Burlington where the drugs had come from, there they found 30-40 pounds of marijuana.

## **B Troop**

- Jail case drugs at facility in Newport.

## **D Troop**

FF

- Missing person in Londonderry – woman reported she last saw her husband at 7:30 AM, his vehicle was still at home, note left indicating he wanted to harm himself – subject was located deceased.

- Responded to a 82 year old deceased male subject outside his residence, in the town of Newfane.
- Day shift responded to a deceased 44 year old subject at a residence, in the town of Halifax. The male subject was found by his father in the basement.

## **ICAC**

- Assist to Middlebury PD, partial excavation of basement crawl space for skeletal remains
- iPhone 5 physical dump and report for Burlington PD drug case (case number pending)
- Started new H.S.I. P2P CP case
- Assisted Jeremy Hill with Arson case – cell phone search warrant templates
- Completed forensics on CP case: Continued forensics on homicide case.

## **Criminal Justice Service**

I met this week with Kiersten Bourgeois and Richard Boes about the Public Safety Broad-band Network commission. They have advised that this should be a public safety initiative. I have offered to chair the commission. They also want Public Safety to apply for the grant funding for this initiative. Kiersten is going to speak with Jeb Spaulding about the \$182,000 match required for this initial grant.

I also attended the labor board hearing on the pay grievance for Tropical Storm Irene. I did not get to testify as my testimony was postponed until April 19<sup>th</sup>. However, I did meet earlier in the week with Bill Reynolds from the Attorney General's office to go over the testimony.

## **Breath Alcohol Program**

The final rule was approved by LCAR this week.

## **Information Technology**

I will be meeting with Rep. Fagan next week to talk with him about DPS joining the Valcour record management system. He is suggesting that it will be cost effective, which in the short term will not. He supposedly is looking for savings in this next fiscal year but for us to convert to a new system will require up front capital costs.

We have received approximately 8 applications for the IT manager, which is a disappointing number. I have instructed HR to hold the position open until filled.

We have received three responses to the scope of work for the VJISS project manager contract position. I am rejecting all of them as they are expensive and the firms are out of state.

# Memorandum

Vermont Public Service Department

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel  
From: Christopher Recchia, Commissioner  
Subject: Weekly Report - Long Version  
Date: March 1, 2013

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## Governor Level Issues:

### Status of Priorities and Cases of Interest:

- **VY:** the CPG hearings were completed this week as discussed below, but our attorneys are seeking a contract amendment and rate increase for representation. We have not billed VY for an additional \$1.7 million in bill back that they have not (yet?) reimbursed. This is in addition to the \$450,000 they recently paid.
- **North Springfield Biomass Project:** Following our meeting with Adam and David Winstanley, I requested and held a meeting with Justin Johnson and Commissioner Snyder to discuss status and merits of restarting negotiations. They agreed, and Adam Winstanley will be talking with Cmmr. Snyder, and the ANR attorneys separately contacted NSSEP attorneys. Meanwhile, I had my finance staff evaluate the rates Adam W. provided to us: The NSSEP Contract is above market by \$15.7 million in 2014. Over 20 years it is above market by \$160,000,000. If GMP purchased this contract it would cause an approximate 2.5% increase in rates.
- **Vermont Gas:** VGS filed revised alignments yesterday with the PSB. This alignment mostly follows the VELCO right of way, and although it is unclear whether all issues with Monkton and Hinesburg have been addressed, it is a lot quieter out there.
- **ISO-NE released the results of the Forward Capacity Market (FCM) auction for 2016-2017.** Results of the auction confirm that the auction functioned as designed: it procured the level of resources needed to meet demand in 2016/2017, For New England as a whole, more than 38,570 megawatts (MW) of power plants and demand-side resources competed in the auction to provide the 32,968 MW of capacity that the ISO forecasts will be needed to meet regional demand in 2016/2017. System wide, more than 36,220 MW was procured, representing a surplus of 3,252 MW. The auction cleared 31,641 MW of generation, 2,748 MW of demand resources (DR) including load management and energy efficiency, and 1,830 MW of imports. It is of note that the DR and energy efficiency now would account for over 8% of the power supply.

**Bills:** We are now tracking 45 bills that relate in some manner to PSD activities. 15 are related to wind projects, and 4 to modifications in the public/consumer advocacy roles at the Department – spanning from expanding them, to creating independent offices, and 8 dealing with siting issues (not including the 15 wind bills noted). It is very busy, and I'm grateful they'll be home next week. New bills introduced recently notably include:

- **H.0297** An act relating to duties and functions of the Department of Public Service
- **H.0343** An act relating to the creation of an Office of the Ratepayer Advocate
- **H.0348** An act relating to establishing an application fee for the siting of an in-state facility that requires a certificate of public good from the Public Service Board
- **H.0414** An act relating to a Director for Consumer Advocacy within the Department of Public Service

#### **Legislative Issues:**

- **S.30 – Energy Generation Siting and Report:** We testified on this in Senate Finance today and it was reported out without recommendation. In a call to me later in the day, Sen. Bray says he is going to oppose the bill, and as a fallback to defeat, attempt to strip everything out except the study and report.
- **S.25 – Public Advocacy:** Negotiating with AARP and Senator Hartwell, we are ok with this bill as it is passing out of the Senate. AARP and Senator Hartwell agree to not pursue other PSD/PSB restructuring bills, and AARP will work on house side to advance this bill only. I'll need to speak with Ralston about his H.414.
- **H.216 – HNRE** did include an RFP process for any new funds and did specify the Governor's recommended funding for TE, LIHEAP and the CEDF. However, he declined to specify a revenue source as he heard from Janet Ancel that "breakopen tickets were not going anywhere."
- **Budget:** We were the first ones in to House Commerce about our budget. We discussed our position requests and after a bit of a hard time, got the proposed positions passed out 6:3. Spoke to Reardon about difficulty we had even though these positions were clearly supported in mission and funding was available in GRT receipts. I expect GF positions to get a really hard time. I discovered the Director position were seeking is specified as classified instead of exempt. I am attempting to correct this in House Appropriations.
- **In a meeting with Shap today** I discussed the top three of these item: He expressed concern that there may be more support for a moratorium in the house than even the senate, though obviously a bill was unlikely to emerge from HNRE. I gave him a heads up about S.25 and asked his help in avoiding other House-related PSD reorganization bills. He did not think they had legs, but would explore that further. He agreed with Tony's assessment that Break Open Tickets were not going to be supported in Ways and Means. He expressed his concern that thermal efficiency programs would not be funded as the Gov's budget calls for +\$30M in new revenue,

and while they'd raise "some" they would not raise that much, and that new funding such as TE would not be possible to fund.

- **Prepaid Wireless VUSF Bill** – Rep. Botsow is considering a third option of a Gross Receipts Tax in addition to the two options for assessing the VUSF charge on prepaid wireless telecommunications service previously provided: as a fee at the point-of-sale to be collected and remitted by merchants or as a fee imposed by prepaid wireless carriers when customers apply funds to their prepaid account associated with a Vermont phone number.

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

- **Sandia and IBM**, as previously reported, did reach a contract agreement on the Solar Regional Test Center and drafted their press release this week. A quote for the governor was provided. It still appears likely there will be a press event rather than just a release.
- **Smart Grid - Upcoming Meeting with Utilities:** On Monday, we'll be meeting with most utilities to discuss MDMS data and how to enable EVT to have appropriate access/use of the data. We need to do this in context – understanding the pending IBM proposal but knowing we cannot yet discuss it with the utilities and EVT. The primary goal of the meeting is to discuss an interim process that does not waste people's time or energy before the IBM proposal becomes public.
- **Anbaric:** A meeting was held with Anbaric last week regarding their proposed "Grand Isle Intertie" project last week. Anbaric proposes to construct a 230 kV transmission line from Plattsburg, NY to a new Champlain substation in Essex, VT. This project is proposed as an "economic" transmission project (rather than a "reliability" project) to bring less expensive energy and capacity to Vermont from upstate New York and Canada. This would be a merchant transmission line that will likely be operated and maintained by VELCO, and may be sold to VELCO. Anbaric is working closely with VELCO on the proposed route, and expects to finalize the route in early April. It has also not yet been decided whether the project will be overhead or underground (or place the existing PV-20 underground). Anbaric indicated it was interested in the Department reviewing the project design before a petition is filed with the Public Service Board in the summer of 2013.
- **FY 2014 Budget:** Upcoming - We will be in Senate Appropriations on March 12, 2013
- **BED:** On Monday 2-11, I visited Burlington Electric to discuss a variety of issues and introduce myself to staff.
- **VEC:** On Monday, 2/25 I visited Vermont Electric Coop in Johnson to discuss issues and introduce myself to their staff.



- **EVT Proposal:** On Tuesday 2-12 I met with Scudder Parker to discuss his thinking on a EVT statewide utility serving all efficiency roles, and his concept for a systems benefits charge to fund it. ; Attended siting commission public hearing in Lowell
- **Wednesday 2-13:** Testified on H.216 in HNRE; discussed merger issues with members of Working Vermont Legislative Caucus; testified on PSD FY14 budget in House Approps.
- **Thursday 2-14:** Presented on CEP and TETF at HNRE/ANR climate change hearing; met with AARP representatives; participating in conference call on H.97 with Texas Compact Commission
- **Friday 3/1:** Met with ROV technologies (and Representative Hebert) about waste issues associated with their business in Brattleboro and the Texas Compact. Related to Hebert's work on H.97 which is not moving this session.

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## **Everything Else:**

### **Summary of Key Department Activity, By Division:**

#### **Public Advocacy and Consumer Affairs:**

Vt. Yankee CPG Renewal – Docket 7862 – Eleven days of hearings concluded at 8 pm on 2/26. Entergy maintained its very broad preemption claims/objections throughout; the Board took all of them under advisement where they join the petitioner's motion for partial summary judgment. At this point the strongest ground for denial of a CPG appears to be the "trusted business partner" criterion, with Entergy's witnesses and the company's history providing the basis. The institutional memory of the Board and its staff has been extremely helpful in this regard. Under a revised schedule proposed by PSD, Entergy would file rebuttal testimony on March 15, with other parties filing rebuttal on April 29. Rebuttal hearings will take place in June.

Entergy Blackout Generator – Docket 7964 – The Department has requested that Entergy provide an analysis outlining the need to install the SBO generator under a decommissioning and/or SAFESTOR scenario. NRC regulations are unclear about blackout power requirements at a decommissioned facility, and it appears to be a close call either way.

Sheffield Wind – Docket 7867 – The Department renewed a request to First Wind for wind and operational data during Rich Letty's monitoring period. A list of specific data metrics was included in this request. First Wind has agreed to provide the data next week. Paul Brouha, a nearby landowner, party in the Docket, and opponent of the project has filed a request to the Board seeking the raw monitoring data underlying First Wind's quarterly sound reports. First Wind has indicated that it will oppose the request, although it has yet to file anything with the Board. The Department will support the request.

Lowell Wind Project – Docket 7628 – GMP filed its first Sound Compliance Testing Report on 2/26. Monitoring over a period of 12/6/12 to 1/12/13 resulted in the 45 dBA limit being exceeded in two hours, and “prominent discrete tones” also detected in two instances. These are violations of the PSB’s noise standards, and particularly noteworthy because it appears that fewer than half of the turbines were operating at the time. Regarding the violations (which are never named as such) GMP’s report says only that they “will pay close attention” in future monitoring; no remedial action is proposed. PSD is still reviewing the report, and may have questions for GMP. We expect to file comments with the PSB regarding the violations. PSD continues to receive noise complaints from neighbors of the Lowell and Sheffield projects.

Coventry Solar – Docket 7948 – A stipulation in the Docket is due Friday, March 1. The Department does not have any major concerns with the project. However, ANR has yet to voice any opinion, so an extension of the MOU deadline will likely be sought.

Clarke Solar in Rutland, LLC Project – Docket 7957 – The petitioner, ANR, GMP and the Department have agreed upon the terms of a stipulation resolving all issues.

Cross Pollination Solar Project – Docket 7645 – The petitioner withdrew its petition for a certificate of public good pursuant to 30 VSA § 231.

GMP Synchronous Condenser in Jay – Docket 7987 – The Vermont Division for Historic Preservation has concluded that the project will have no effect on any historic sites that are eligible for or listed on the state register of historic places.

Bennington Solar Farm Section 248 CPG Proceeding – Docket No. 7981 – Public hearing and site visit scheduled for February 27 was cancelled due to inclement weather. The hearing and site visit are rescheduled to March 13.

Lyndonville Electric Rate Design – Docket No. 7915 – LED filed compliance tariffs reflecting the parties’ settlement and the PSB’s order. PSD filed a letter recommending that the Board accept revised tariff sheets filed by Lyndonville in compliance with the Board’s January 31 order.

VTel Wireless Petition for Unconditional ETC Designation – Docket 7966 – VTel provided its responses to discovery on February 19<sup>th</sup>. Based on what has been provided to the Department so far, the Department does not have sufficient information to enter into a Memorandum of Understanding recommending unconditional designation on the accelerated schedule VTel has insisted upon. We have approached VTel and suggested that the Board process be extended to allow the parties to work through the several significant open issues, while relying upon the Board’s conditional designation (which remains in effect pursuant to the Board’s July 11, 2012 Order) during the FCC’s funding process. The Department has communicated its concerns to VTel and is awaiting the company’s response. Under the current docket schedule, the deadline for a regulatory settlement is March 4<sup>th</sup> (with a target early April final order).

GMP Woodford Road Substation, Bennington, Vermont – no docket – GMP has filed a petition requesting authorization for upgrades including replacement of existing enclosed switchgear, oil containment, bus work, breakers, a battery system, and a control house. The Department is reviewing the petition.

Vermont Universal Service Fund Report to Legislature – no docket – The Department and its consultant RLSA have entered into Nondisclosure Agreements with ILECs regarding information to be considered in RLSA's report to the Legislature. Information regarding non-regulated revenues was provided on a confidential basis, and while that information is important to provide a meaningful recommendation to the Legislature, the Department will advise RLSA such information cannot be disclosed with any specificity, and may only be addressed on a broadly aggregated basis.

VGS Addison Expansion—Docket 7970— After reaching an accommodation among most of the affected landowners, ANR, and the Army Corp of Engineers regarding a re-routing along the VELCO ROW, VGS made a supplemental filing on February 28. VGS continues to negotiate with VELCO over the value of the easements to be obtained by VGS which are within the ROW. VGS, ANR, and the Department, with input from the Town of Monkton, drafted the remainder of a proposed schedule, which was substantially approved by the Board with one minor revision. The contracting process is underway for both a gas engineer consultant and a finance/economic consultant to assist in evaluating the proposal; an aesthetics consultant must still be selected and retained.

Vermont Gas Phase VI Looping Project— Docket 7929- VGS, with the support of ANR and the Department, filed a proposal regarding the remainder of the schedule—issues regarding status of one particular plant (a sedge) have yet to be resolved. Assuming resolution of this issue and in hopes of a settlement, a draft MOU has been circulated by VGS for comment. The Department will meet with the selectboards (or a designee thereof) of the affected towns of Georgia and St. Albans on March 11 in advance of filing testimony supportive of the project.

Omya LNG Facility—Docket 7869—Omya filed with the Board its final design plans for the LNG facility to be constructed. The Department's consultant has reviewed and, after lengthy discussions with Omya, is prepared to approve the plans with certain modifications, which will be submitted for further review next week.

#### **Consumer Affairs:**

Consumer Complaints: CAPI fielded 147 consumer contacts this week, and opened 109 cases. We received 40 requests for the Lifeline Discount application. Here is a sample of cases opened this week:

- **FairPoint-** CAPI took in three complaints last week concerning FairPoint repair delays. Consumers lost phone service and waited four to five days for repair before calling CAPI. While these outages occurred during the same time period, they came from different areas of the state and were unrelated. According to FairPoint, two of the outages affected multiple customers.
- **GMP North-** Consumer called from a rehabilitation home where he is recovering from an injury. He has not been living at his home since 1/3. He has someone checking his house and getting his mail. From 12/11-1/14 his GMP bill was 520 KWH and \$103. He was there for a majority of that time. The next bill he received was accrued during the time when he was not home at all (1/14-2/18) and it was for 1430 KWH and \$240. No one had been at the house that entire time. He has called GMP and said they stonewalled him. He has an efficient monitor heating his house and that is all that is running. The consumer was very confused and unhappy. His neighbor went

through the house looking for anything that could be drawing energy, but she found nothing. He has been in the house for 25 years and never seen a bill like this. CAPI contacted GMP for information.

- **GMP-CAPI** submitted a request for additional information to Green Mountain Power for unexplained high usage complaints last week. Earlier this week, we had a conference call with GMP's Mary Morris and Steve Litkovitz about these cases and how to best investigate them.
- **FairPoint/BCN**- CAPI heard from a consumer who operates an answering service business. He has a remote call-forwarding (RCF) number with an Arlington exchange that his clients use, which forwards to a Rutland exchange terminating phone # (where the consumer's office is). For 15 years the consumer has used BCN for his long-distance carrier to route these calls and was billed directly by BCN at less than \$0.04/minute, in 1-second increments. In March 2011, for some unknown reason the CIC (Carrier Identification Code) in FairPoint's switch was changed from 0555 (which is an MCI/Wiltel code; apparently MCI is the underlying carrier for BCN), to 0222, which is an MCI code. The consumer has been seeing charges from MCI appear on his FairPoint bills since then, at a rate of \$1.27/minute, in 1-minute increments. When the consumer calls FairPoint, their software doesn't show that there has been a change in the CIC. However, BCN was able to trace some calls and determined that the change has been made in FairPoint's central office. MCI and BCN have both been trying to work with FairPoint, but have been unsuccessful. After CAPI contacted FairPoint, FairPoint corrected the CIC in its switch so that the consumer's LD calls would be correctly routed and billed going forward, and rerated the charges back to the rate at which the consumer should have been billed. FairPoint issued a credit in the amount of \$2,336.77. FairPoint could not provide information about how the change was made in the first place.
- **Post-CPG Wind**: In the past week CAPI has taken in six complaints from three consumers about:
  1. Georgia Mountain Community Wind - one complaint, regarding a consumer's horse who was exhibiting unusual and highly agitated behavior; the consumer said "she will stand and look every other minute up at the site she sees the blade rotation. I have had this mare for 8 years and have never experienced the type of spook, nervousness and agitation out of her that she is now experiencing"
  2. Lowell Wind - one complaint about noise, headaches, and ringing in the ears
  3. Sheffield Wind - four complaints from one consumer, who provided an mp4 file of the sound levels inside her home around 11 pm last night. The average levels ranged from 47 to 52 dB.

Lowell Wind - CAPI has also been contacted by Seven Days to provide updated information (since January 29, 2013) about the number of complaints regarding Lowell Wind.

Equipment Distribution Program (EDP): Members of CAPI met with the manager of the program (offering technology that allows members of the deaf, hard of hearing and speech impaired communities to access telecommunications services) to review the program standards, identify issues and discuss the future revision of program guidelines. There was discussion on the acceptable equipment options and the vendors used to purchase the equipment for approved program participants. CAPI will be assembling information for the new revisions and will be in contact with the

EDP manager to assure compliance with the statute and to highlight the needs of the program in relation to the new program standards and guidelines.

Trends: CAPI has spoken to many consumers this week who oppose the Green Mountain Power Electric Assistance Program (EAP) fee. CAPI has also received several calls about the new fees that Comcast is assessing for Digital Transport Adapters (DTAs).

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

##### Legislative Updates:

- Attended testimony in House Natural Resources on H. 216 from VFDA, EVT, and ANR. Also attended Committee discussion sessions. A revised version of the bill will be completed by this Friday. Revised version will incorporate a number of small elements from other proposed bills this year, creating more of an omnibus energy/climate bill.
- Covered hearing on February 21 at the House Corrections and Institutions Committee during which BGS presented updates on Policy for Energy Generation/Conservation. BGS reported on activities to advance a "whole building energy investment" program, operated in conjunction with Efficiency Vermont. The presentation included a range of details on state projects such as geothermal in Bennington and the current efforts to acquire solar PV power offsite through an agreement with a developer.
- Covered hearing at the Senate Institutions Committee on February 21 regarding the Montpelier Biomass District Heating Project. Over the past week, both parties have been negotiating, and continue to do so as no agreement regarding cost overruns has been reached. Working towards an October 1 date assuming that the parties will find a solution. Chair said that they would schedule a follow up meeting the week following Town Meeting recess.
- Attended SNRE testimony and bill mark-up for S. 30, which was passed out of committee the morning of 2/27. The passed version keeps siting with the PSB, but incorporates and requires deference to ALL Act 250 criteria as well as to town and regional plans (except for reliability projects). It also makes these effective as of March 1, 2013. It directs PSD to complete a study by November 15 (under guidance of a legislative oversight committee), with a number of study items outlined. \$75K is provided for the study. There is no longer any moratorium/hiatus/pause/time out for wind projects. Regional Planning Commissions are required to create electric energy siting plans by 12/14/14; municipal officers and their kin are required to disclose any financial interest in wind projects; and commercial construction (with a few exceptions) is prohibited on state lands.
- Reviewed S. 105 (requiring Regional Planning Commissions to plan for siting of renewable energy). Working on bill reviews of H. 348 (application fee for in-state facilities seeking CPGs that would go to a Municipal Participation Fund); H. 313 (moves jurisdiction of siting electric generation facilities > net metering facilities to Act 250); H. 326 (requires the PSB to review impacts of proposed wind energy facilities on migratory birds); and H. 179 (requires ANR, PSD, and NRB to notice RPCs and towns when we learn of a wind facility proposal, notice them of related meetings and copy them on all related correspondence, and post copies of minutes of related meetings on a web page).

Climate Cabinet: Attended staff meeting of the Climate Cabinet; provided update on status of CEP monitoring; was requested to develop a recommendation for the Cabinet on how staff in the various agencies would like to report and update their progress since each agency has different systems

currently in use. RAP also attended a portion of the staff-level meeting as part of kicking off the Total Energy Study framing work they will be doing this spring.

Energy Generation Siting Policy Commission : We Met internally to narrow down the Draft Options paper (to begin the process of transforming it into recommendations). We issued a press release for the 3/12 and 3/20 deliberation meetings, requesting comments on the draft options no later than April 5, 2013.

Heating Fuel: Crude oil closed 2-28 at \$92.85, down from last week. Natural gas closed at \$3.422.

Comprehensive Energy Plan Evaluation Project – Project continued with defining 1) summary metrics for each major section of the CEP, 2) defining evaluation metrics for ‘quantifiable’ CEP recommendations. In each case, the metric is defined, a standard, or target is defined, and current progress towards that standard is established.

Total Energy Study Project (TES) - Preliminary baseline work is being done on locating appropriate energy data to ‘regionalize’ the NREL energy and emissions model. The NREL model (aka BITES) is a national energy model which PERD plans to convert into a state energy model.

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

Status of Major Issues: Kingdom Wind-GMP would like the department’s thoughts on three proposed approaches for dealing with the financial impact of the reduced output of its Kingdom Wind project. Staff has briefed the Commissioner who is now considering options.

Storm Cost Recovery: GMP has advised staff that it has incurred about \$4.5 million in extraordinary storm costs and will consider the storms as exogenous events under its Alternative Regulation Plan. This will allow recovery of costs above \$1.2 million or \$3.3 million. The Commissioner has been briefed and is considering options.

Case Management System Contract Negotiations with Vendor-Sustain: After Sustain bought New Dawn, the merged company has proposed changes that have the potential to create some issues and may increase the cost and risk to achieve a successful installation. An initial draft of the changes was received this week. The team met to draft changes to the contract that will be forwarded to Sustain next week. Negotiations are continuing and we are hopeful for a positive outcome.

Electric: Stowe - Docket No. 7579 - Investigation into Compliance of Town of Stowe Electric Department, with Requirements for the Use of General Obligation Bond Proceeds. Staff reviewed Stowe’s request to modify the original order to use a portion of the excess proceeds, in the amount of \$475,000, to fund the construction of a new office facility for Stowe. The Board has determined that sufficient time has not been provided for the Board to review and rule on Stowe’s request prior to the Stowe town meeting day. As a result, this week Stowe withdrew the request and said it would finance the building with internally generated funds.

Springfield Biomass: We reviewed the rate impact of and provided information concerning the power cost of the proposed Springfield Biomass combined heat and power generation facility.

EEU: We are continuing its review of the monthly invoices covering the costs incurred by VEIC in the delivery of EEU programs and the VEIC invoicing for the true-up of Fringe and Indirect Cost Allocations for 2012. Two issues are outstanding---one, how VEIC has handled the billing for the sale of leasehold improvements, and two, how VEIC is handling the allocation of and billing for indirect costs. Staff has made an onsite visit to review these items and we anticipate they will be resolved next week.

Gas: VGS Quarterly PGA was filed this week that will provide rate payers with a 2.1% or \$1,823,675 reduction in rates effective May 7, 2013. We have begun our review of this filing.

Information Systems: Contract Negotiations—Sustain has drafted changes to the contract that include: Staffing and Organization--Sustain/New Dawn is proposing a project manager that will be a New Dawn employee, while the technical staff will be Sustain personnel operating under the direction of the New Dawn PMO. DII has concerns with this approach since the New Dawn project manager will have no experience with implementing the Sustain case management system.

Shifting work-- Sustain/New Dawn is proposing to shift work from Sustain/New Dawn to PSD and PSB in documenting "To Be" business processes and in actually doing the initial configuration. Under the existing contract, Sustain was to do this work in collaboration with PSB and PSD. Sustain is preparing estimates of the resources they expect we will need if we agree to the work shift. The Working Group will revise the draft contract to be consistent with previous agreements.

Training Schedule Change--Sustain/New Dawn now proposes to provide training to the trainers (system administrator and report-writing training) early in the project, before configuration. This is so we will better understand how the system works, and can then actually perform the configuration of the system. This means that we will need to have the system administrator and backup system administrator on board by July, rather than by the end of the project as we had been planning on.

Installation Support—it appears that Sustain/New Dawn may propose to limit "configuration" support to 90 days without regard to meeting requirements stated in the RFP and in the "To Be" business processes. This needs further negotiation and clarification.

Next Steps-- additional negotiating sessions have been scheduled through March with a target date of April 1 for a signed contract. The Work Group will seek to mitigate any increase in risk.

## **Engineering:**

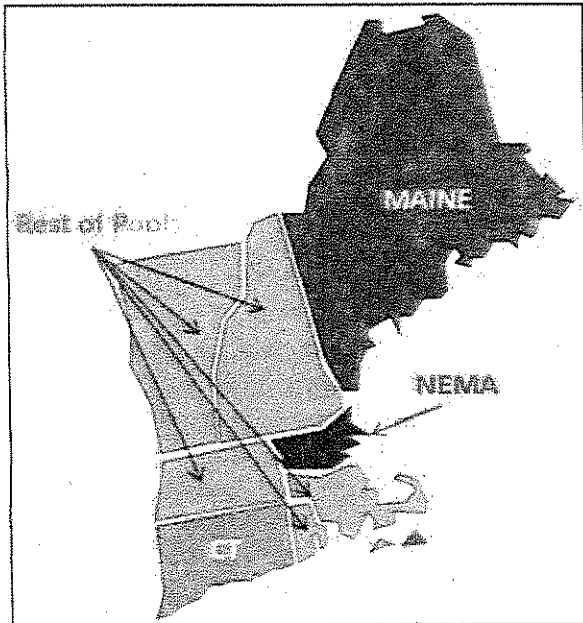
### Vermont Yankee (VY) Operation

Since last week's report, Vermont Yankee Station (VY) continues to operate below 100% (yesterday at 94%) as the plant is coasting down to the refueling outage in early March. The reduction in power is due to both the depletion of fissionable atoms in the fuel, and a reduction in power to compensate for lower heat transfer performance of the condenser due to fungal fouling inside the tubes that have been coated with epoxy. There have been no notable operational issues since the last report. To date, the station has achieved 484 continuous days of operation.

### ISO-NE FCM #7

ISO-NE released the results of the Forward Capacity Market (FCM) auction for 2016-2017. Finalized results of the auction confirm that the auction functioned as designed: it procured the level of resources needed to meet demand in 2016/2017, in each of the newly developed regions (see graphic, below). The regions better reflect local area needs. Under the FCM, ISO-NE projects the capacity needs of the

region's power system three years in advance and then holds an annual auction to purchase the power resources that will satisfy those future regional requirements. Resources that clear in the auction are obligated to provide power or curtail demand when called on by the ISO. For New England as a whole, more than 38,570 megawatts (MW) of power plants and demand-side resources competed in the auction to provide the 32,968 MW of capacity that the ISO forecasts will be needed to meet regional demand in 2016/2017. System wide, more than 36,220 MW was procured, representing a surplus of 3,252 MW. The auction cleared 31,641 MW of generation, 2,748 MW of demand resources (DR) including load management and energy efficiency, and 1,830 MW of imports. It is of note that the DR and energy efficiency account for over 8% of the power supply.



#### Propane Gas Pipeline Safety

AmeriGas has begun harmonizing their propane operations with nine Heritage/Blue Flame retail locations in Vermont. (The company purchased all of Heritage Propane assets in the US). The Gas Engineer currently monitoring the development of unified written Operations, Maintenance, Emergency, Damage Prevention, Distribution Integrity Management and Qualification manuals/procedures. The company has also agreed to address remediation of several possible gas safety code violations, identified by the Gas Engineer, located at the Jay Peak Resort Pipeline and several other propane pipeline systems in Vermont. These include inadequate over pressure protection, inadequate surveys for leaks and corrosion protection systems, inadequate signage, facility protection and incorrect system component installation. The Div. is currently engaged in follow-up activities to ensure completion of an applicable corrective action plan.

#### Cyber Attack on NY Utility

According to Smart Grid News, Central Hudson Gas and Electric (based in Poughkeepsie, New York) suffered a computer system intrusion earlier this month in which hackers gained entry to as many as 110,000 customer accounts. Employees detected the breach, which happened over a weekend, as a result of regular control procedures. So far, there appears to be no evidence that customer information



was misused or downloaded during the incident, but the utility has warned customers to monitor bank accounts for suspicious or unauthorized activity. Newsday reports that while customer information may have been compromised, a company spokesman indicated there is no evidence the intruders found their way to the electric infrastructure. The investigation, in conjunction with state and federal authorities and industry groups, is continuing. Central Hudson is offering affected customers free enrollment for a year in a credit monitoring and identity theft protection program.

#### **Regional Policy:**

Forward Capacity Market Minimum Offer Price Rule: On February 12, 2013, FERC issued an offer approving ISO-NE's proposed FCM MOPR. ISO-NE's filing was in response to a 2012 FERC Order that set forth FERC expectations for FCM design. The FCM MOPR is designed to prevent new resources bidding into the Forward Capacity Auction from depressing prices. It's important to distinguish between new and existing resources as existing resources (resources which have cleared in a previous FCA) participate in the FCA differently than new resources. The FCA is a descending clock auction: ISO determines how much capacity is needed and gradually reduces the capacity price over the course of a few days until the amount of capacity needed is reached. All existing resources are included in the auction and to remove themselves from the auction process they must de-list. New resources have to bid (or affirmatively state that they will accept the price available) each time that the price is lowered. Under this process, existing resources are price takers; receive the clearing price unless they de-list during the auction process. The ISO market monitor established offer review trigger prices for different categories of new resources; if a resource bids lower than the price offer review trigger price for its category the market monitor will automatically review the bid. Offer review trigger prices are as follows: combustion turbine (\$10/kW-month); combined cycle gas turbine (\$11/kW-month); biomass (\$24/kW-month); on-shore wind (\$14/kW-month); real-time demand response (\$1/kW-month); energy efficiency (\$0/kW-month). Individual new resources can attempt to justify to the market monitor a bid lower than the offer review trigger price; however, the market monitor will take any out-of-market payments and set the resource's bid at a price to add back in the out-of-market payments (this termed "mitigation"). An out of market payment is a payment that is not available to all resources of that type. The expectation is that bilateral contracts for amounts greater than market rates will be considered out of market payments. REC prices are not considered out of market payments because they are available to any similar resource. There is some uncertainty – for example, if a bilateral contract was the result of an RFP which any resource could respond to, in theory the prices should not be considered out of market. However, there is some uncertainty about how this will be implemented.

Most renewable resources constructed in New England have bilateral contracts, and there is general agreement that such contracts are necessary to obtain financing. It's possible that some wind projects will be able to pass the market monitor's mitigation process and end up with reasonable bids. However, the prevailing wisdom, at least at NESCOE, is that the FCM MOPR will result in bid prices for new renewable resources that are too high to clear in the auction. ISO-NE's filing with FERC did not include an exemption for renewables, but NESCOE filed a request for FERC to include such an exemption. NESCOE has not addressed self-supply (utilities that own resources directly) because all New England states except VT has restructured such that investor-owned utilities cannot own generation (although municipals and cooperative utilities were not impacted by restructuring in these states and still own generation). Self-supply will be treated similar to bilateral contracts; it's likely that many of the costs will be not be allowed and the price will be mitigated at a level that prevents the resource from clearing.

Publicly owned utilities have argued against the FCM MOPR. NESCOE is very unlikely to support an exemption for self supply.

NESCOE call with Heather Hunt: On February 27 NESCOE held a call to determine next steps in response to the FERC decision. Take-aways from the call are as follows:

1. NESCOE, using internal state counsel, will file a motion for reconsideration. This step was determined to be necessary to demonstrate that we have pursued all available administrative remedies before seeking congressional action.
2. In addition, states will work together to develop a unified message on possible revisions to the Forward Capacity Market, including how renewables should be treated in the market. The states will then brief congressional staff on the issues to make sure they are aware of state concerns and will also begin discussions with ISO-NE and key stakeholders regarding proposed market designs.
3. To the extent that FERC denies the motion for reconsideration, which is likely, the states will determine the next course of action, which could include appealing the FERC decision in court (which would be expensive and unlikely to succeed), or requesting that congressional delegates take some form of action (which could include legislation, hearings, or a joint letter to FERC).
4. With respect to the self-supply issues, Vermont needs to decide if it will continue to push this issue. One consideration – a renewable exemption could be structured to allow self-supply of renewables. This approach may be more likely to be supported by other New England states (and therefore more likely to succeed), and would also be consistent with State policy promoting renewables.

NAESB Energy Efficiency and Demand Response Standards: On February 21 FERC adopted revised standards for demand response measurement and verification and energy efficiency measurement and verification. The revised standards, developed by the North American Energy Standards Board (NAESB), are applicable only in wholesale markets administered by ISOs and RTOs. The demand response standards: (1) provide common definitions and processes regarding DR products; (2) address the applicability of performance evaluation, metering, and processes in organized wholesale markets; and (3) require RTOs and ISOs to file revised tariffs addressing performance evaluation methods. The energy efficiency standards constitute new business practice standards that are designed to establish a standardized method of quantifying reductions from efficiency measures, including a requirement that energy efficiency measuring equipment have a +/- 2% level of accuracy. ISO-NE and other RTOs and ISOs must file revised tariffs with FERC by December 31, 2013.

Tailored Underfrequency Load Shedding Standard: On February 21 FERC approved a filing by NERC that creates a automatic underfrequency load shedding standard for the Northeast Power Coordinating Council reliability region (which includes ISO-NE) that is tailored to the region. An underfrequency load shedding program is designed to preserve the security and integrity of the bulk power system during declining system frequency events. The February 21 Order approves a new maximum tripping limit for existing nuclear units based in part on the units' underfrequency relay threshold settings and also adds a requirement that non-conforming generators secure sufficient load shedding to address underfrequency events.

#### **Telecommunications:**

Testified in legislature and prepared required studies. Other activities are included in the PA section.

# Memorandum

Vermont Public Service Department

Privileged and Confidential

To: Hon. Peter Shumlin, Governor & Sarah London, Governor's Counsel  
From: Christopher Recchia, Commissioner  
Subject: Weekly Report  
Date: March 8, 2013

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## Governor Level Issues:

### Status of Priorities and Cases of Interest:

- **Sequestration:** As discussed below, sequestration will likely affect several programs at the Department, but nothing specific is known as of now. We receive/host three grants from the US DOE: SEP Base, SHOPP, and the VEIC Commercial Efficiency Finance grant, which if reduced in size by the expected sequestration amount we could probably absorb, but if future funding is effected, that would have real programmatic impacts. The Department recently requested a partial reimbursement of funds spent for the Gas Pipeline Safety Program and requested funding to support Underground Damage Prevention activities beginning 4/1/13. The Department has not received indication of the specific amount(s) of federal funds it may receive for these cost areas. We are not aware at this time of any effects on the Energy Assurance Grant.
- **GMP Lowell Synchronous Condenser Impacts:** Just a heads up that while we intend to support GMP's request for rate adjustments based on the additional storms incurred this year, we will be notifying GMP this week that we do not intend to support the pass-through to ratepayers of lost power revenues or the loss of production tax credits from ISO curtailments due to GMP not having its synchronous condenser in place. The condenser itself (\$10M) is being paid for by ratepayers, but the decision to not install (and indeed to fight) the condenser earlier was a GMP management decision we believe should not be absorbed by ratepayers.
- **CEDF Small Scale Renewable Program:** We expect to have the SSREI program back up by Wednesday of this week. Unfortunately, funding processing and rule changes caused additional closure delays, and we are hearing concerns of vendors who feel the on again off again program changes are causing harm to their businesses and the success of the program itself. Stable and predicable funding for the CEDF and SSREI are very important. We'll be providing a memo on that to Liz on Monday.

- **VY:** We have negotiated a blended rate that keeps the Wilmer Hale hourly rate where it was. We have fully billed VY for the additional \$1.7 million in bill back for experts and attorneys (my apology for the extra "not" in last week's report), and I've spoken to Mike Twomey about payment. VY had asked for additional back-up in late January which we provided on Feb 5<sup>th</sup>, so we are sending 30 day notices this week as well. From my conversation with Twomey, I do expect this to be paid. In a memo to Finance and Management, I've offered that if these bill-backs are paid, we can release \$950,000 in carry forward reserve from the GRT fund, to help with other shortfalls.
- **North Springfield Biomass Project:** I understand from Adam Winstanley that Michael Snyder and Adam Winstanley did meet and were able to reach agreement on the Forest Management aspects of the project. I am continuing to refine our estimate of the costs to ratepayers should a Vermont utility purchase the power from this project.
- **Vermont Gas:** VGS and VELCO are still discussing value of easements. The relocation of the pipeline may still have some ANR issues, but seems to have placated the residents of Hinesburg and Monkton for the most part.

#### **Legislature:**

**Bills:** Of the 45 bills that relate in some manner to PSD activities, we see about 10 of them moving. All the wind related bills (15) and siting issues (8) are expected to be stopped in House NR&E. I'll be working with Rep. Botsow and House Commerce to stop the 3 bills with modifications in the public/consumer advocacy roles at the Department, and will support S.25 instead of all of these efforts.

#### **Legislative Issues:**

- **S.30 – Energy Generation Siting and Report:** I received a call from Senator Snelling on this bill and she is seeking how best to give a role to RPC's in the process and come up with a bill we can live with. I told her the municipal veto and additional Act 250 criteria review requirements would need to come out of the bill for now – and only have the assessment and report be part of the bill. Suggested she speak with Sen. Bray who will also attempt to strip everything out except the study and report. I connected her with Peter Gregory as well.

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

- **Sandia and IBM,** as previously reported, did reach a contract agreement on the Solar Regional Test Center and drafted their press release this week. A quote for the governor was provided. A press event is being scheduled.

- **Smart Grid - Upcoming Meeting with Utilities:** On Monday, we met with most utilities to discuss MDMS data and how to enable EVT to have appropriate access/use of the data. We discussed very generally the pending IBM proposal so that VEIC and utilities did not get too far out ahead before the IBM proposal becomes public.
  - **FY 2014 Budget:** Upcoming - We will be in Senate Appropriations on March 12, 2013
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