

WEEKLY REPORTS

Checklist

10/25/2013

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

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

Sue Allen

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

Sarah London/Carolyn Wesley

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

Susan Spaulding

- ☐ Boards and Commissions (**no report this week**)
- ☒ Department of Liquor Control

To: Governor Peter Shumlin
From: Lucy Leriche, Deputy Secretary - Agency of Commerce and Community Development
Date: October 25, 2013
Re: Weekly Report

- **Tech Jam Awards:** The young Berlin-based Pwnie Express won yet another award, this time a Jammie, last Friday. The creator of white-hat anti-hacking technology was named Innovation winner at TechJam. As Wired Magazine wrote last February “The folks at security tools company **Pwnie Express** have built a tablet that can bash the heck out of corporate networks.” Runners up included BioTek and MBF Bioscience. Fresh Tracks Capital was named Ambassador winner, with FoundLine and MyWebGrocer as runners up. Lisa Gosselin stood in for judge Lawrence Miller in presenting awards.
- **Wall Goldfinger – Randolph:** The company reports that business is picking up with two large contracts recently landed. They are very pleased with the referral by the department of JBM Sherman Carmel to do some metal fabrication and continue to actively seek local suppliers and vendors. They requested assistance around resources for dealing with intellectual property issues which have recently become an area of concern. Regarding the new healthcare reforms, they feel their costs will be about the same which is better than the double-digit increases they were experiencing. Full time employment remains steady at 40 and they are seeking sales, purchasing, and woodworking positions.
- **GW Plastics – Bethel:** The company employs 320 in Vermont and 1,000 worldwide with operations in Mexico and China. Business is strong, and the major issue continues to be recruiting talent especially in the technical positions. They have an aging tool and die making staff and are concerned that as those workers retire they will struggle to fill those positions. Working with GMEDC they initiated an apprenticeship training program with Vermont Technical College which has been successful and they are now reaching out to high schools and tech centers. The recent National Manufacturing Day tours had 26 attendees who were very impressed with the diversity of careers and degree of technology required at GW. Interestingly, the company conducts annual functional literacy tests in reading, comprehension and math. Approximately 50% fail the testing.
- Alex Ibey spoke with Mr. Morgan Casella about his interest in developing a small scale food digester on a landfill site in Brattleboro, currently owned by the Vermont Economic Development Authority (VEDA) through a failed biomass project. VEDA has released a Request for Proposals for the site and Mr. Casella is currently developing a response. The request will demonstrate the ability to provide year-round agriculture and a renewable energy waste system to Windham County. The waste system will work to meet the goals of ACT 148 and the mandate for food scraps to be managed by 2017. Mr. Casella has partnered with many private alternative energy organizations that will work to provide the maximum economic benefit. He will be looking to install a small-scale food digester, bring solar energy to the site and provide year round agriculture with the current 14,000 sq. ft. greenhouse.
- **Dartmouth Journal Services:** The company has experienced some growth over the last few years and is looking to train their new(er) staff in leadership and technical skills. They will be working with local vendors to develop a training plan that will assist with skill upgrade in anticipation of new large and complex contracts in 2015. Vt Training Program is engaged.

HOUSING

- **Sunset Farm Mobile Home Park:** With DEC, the Town of Bennington, CVOEO's Mobile Home Park Program and Shires Housing and DHCD staff, reluctantly concluded that closing the park is the only viable solution. Sunset is in foreclosure, the water system has failed and the owner is disengaged. Repairs are too costly for this 13-lot park. DEC will pursue an enforcement action in coordination with DHCD and Shires Housing. Shires and the Town will likely apply to the VCDP for relocation assistance for residents.
- **VHC and VCH Joint Resolution:** The Vermont Housing Council and Vermont Council on Homelessness adopted a joint resolution highlighting the impact of cumulative federal budget reductions and across-the-board cuts are having on homelessness and housing affordability. The resolution calls on Congress to return to program and priority-based budgeting rather than relying on spending caps, continuing resolutions and sequestration.
- ***Franks v. Town of Essex:*** In 1997, the Vermont General Assembly amended statute to direct municipal listers and assessors to consider "a decrease in value in nonrental residential property due to a housing subsidy covenant." The intent was to ensure owners of limited equity homes are taxed only on the restricted value they can realize on sale, not the full fair market value. A recent Vermont Supreme Court decision held that an automatic reduction in property tax valuation is not required for properties with housing subsidy covenants. Rather, the Court determined the statute requires individualized consideration of each property and covenant.
- **Energy-efficient Manufactured Housing:** The first of 10 high performance, energy-efficient mobile homes was unveiled in White River Junction. Led by VHCB and Efficiency Vermont, the effort is designed to find an alternative to mobile homes that use less energy but are still affordable. Used mobile homes can be purchased for under \$20,000. A new double-wide for \$60,000. The "Davis Home" will cost \$90,000 but uses 70% less energy than a similar, HUD Energy Star Manufactured Home. The ten will be subsidized and sold to low income households and placed in non-profit owned mobile home parks. Energy performance, durability, marketability and homeowner satisfaction will be studied. Governor Shumlin headlined the event and inspired the assembled.

COMMUNITY PLANNING & REVITALIZATION

- **Vermont Economic Resiliency Initiative (VERI):** This 18 month project will complete 5 community-based implementation plans to minimize risks where river instability, transportation vulnerabilities and other hazards intersect with centers of economic activity
- **CDBG-DR Business Assistance:** CVCAC and agency partners, Central Vermont Economic Development Corporation (CVEDC) and Green Mountain Economic Development Corporation (GMEDC), worked with 36 businesses regarding the losses sustained during Tropical Storm Irene and the remaining unmet need.

TOURISM & MARKETING

- **Good Ink:** Following up on an online mention secured from a past fam, a fact-checker from Men's Journal was in touch, affirming that they will include a print piece on the NEK soon.
- **Tourism Growth Reported by Travel Trade:** While the reports are largely anecdotal, domestic tour operators and travel agencies are reporting solid growth during 2013 and strong bookings for 2014:
 - Major tour packagers and agency groups are reporting double-digit sales increases so far this year, and that growth is coming on top of recent record-breaking or near-record years.

Significantly, these sales increases are not catch-up volume from the declines of 2008 and 2009, but rather strong, persistent, if anecdotal evidence that growth in the travel industry is far outpacing

the larger U.S. economic recovery. -- *Packagers' sales are growing faster than U.S. recovery, Travel Weekly, October 21, 2013*

- **Shutdown Impact on Tourism:** Across the nation the impact if the shutdown was likely greater than that experienced here in Vermont where we have just one national park, the Marsh-Billings-Rockefeller National Historic Park in Woodstock, apparently the smallest of the national parks. Vermont also has the Green Mountain National and several federally managed wildlife, recreation and natural areas, but it will likely be some time before any estimates of that local impact are available.

CHIEF MARKETING OFFICE ♦

- **Make Vermont Home Initiative:** The CMO team met with the Vermont Life staff and several folks in the Department of Labor last week to discuss the Make Vermont Home program. Our impression was that there is a mismatch by housing this campaign within the Department of Labor. Labor's marketing messages need to be more immediate (to find jobs for unemployed Vermonters) as opposed to the initiative's goals of longer-term business recruitment and recruitment of young professionals. Labor's goals also need to be focused in-state, whereas the program vision for Make Vermont Home has always been to draw more professional activity into the state from outside our borders, and to convert tourists into potential residents and business leaders. We learned that there are many success stories that are more in line with Labor's mission (job fairs that are very well-attended by employers with job vacancies) – and we encouraged them to focus on these messages for their marketing and communications, rather than continuing to tell a story that doesn't help them accomplish their mission. The CMO team also offered to help them develop and deploy these marketing messages.
- **Department of Labor website:** Commissioner Noonan also let us know last week that she has decided to move ahead on her departmental website outside of the State Website Template. We reminded her that DII has final sign-off on website development projects, so they may well have concerns and may not approve the expenditure (which could be considerable, with independent hosting outside the VIC server environment, custom development, etc). The CMO team also let Commissioner Noonan know that we are now the "customer service team" for all state website projects, with DII taking more of a technical/supporting role, but the Commissioner had already made the decision to pursue the project entirely independent of DII. We communicated that to DII Commissioner Boes and suggested that he follow up with Labor directly. We have not heard anything further.

Memorandum

To: Honorable Governor Peter Shumlin

From: Commissioner Annie Noonan

Re: Weekly Report – Week Ending October 25, 2013

Follow Up: Press release on new Vermont minimum wage rate is pending approval from 5th floor this morning. We met yesterday with Jeb and Louis on the UI Trust Fund, and agreed to wait until the Feds do their model testing before we release our estimates. Vermont UI Rate: Mat Barewicz anticipates the Feds allowing the State UI rate release is 11/22 with Sept and Oct, but no final word from Boston yet. National October release will be 11/8, one week later than anticipated. I followed up with VLCT and Karen Horn trying to expend the remaining NEG money for Irene Disaster with the Vermont cities and towns. The “dust up” on the Vermont Tech Council internship website has subsided. I gave John Evans my edits, and they are working with their web developer to clean up problems. NEK Project: I set an aggressive agenda for this past Monday’s meeting, and will do a full write up for next week’s report. Regarding Huber and Suhner’s layoffs: We were advised earlier in the week. The company has requested us to be at their site on November 19th from 9 to 11 a.m. We have been asked to do continuous sessions as they downsize. We will also be filing a Trade Petition as they are moving jobs to Mexico. Here is their Confidential report to us:

We have two separate events happening at the same time – manufacturing is being transferred to NJ and Mexico and our parent company has decided to relocate the North American Headquarters to a more central location on the east coast. Only 20 if the outplaced employees are Assembly Technicians. All business areas will potentially be affected. I expect that roughly 12 people will be given relocation offers and others may be considered.

20	Manufacturing
1	Associate Engineer
4	Finance (1 relocate)
4	Warehouse (1 relocate)
13	Customer Service (4 relocate)
3	Inside Applications (1 relocate)
2	IT (1 relocate)
1	HR (1 relocate)
6	Purchasing/Planning (2 relocate)
2	Design Engineering (1 relocate)
1	Janitorial
2	Quality
Positions not affected	
2	Senior Management – to relocate
1	Admin – to relocate
2	Sales – will be offered home offices
1	Field application engineer – Required to switch territories and work from home or relocate

Unemployment Compensation: Post shutdown, the concern is a federal conference call later today at which time they may try to tell the states not to withdraw Federal Employees’ claims. Vermont has decided we will do this, as it best protects the federal workers in the event of an actual layoff, but we may have to battle the feds on this issue.

UI Call Center Stats: For the week ending 10/19/13 we took 2123 calls. This is a decrease of 323 calls from the week ending 10/12/13. We processed 357 initial and 372 additional claims. This is a decrease of 99 initial claims and a decrease of 69 Add claims from the week ending 10/12/13. 3 claimants exhausted all tiers of benefits with the week ending 10/19/13 compared to 5 claimants the prior week. 2 claimants exhausted Tier 1 benefits with the week ending 10/19/13 compared to 2 claimants the prior week. We paid 4,033 claimants during the week ending 10/19/13 compared to 3,738 for the week ending 10/12/13. We processed 34 Mass claims for Sodexo and 1 for Joe’s Custom Mfg. for week ending 10/19/13. No Rapid Response was conducted for the week ending 10/19/13.

Workers' Compensation and Safety: W.C. Adjuster's conference was Thursday and Friday this week. VOSHA got a great review of final numbers from last year. The redesigned injured worker brochure has been approved and nearing publication.

Other Meetings: S .155 Data - I spent a fair amount of time with Rep. Kupersmith on this during this week. Social Network Privacy Study Committee meeting (VDOL designated to lead study) was Thursday. No substantive change on the position of the parties. Prevailing Wage Study Committee is next week. Progress is being made at this point. Misclassification: Will be trying to set a meeting with Jeb for the upcoming weeks. I am working to finalize VDOL's legislative issues, including some meetings with key committee chairs. Tramway Board met this week - Fee Due State money is now being collected. All ski areas that asked for inspection for opening have been done.

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

CONFIDENTIAL and PRIVILEGED

To: The Honorable Peter Shumlin, Governor
From: Susan L. Donegan, Commissioner, Department of Financial Regulation
Date: October 25, 2013
Re: Weekly Report

Susan L. Donegan

Insurance and Banking Divisions:

The issues concerning the significant increase in premiums under the federal National Flood Insurance program (NFIP) continue. Commissioner Susan Donegan has maintained contact with the Congressional delegation about possibly delaying the implementation of the Biggart-Waters Act. She has also spoken with the Vermont Bankers Association about monitoring the impact to Vermonters of required flood insurance as a condition of receiving a mortgage. Federal banking and credit union agencies have released rules for comment aimed at lending standards for possible private flood insurance (only a small surplus lines market currently exists nationally). The National Association of Insurance Commissioners (NAIC) held a commissioners conference call yesterday to discuss developments even though the possibility of the law being delayed by Congress seems unlikely.

Insurance Division:

The Commissioner today issued Insurance Bulletin 180 that gives health insurers guidance for covering medical services and drugs provided under the new Patient Choice and Control End of Life Act (Act 39). The law addresses physician immunity/malpractice insurance coverage as well as life insurance but is silent regarding health insurance coverage (services and pharmacology). DFR's position is that these services and drugs are covered by health insurance based on the legislative intent of Act 39, the patient's bill of rights for palliative care and pain management codified in 18 VSA Section 1871 and DFR's Regulation H-2009-3 concerning medically necessary care that is neither experimental nor investigational. This is not a new mandate; it is simply following current law for determining and administering care. This applies to all health plans subject of DFR oversight.



Nation Safe Drivers, a Florida auto travel club (similar to AAA) that offers its members roadside assistance and other benefits, has appealed to Superior Court the commissioners' order that they cease and desist from the unlicensed transaction of hospital indemnity insurance in Vermont. Nation Safe had appealed the February decision but after a subsequent hearing in September, the Commissioner had signed an order to uphold that cease and desist order.

Also this week, the Commissioner signed an order requiring Dairyland Insurance Co. of Wisconsin to pay \$15,850 in restitution to Vermont consumers for miscalculating 11 total loss vehicle claims between January and November 2011. The company was also assessed an administrative penalty of \$22,000, which will go to the general fund.

Captive Insurance Division:

Captive insurance license number 1,001 was issued this week for Lincoln Reinsurance Company of Vermont V. This is the fifth captive insurance company licensed in Vermont by the parent company Lincoln Financial Holdings of Indiana.



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**CONFIDENTIAL AND PRIVILEGED: NO SHARING
MEMORANDUM**

TO: Governor Shumlin
FROM: Armando Vilaseca, Secretary
SUBJECT: Agency of Education (AOE)
DATE: October 25, 2013

Secretary Transition: This week Rebecca met individually with Project Manager Jill Remick to go over details of the plans for the move to Barre City Place. Rebecca and I are scheduled to meet again the first week in November and I am keeping her abreast of agency issues and developments as they arise. She has been assigned an employee number and was able to electronically submit her first time sheet. We have ordered her an iPhone and iPad and have set up her state email account.

Governor's Early Childhood Summit: I would encourage you to take the opportunity at this summit to recognize Building Bright Futures (BBF) as an integral component in the early childhood education world. It is important that BBF is publically identified as the public-private partnership that will provide oversight for VT's Early Childhood Framework & subsequent Action Plan.

Statewide School Safety Coordinator: I continue to stress the importance of AOE and DPS jointly funding a position for a Statewide School Safety Coordinator. In my initial discussion with Secretary Spaulding he did not indicate support of such a position, and this concerns me. The AOE does not have a position that serves this purpose, or anything close to it, and to my knowledge, no state funds have been expended on school safety. We have a Vermont School Crisis Planning Team that is comprised of well-meaning volunteers, but they do not have the capacity, expertise, or ability to offer schools the technical assistance at the level that is required. With the recent school shootings in neighboring states and across the nation, and with the student recently found in St. Albans with a small arsenal in his car, this position is critical in taking proactive measures to ensure the safety of our students.

School Visits: Monday I was invited to Bellows Falls Middle School (BFMS) in your place to speak to the student body about the importance of staying in school and avoiding drugs. The talk was part of Red Ribbon Week, an alcohol, tobacco, drug and violence prevention awareness campaign held in the United States each October and one that is reportedly the oldest and largest drug prevention campaign in the nation. I spoke to the importance of post-secondary education either via a Bachelor's degree, Associates degree, technical school, internship, or apprenticeship. I also spoke about personal learning plans (PLPs) and this was very well received since BFMS started with PLPs last year and everyone involved is very enthusiastic.

Hazing, Harassment and Bullying Advisory Council (HHB): This October the HHB Advisory Council has scheduled "listening tours" for five different areas around the state. On Wednesday, I attended one of these tours in Newport; other tours are scheduled for Winooski, Brattleboro, Hartford, and Otter Valley. The intent of these sessions is to hear directly from Vermont students about their ideas for meaningful solutions to reduce

incidents of bullying and harassment in Vermont's schools. Students are encouraged to share their perspectives on how their school responds to such incidents and how it might be able to improve its response.

National Association of State Directors of Career Technical Education Consortium (NASDCTEc): Deputy Fischer attended the NASDCTEc Fall Meeting in Baltimore Saturday through Wednesday this week. He serves as president of this national organization's Board of Directors. This meeting provides members with professional development opportunities and covers timely issues that impact CTE. The objective is to provide members and other advocates with the knowledge and tools to best serve their roles as leaders in the CTE community.

VSA/VSBA Annual Conference: Staff from the Agency presented Thursday at the Vermont School Boards Association and Vermont Superintendents Association Annual Fall Conference, with a focus on Success for Each Student. The presentation was called Connecting the Dots, and focused on work the Agency is currently embarking on in support of personalized learning. Presenters included John Fischer, Tom Alderman, Karin Edwards, Jill Remick and Debi Price. On Friday, I addressed the group at lunchtime. The focus of this day was how to better connect spending decisions to tax rates and how to address rising education costs. The hope is that school boards and superintendents will embrace the challenge to pursue creative cost-saving approaches.

Association of Teachers of Mathematics of New England (ATMNE) –Thursday I traveled to this conference in Killington, hosted by our Vermont Council of Teachers of Mathematics (VCTM) and addressed a group of 375+ math instructors and encouraged their work in preparation for the Common Core State Standards.

State Assessments: This year's administration of the NECAP reading, writing and mathematics test concluded yesterday, marking the end of the fall testing program that has provided achievement results for nearly 7,900 Vermont students each fall since 2005. NECAP will be replaced by the Smarter Balanced Assessment program next school year. NECAP testing in science will continue through 2016.





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CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Greg Smith, Executive Director, VT Lottery
Date: Oct 25, 2013
Re: Weekly Report

Status of Governor's Priorities:

Continuing work on strategies and budgeting

Legislative Issues/Contacts:

n/a

Press Issues/Releases/Contacts:

n/a

Significant Events/Meetings:

We did our first sales presentation of the gaming consoles for bars last night. A lobbyist for some fraternal organizations, named Frank Stanley, was present with a rep from the Elks Organization. No concerns but just alerting you. We are planning 8-10 presentations around the northern half of the state in the next 6-8 weeks.

Evolving Issues:

n/a

Summary of Key Agency Department Activity:

Set date and attendees for next agent advisory meeting – Rutland area on Nov 13th. Our Web Marketing person resigned to take a job with Dealer.com – her last day is today. She worked for 4 months and gave one week notice – not a good situation. We have posted the position with HR. I am working with our Finance Mgr on creating an agent incentive plan – paying extra commission on sales increases per quarter. I will show you before we move forward, hoping to start in Jan if the numbers work.

Executive Director's Commentary:

The New England directors have presented some ideas about taking our game Lucky For Life to a national level. Most states have expressed initial interest. We will meet in FL in Nov at a lottery conference to discuss how to move this forward and measure commitment within the US. I am on a panel at that conference talking about multistate games since VT offers all of our games as multistate – Tri-State, New England, and National games.

OFFICE OF THE SECRETARY

Phone: (802) 828-2657

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Executive Privilege

TO: Governor Peter Shumlin

FROM: Secretary Brian R. Searles

DATE: Friday, October 25, 2013

SUBJECT: VTrans - Confidential Report to the Governor

NOTES FOR GOVERNOR

Vilas Bridge Update

I met last evening with officials from Rockingham, Bellows Falls, Senator Jeanette White and a few area business people for a discussion of the bridge. I also visited the site and toured the "Island" section of downtown to include the two bridges that connect the Island across the north and south ends of the canal. There is no connection between the Island and NH with the bridge closed.

I came away further convinced that we must work with NH to rehabilitate this bridge. Further information is in the Staff section of this report.

Circumferential Highway Alternatives News

As we get closer to the Nov. 21 date when you will thank and disband this group, I will provide notes on what is happening on project selection for the third (long-term) phase. On Tuesday night Sen. Mazza, Rep. Brennan and I went to the Colchester Selectboard meeting to urge them not to put Exit 17 work on the Circ Alt. list. They followed our advice and won't insist on that project. Environmental groups would have fervently objected thereby jeopardizing the great work everyone has done over the last three years.

One of the early projects in the first phase, the so-called Crescent Connector in Essex Junction has been going through an Environmental Assessment and that document will be distributed on November 15.

Champlain Parkway

As the Environmental Court continues to consider appeals to the Act 250 process and our team, led by Chris Cole, tries to keep the peace between opponents and the City, there has been scheduled a meeting of all stakeholders on November 6 to see if an agreement can be reached outside of the legal system. Chris and I will attend this meeting on behalf

of VTrans. There is also a pending schedule for formal mediation through the Court which stretches this out until the end of December.

Burlington Airport Resolution

A silly and potentially dangerous resolution which is unlikely to pass is being brought before the City Council directed at the F-35. How much involvement do you want from me?

Gene Richards, Airport Mgr., has asked me to appear before the City Council. I'm hesitant but willing if you think it makes sense.

As an aside, the reasons why a separate authority should manage this important transportation resource just keep adding up but, of course, the Mayor doesn't want anything to do with that.

NOTES FOR STAFF

Barre Main Street Banners

A plan of action has been agreed upon to relocate three sign assemblies and remove one banner that were blocking other signage. The City proposed this and we have agreed. Meanwhile, the Travel Information Council will meet next week to decide if these banners are actually signs at all, in which case the mention of business names could be a moot issue. That would be a terrific outcome.

Jamaica Bridge Project Nears Completion

A bridge destroyed during Irene on Route 30 as you enter Jamaica from the northwest has been replaced by a permanent structure and reopened. This was the scene of a temporary on the property of Elaine Beckwith, a local artist whose gallery is in her home. We are restoring her property and removing some debris from the stream bank in an effort to restore her yard to as good condition as possible given that we had to remove some trees to do the temporary bridge. This project was handled extremely well from start to finish by our project manager Kristin Higgins and this has been acknowledged by Ms. Beckwith. I visited the site yesterday and agree that it was an excellent result under difficult circumstances.

Montreal, Maine and Atlantic Railroad

This company is in receivership after the Lac Magantic accident and the entire line will be for sale. It is an important line to Maine, Vermont and Quebec and parts of it are in each jurisdiction. All three of us will file letters of interest concerning the sale of this line with the court in order to protect the business on the line. Although we anticipate a private railroad will buy the business and perhaps even the line, we need to be at the table to protect ourselves and our state-owned line which connects to the MMA.

Guess the Date of Smuggler's Notch Closing

We are conducting a contest on social media to guess the date that Route 108 will close for the winter. This happens in conjunction with the first significant snow that is going to remain until spring.

There has been a huge response to this and it could end up as high profile as the Joe's Pond Ice Out contest in the spring. One of the prizes we are offering is a ride on a plow truck during a snow storm. We have done this kind of ride-along before, with permission from the Secretary of Administration, and will be seeking the same thing for this contest. More to come.

By the way, we had to close the notch last night but only temporarily.

AASHTO & Colorado Support

I attended the AASHTO Annual Meeting with my peers from across the country this week in Denver. Deputy Secretary Minter and Directors Rich Tetreault and Chris Cole, who are active members of AASHTO Policy Committees, filled out the Vermont contingent, with Rich Tetreault Chairing and presenting to several committees. These AASHTO meetings are significant not only for information and peer exchange, but for setting future national and state transportation policy. With 6 months left for the re-authorization bill (MAP-21) and the current fiscal dilemmas facing Washington, the future of the Highway Trust Fund and the next transportation reauthorization is a hot topic. We learned that several states are creating contingency budgets/capital programs to reflect the possibility of significant federal funding reductions. We are looking at this strategy as well and would like to share with you the potential impact of Congress not addressing the fiscal cliff of transportation. Our recent support for Colorado's response and recovery from flooding was mentioned on numerous occasions – including by Gov. Hickenlooper – with sincere accolades and appreciation.

Our recovery partnership continues. Sue and Rich were able to visit the CO Incident Command hub and see the results of their previous recent visit, and the successful operations underway. Sue also met with the Governor's Chief of Staff and Recovery lead and learned how grave the situation remains for thousands of Coloradans still in temporary housing situations, with roads still inaccessible, winter arriving and several communities nearly wiped out.

Privileged and Confidential
Memorandum

To: Peter E. Shumlin, Governor
From: Douglas A. Racine, Secretary of Human Services
Re: AHS Weekly Report
Date: October 25, 2013

Vermont Department of Health (VDH)

College Symposium on High Risk Drinking:

On October 9th, Castleton State College hosted the 2nd *Annual College Symposium* to address high risk drinking sponsored by the VDH. High risk drinking on college campuses is a critical public health issue. The Symposium provided an opportunity to showcase some of the efforts to address this issue, to learn more about implementation and how those efforts might be replicated on other campuses.

Food and Lodging License Revocation:

A Notice of Intent to Revoke SamosaMan Natural Food's Health Department license was served this week. This same license was suspended this summer but the licensee continues to be found in violation of the relevant regulations and conditions of the issued permit.

Department of Mental Health (DMH)

Transformation Council:

Commissioner Dupre met with the Transformation Council on Monday. He took input from the group on the Emergency Involuntary Procedures (EIP) Proposed Rules. The group was polite but had very different opinions.

Summer Study Group:

Commissioner Dupre met with the Summer Study group on Tuesday to discuss and receive input on the involuntary treatment laws. This group has given good input, but again, very little consensus among them.

Public Meeting – EIP Rules:

The DMH held its second public meeting on the EIP rules. There are two separate types of constituents attending; advocates and the hospital association. They have come to some agreement and have agreed to work together next week to see if they can come to more agreement on a list of issues that they think they can move on. They will bring their work product to the DMH.

Two of the large items that they can't agree on are face to face observation by a Licensed Independent Practitioner (LIP) or a Physician before ordering seclusion, restraint, or emergency

medication or within one hour of initiating the emergency interventions. CMS allows a specialty trained nurse to personally observe and initiate emergency procedures and consult with, and obtain orders within one hour from the LIP. Hospitals want to follow CMS rules, as they don't believe they will be able to hire enough of these LIPs to cover 24/7. The advocates insist that the more restrictive VSH rule should apply.

Brattleboro Retreat (Retreat):

The Retreat is still waiting for their re-certification survey from the Centers for Medicare and Medicaid Services (CMS), but state surveyors returned to the Retreat this week to follow-up on 12 complaint issues. 9 were resolved without findings, but there are still 3 pending issues for resolution identified at the preliminary exit meeting. Over the next several days, local surveyors will consult with CMS and receive additional information provided by the Retreat to determine if any formal findings on the 3 issues will be identified in a final report. A final report should be issued in the next 10 days.

Department of Disabilities, Aging and Independent Living (DAIL) Legislature

AHS to testify before joint committee on Serious Functionally Impaired (SFI) individuals:

Commissioner Wehry, Public Safety Specialist Ed Riddell and I joined others on Thursday to present recommendations on how to best serve individuals designated as SFI during incarceration. DAIL currently oversees the care of 10 such individuals at an annual cost of \$1.1M

Mental Health Oversight Committee requests information on antipsychotics in elderly:

Commissioner Susan Wehry is scheduled to testify on October 31st to provide an overview of both appropriate and inappropriate use. Commissioner Wehry will focus on the successful efforts of the campaign to reduce use in nursing homes. Vermont is one of 11 states that met the national target set by CMS, reducing inappropriate prescribing

Developmental Services (DS) providers, Developmental Services Strategic Visioning Task Force requests delay in adoption of new system of care plan in FY15:

Citing workload pressures from health care reform, a wish to look more closely at the summer legislative work group recommendations and the time commitment needed for the visioning process, advocates propose postponing the triennial review of the system of care plan. Commissioner Wehry has advised the DS leadership that the new plan is 1) required by law (Title 18 VSA §8725(a)) and 2) necessary to address the unsustainable growth in the program.

Chittenden County VNA seeks higher rates and guaranteed coverage of losses for special program.

Judy Peterson met with Commissioner Wehry and staff last week to give notice that unless DAIL were willing to cover past losses (\$80K) and guarantee "costs plus", they would not be willing to continue serving the 10 individuals with significant disabilities living at Anderson Parkway. Historically, the MOU provided payment for "all" costs with an annual rate adjustment. Three years ago the MOU moved to a standard provider agreement with no guarantees. We intend to

offer a shared risk model going forward but do not know if we will be successful. If not, we will attempt to contract with Bayada or convert care to a traditional service model.

Department of Corrections (DOC)

Recidivism:

The DOC has just completed the recidivism data for SFY 2013 and has experienced a decline of .5%. This is the lowest three year average in the last ten years and is a continued positive trend.

Kentucky Assault:

On Monday, an inmate was assaulted by another inmate in Kentucky, resulting in his throat being slashed by a razor blade. The matter is under investigation by the Kentucky State Police regarding potential criminal charges. Our early information is that there may be gang activity behind this attack. The DOC is sending some of our specialized officers to Kentucky early next week who will work with Corrections Corporation of America (CCA) staff to gauge the culture of the facility and likely move through the facility looking for any further weapons or contraband.

Chittenden Overtime:

Through this past spring and summer, the DOC experienced very high vacancy rates and overtime issues at the Chittenden Facility. Changes were made and recruitments have been stepped up. We have completed a very busy week that started with 15 new recruits and ended with 14.

HR and the Chittenden Regional Correctional Facility (CRCF) management team are scheduled for an off-site job fair in early November.

Here are the highlights on what the last pay period looked like:

- Overtime hours dropped by 150 over last pay period.
- Overtime is down 512 hours from a couple pay periods ago.
- Overtime hours are trending down two pay periods in a row.

Population:

The department's incarcerated population averaged 2103 for the previous week. The incarcerated male population averaged 1,941 with 372 being presentenced. The incarcerated female population averaged 162 with 51 being presentenced.

Department for Children and Families (DCF)

Strengthening Families' Child Care Programs Make a Difference:

The story below from Little Dippers Doodle Children's Center in St. Johnsbury, illustrates how a Strengthening Families Child Care Program can serve both children and families:

“We noticed the children did not arrive for care as scheduled. When we checked in with the family, we learned that this young mother of 4 and her new husband were experiencing a host of challenges that included loss of transportation, loss of employment, pending eviction, and untreated mental health conditions. We visited the couple and helped develop a plan that included: transportation to and from the child care and parents’ appointments, temporary transitional housing, budget assistance, and a referral to DCF Family Services.

“Regular visits with the family over 10 months helped the family tackle the tasks that would restore financial and housing stability and assisted with parenting education including how to create bedtime routines for the children. We and the parents also worked with DCF Family Services, Community Action, VT Court Diversion /DLS Program, the school system, the local youth services agency, the Community Response Team, the Community Child Care Support agency, and Children’s Integrated Services.

“This family has been in permanent housing of their own for the past 6 months. The children continue to attend our child care program. The mother is currently attending the Community College of Vermont (CCV), working with a Vocational Rehabilitation (VR) counselor, and pursuing a career in the field of human services.”

There are 36 child care programs throughout Vermont that are identified as Strengthening Families Child Care Programs. They meet especially high standards that include attaining 4 or 5 stars, going above and beyond in their outreach and support to families, and implementing research-informed practices identified by the Center for the Study of Social Policy that are known to strengthen families and reduce child abuse and neglect.

Social Security Performance Awards for Disability Determination Services Staff:

The Social Security Regional Commissioner from Boston recently visited the Disability Determination Services (DDS) office in Waterbury and presented performance awards for Federal Fiscal Year 2012 to members of its staff. The DDS Support Staff Team received a Social Security Associate Commissioner’s Citation for their superior performance, teamwork and initiative in finding ways to continue providing outstanding, cost-effective public service with 20% fewer staff on the team. The recipients were Lisa Champney, Jami Allen-Jones, Deborah Fennell, Debra Gardner, Queena Gilman, Tanya Larose, Marie McCann, and Tamara McKee.

3SquaresVT Agency Errors:

Legislators and advocates have asked DCF to reconsider the practice of requiring families to repay their overpaid 3SquaresVt benefits if the overpayment was due to Agency error.

The Food and Nutrition Service (FNS) requires states to establish a claim for all errors discovered through the quality control process, including “Agency” errors (required in the Personal Responsibility and Work Opportunity Act (PRWORA), 1996). Each State’s plan describes how much and in what way households are required to repay. Currently the State forgives (or compromises) 50% of the overpayment amount if the family claims repaying would create a financial hardship. Families must request this forgiveness, and they are required by federal law to pay the balance due within 36 months.

DCF is meeting with the Joint Fiscal Office (JFO) on October 28th to discuss the State's options to develop a more progressive policy. Toward that end, DCF has made an informal inquiry with FNS to see if they would support a change to the Vermont plan reducing the claim amount from current levels and a response is expected imminently.

To create a more consistent response to all errors, state or client-based, a claims unit needs to be established. This unit would increase processing for client and/or intentional errors and thus be budget neutral.

Department of Vermont Health Access (DVHA)

Vermont Health Connect (VHC):

Regular updates on VHC are being provided on an ongoing basis through executive leadership conference calls.

Legislative leaders:

A meeting is scheduled for today with legislative leaders to provide an update on VHC implementation.

Provider Rate Increase:

Medicaid providers will start to receive rate increases on November 1, 2013, consistent with the new Medicaid allocations approved last year by the legislature.

Accountable Care Organization (ACO) RFP:

The Medicaid Shared Savings ACO RFP will close November 12, 2013; two letters of intent have been submitted by OneCare Vermont and Community Health Accountable Care.

Agency Improvement Model (AIM):

As part of DVHA's effort to develop a culture of continuous quality improvement, staff are continuing to be trained in the Agency Improvement Model and currently have three process improvement projects underway. The three projects are:

- Improving the *Vermont Elective Out-of-State/Network Medical Office Visits* form completion process
- Decrease time for enrollment of out-of-state provider exceptions
- Increase coordination with the private mental health provider network around accessing psychiatric emergency beds

DVHA currently has seven staff trained in the AIM model and is spreading the skills across the department. Staff and leadership are committed to improving our services in order to serve our consumers more effectively and efficiently.

To 116 STATE STREET
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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: October 25, 2013

Secretary's Top Issues:

Bedbugs/AAA Accredited Pest Control -Chlorpyrifos Investigation and cleanup: EPA has begun to clean properties affected by the chlorpyrifos treatments. 31 Hazel St. in Rutland was the first property to have the scaled up remediation methods implemented. The cleanup and remediation will consist of removal and replacement of the carpeting and three consecutive detergent washes of the cleaning solution that was vetted among multiple testing procedures and proven effective. The outreach to new homes is essentially over. Agriculture inspectors followed up with door to door outreach to the remaining homes that were not accessible by telephone. The Agency would like to move forward with permanently revoking AAA Accredited Pest Control's company license and Cary Bucks applicator certificate. To that end the Agency would like to see the professional products and application equipment removed from the Buck Residence.

Since EPA arrived, 3 additional homes with high levels of contamination have been identified. This will require an additional "ask" to EPA headquarters. Collectively we are waiting to make a final "ask" until the additional samples have been analyzed; we expect this to occur in the next few weeks. EPA Regional administration will be visiting Rutland on Wednesday October 30th.

The Big E/Eastern States: The receipts have been tabulated, and the Vermont Building at The Big E had a record breaking year. Sales exceeded \$1.6 million dollars. Cold Hollow Cider and The Vermont Maple Sugar Makers Assoc. led in sales. The Agency will receive approximately \$160,000 in commissions on this total. Operating expenses for the building are projected to be approximately \$140,000, thus the Agency's hopes to allocate \$20,000 to the Building Repair costs. (Building requires \$600,000 in deferred maintenance. VAAFM and BGS are working closely to create a plan for repairs. There is an existing \$275,000 in the account for repairs: \$125,000 Agency investment + \$150,000 Capital Bill allocation). Overall, it was an extremely successful year, and VAAFM feels confident the building is headed in a positive direction.

Animal Health: Dr. Mehlenbacher spoke to Senator Bobby Starr who was requesting more information on a NOV that was sent to one of his constituents who is a captive cervid producer. The NOV was sent in response to a second intrastate movement permit violation. Senator Starr seemed satisfied with the information he received.

Drs. Haas and Mehlenbacher, Vermont State Veterinarians, attended the **117th United States Animal Health Association (USAHA)** meeting in San Diego this week. The meeting catered to 1050 attendees, including 118 veterinary students, and produced 33 resolutions pertaining to public and animal health and welfare that will be directed to Congress, the Secretary of Agriculture, and other federal agencies for follow up action. Dr. Haas and Dr. Mehlenbacher were both presenters at the meeting. The annual USAHA meeting is scheduled to be held in New England in 2015, and VAAFM will be called upon to provide staff support.

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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: October 25, 2013

Legislative Issues

Status of Governor's Priorities:

Jobs in Agriculture

Press Issues/Releases/Contacts:

Sally Pollock, Burlington Free Press, is doing a story on meat processing model that the Guild commissary is using. Discussed the Guild and NECI, how inspectors are present every day of operations; cursory questions about inspection. An article will appear in the BFP tomorrow.

Lesley Engle at Fox is writing a story about contaminated pet treats. VAAFM's lab is responsible for testing pet foods. Cary Giguere fielded questions about the process by which pet food is tested in the state.

Significant Events/Meetings:

Drs. Haas and Mehlenbacher, Vermont State Veterinarians, attended the 117th United States Animal Health Association (USAHA) meeting in San Diego this week. The meeting catered to 1050 attendees, including 118 veterinary students, and produced 33 resolutions pertaining to public and animal health and welfare that will be directed to Congress, the Secretary of Agriculture, and other federal agencies for follow up action. Dr. Haas and Dr. Mehlenbacher were both presenters at the meeting. The annual USAHA meeting is scheduled to be held in New England in 2015, and VAAFM will be called upon to provide staff support.

Summary of Key Agency Department Activity:

Administration

Media Training: Robert Stirewalt from VDH conducted a media training for VAAFM managers. The training was very well-received by staff. VAAFM is grateful to VDH for sharing this resource.

Agricultural Development

The Big E/Eastern States: The receipts have been tabulated, and the Vermont Building at The Big E had a record breaking year. Sales exceeded \$1.6 million dollars. Cold Hollow Cider and The Vermont Maple Sugar Makers Assoc. led in sales.

The Agency will receive approximately \$160,000 in commissions on this total. Operating expenses for the building are projected to be approximately \$140,000, thus the Agency's hopes to allocate \$20,000 to the Building Repair costs. (Building requires \$600,000 in deferred maintenance. VAAFM and BGS are working closely to create a plan for repairs. There is an existing \$275,000 in the account for repairs: \$125,000 Agency investment + \$150,000 Capital Bill allocation). Overall, it was an extremely successful year, and VAAFM feels confident the building is headed in a positive direction.

The annual fall Trustee meeting was held in Woodstock on 10/24. The Trustees were very pleased with the results from the 2013 fair, and expressed their appreciation for the Agency's leadership in charting a positive future for the Vermont Building.

Food Safety and Animal Health and Consumer Protection

Animal Health:

Dr. Mehlenbacher spoke to Senator Bobby Starr who was requesting more information on a NOV that was sent to one of his constituents who is a captive cervid producer. The NOV was sent in response to a second intrastate movement permit violation. Senator Starr seemed satisfied with the information he received.

Dr. Mehlenbacher attended the Tuberculosis Committee Meeting at the United States Animal Health Association meeting this week. So far in 2013, 4 states have had tuberculosis positive beef and/or dairy cattle herds. North Dakota is still going through a test and remove process with their infected herds. Washington State completed its test and remove process and has maintained its state status. The take home message is how important proper ear tagging and record keeping is to the traceability efforts that are required in the epidemiological investigations involved in these cases.

Animal Health Inspectors assisted the New York Department of Ag and Markets with a rabies investigation. A non-profit shelter adopted an animal to a Vermont resident; this animal was found to be positive for rabies and may have been sold without the required Certificate of Veterinary Inspection.

Evolving Issues:

Dr. Mehlenbacher is working with two different farms with tuberculosis suspects on the caudal fold test and has or will be following up with the confirmatory comparative cervical test. The farm from last week was negative and the quarantine was released. That farm is selling their herd to Georgia. The second farm in the West Haven area will be tested on Monday, October 28th.

The Animal Health truck is over 80,000 miles and the Section would like to provide input on the truck that will replace it – a model that can pull what is needed and get better gas mileage (helping with the budget) is hoped for.

The Animal Health Section is contacting livestock dealers/transporters/packers who did not send in a license renewal form in June and are therefore acting on an expired license.

The Animal Health Section collaborated with the Vermont Veterinary Medical Association and the Humane Society of the United States, VT branch, to update and print animal care and handling brochures for a number of different species. These brochures are utilized for education and outreach at a number of events, such as fairs, training courses, and during investigations.

Animal Health Section is coordinating with Vermont's captive cervid producers for their annual inspections. Non-compliant items are placed on a very broad compliance timeline to give producers plenty of time to come into compliance. We are also providing them with RFID tags at no charge and will help to apply the tags during herd inventories. With the passage of the Federal Rule on Chronic Wasting Disease, it is important for VT to maintain its Approved status in the program so VT producers can build their businesses and ship their live animals/products. The Section is making every effort to help producers maintain compliance with both the state and federal rule.

Animal Health Inspectors:

- completed dairy surveys in Grand Isle, Westfield, Randolph, and East Charleston
- initiated a new tissue residue inspection

- inspected the Green Mountain Spectacular, an alpaca show at CVE, for proper identification, permits, and Certificates of Veterinary Inspection
- completed Avian Influenza testing in Rochester for flock movement to North Carolina.
- completed Avian Influenza testing in Shoreham for a pheasant flock enrolled in NPIP (National Poultry Improvement Plan). Testing at Peaceable Hill Farm enables this business to ship day old chicks and mature birds interstate without Interstate Health Certificates.

Meat Inspection:

Press Issues: Sally Pollock, Burlington Free Press, is doing a story on meat processing model that the Guild commissary is using. Discussed the Guild and NECI, how inspectors are present every day of operations; cursory questions about inspection. An article will appear in the BFP tomorrow.

Meat inspection section is beginning to compile the annual self-assessment due November 15th. USDA informed us that our on-site review will be in 2014.

Compliance Activity:

- Compliance is in the process of investigating an alleged statement about mishandling of an animal by a trucker.
- Compliance interviewed and procured signed statements from two individuals in regard to possible animal abuse.
- Compliance investigated a complaint from an employee about a large warehouse store in Colchester keeping milk and deli meat products stored out of refrigeration for an extended period. No mishandled or temperature abuse of product was found during the visit, but management was informed of the importance of keeping product at the correct temperatures. Letter sent.
- Notice of Warning letter sent to an individual in Highgate Center that was producing and selling beef jerky from his home, at shows and through the internet on Craigslist.
- Received an anonymous tip about illegal processing operation in Berkshire. Investigated and found a cutting operation. Notice of Warning to be sent.
- Notice of Violation issued and sent in regard to illegal sales of on-farm slaughtered beef.
- Inquirer from Freedom Foods in Randolph about the production of cheese spread containing bacon.
- Notice of Warning letter issued to a firm in Williston for the production of Bacon Lovers Pizza and Bread Dough which contained an excessive amount of bacon.

Agricultural Resource Management

Pesticides:

Bedbugs/AAA Accredited - Chlorpyrifos Investigation and cleanup: EPA has begun to clean properties affected by the chlorpyrifos treatments. 31 Hazel St. in Rutland was the first property to have the scaled up remediation methods implemented. The cleanup and remediation will consist of removal and replacement of the carpeting and three consecutive detergent washes of the cleaning solution that was vetted among multiple testing procedures and proven effective. The outreach to new homes is essentially over. Agriculture inspectors followed up with door to door outreach to the remaining homes that were not accessible by telephone. The Agency would like to move forward with permanently revoking AAA Accredited Pest Control's company license and Cary Bucks applicator certificate. To that end the Agency would like to see the professional products and application equipment removed from the Buck Residence.

Since EPA arrived 3 additional homes with high levels of contamination have been identified. This will require an additional "ask" to EPA headquarters. Collectively we are waiting to do a final "ask" until the final samples have been analyzed, we expect this to occur in the next few weeks. EPA Regional administration will be visiting Rutland on Wednesday October 30th.

Plant Industry:

This week 22 mosquito pool samples were submitted for analysis on Thursday morning. Testing results were negative for both WNV and EEE viruses.

18 mosquito pools were submitted for analysis last week (WE 10.18.13); of these only one positive for West Nile was found. The last EEE positives (4 pools) were found on 9/12/13. So far this year the current total of positive mosquito pool samples consist of 22 EEE pools and 29 WNV pools.

Most of the mosquito traps have been pulled for the season, although we will continue monitoring a couple trap sites in for another two weeks. The primary vector species for both viruses this year, *Culiseta melanura*, is significantly lower in numbers, with the cold weather, but individuals are still flying when the day temperatures are warm.

The Moose sero survey, looking for EEE antibodies, occurred last weekend, October 19-20. Additional sero surveys are scheduled for the youth weekend (Nov 9-10) and the opening weekend of the regular rifle season (November 16-17).

With the resumption of regular activities in the Federal system, we are beginning our annual collaborative Christmas tree inspection efforts. Although the Plant Industry Section has been conducting inspections for gypsy moth egg masses (domestic shipments) and other pests (international shipments), we welcome the help from our PPQ cooperators.

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

- Staff conducted technical assistance visits on three MFOs and one LFO regarding the BMP (best management practice) program and management of structures on BMPs installed in the past.
- Staff are working with colleagues in house and with partners to design and implement water quality BMP projects on MFOs and LFOs.
- Staff are processing applications and information for several MFOs that are increasing in size and we are working to transition the farms into the LFO program. Staff are also working on compiling information related to LFOs that require permit amendments.
- Staff are continuing to work the AGs office regarding an enforcement case against a farm owner that manages 2 MFOs in Orleans County.

Enforcement:

- A medium farm operation in Swanton will receive a notice of violation with administrative penalty for violations of the MFO General Permit. The farm is not maintaining its silage leachate management system in order to prevent a discharge to waters of the state.
- Pesticide Program: A commercial pesticide application company that specializes in the treatment of utility poles will receive a notice of violation with administrative penalty for violations of the Vermont Regulations for the Control of Pesticides. On one occasion, a work crew of uncertified applicators was observed to be making applications without the direct supervision of a certified pesticide applicator. A few days later, another work crew was observed to be making an application without wearing the appropriate personal protective equipment required by the pesticide label. This company received a cease and desist order for these same violations in 2004, so the decision was made to elevate the enforcement action to administrative penalty.
- A commercial custom ag pesticide application company will receive a letter of warning for violations of the Vermont Regulations for the Control of Pesticides. Violations include not leaving a written invoice with the customer at the time of application, and the creation of invoices with inaccurate Pesticide EPA Registration Numbers.

Secretary's Comments**Press**

VPR: interviewed on impact of Government shutdown on Agriculture, prospects for Farm Bill and explanation of Dairy Security Act and dairy economy

Meetings

Bedgugs, Rutland: monitor Health/Ag EOC calls

Milk Commission, Montpelier: Lead first Milk Commission meeting in 3 years, reviewed dairy industry and Federal Milk Order Reform Initiative led by northeastern states, Milk Commission interested in supporting effort.

USDA Leadership, Washington DC: Met with new Deputy Secretary Krysta Harden and Secretary Vilsack's Chief of Staff Brian Baenig, discussed farm bill, FSMA and USDA presence in VT.

NASDA, Washington, DC: Met with NASDA staff to develop strategies to advance Farm Bill and advance second draft for Food Safety Modernization Act (FSMA) rules.

VHCB Board Retreat, Grand Isle: attended retreat, discussed work of board and ways to more closely coordinate interests and funding sources to create more integrated projects

Natural Resources Conservation Council, Montpelier: Met with leadership of Council. Council oversees conservation districts. Discussed budget requests for over \$240K. Explained Agency could only support \$140K in Agency budget.

Ellen Kahler, Hinesburg: Discussed upcoming Farm 2 Plate meeting in Killington.

FSMA, conference call led by NASDA: Participated in call to discuss comments to FDA, raised VT interests on rules.

USDA conference Call with Dep Sec of USDA: introduced Dep. Secretary to conference call participants, discussed impact of Shutdown on ag.

Eastern State Exposition Annual VT Meeting, Woodstock: Attended meeting which was very constructive. After long and difficult year of discussions Agency feels good about retaining role in Big E.

VEDA Annual Meeting, Burlington: Will attend the annual meeting, Friday.

VT/Quebec Conference, Bishop University Quebec: Will attend and speak at the beginning on energy trading opportunities.

Events

Water Quality Farm Tour, Addison County: toured three different dairies to examine water quality issues and remedies

VT State Chamber Person of the Year Dinner, Burlington: Attend recognition dinner for Senator Leahy

Newport Tasting Center, Newport: Spoke at ribbon cutting event for new business in Newport led by Eleanor Legere of Eden Ice Cider (also on working landscape board) and Gemma Dreher, an international corporate attorney working out of Newport. Attended by 150 people. Sang Governors praise for support of Agriculture.

Agritourism Conference, Shelburne Farms: spoke at conference of about 80 people, discussed \$88K federal grant received by Agency in support of Agritourism/marketing.

VT Community Foundation Event, Monitor Barn Richmond: Focus was on VCF investment in Farm To School. Spoke to crowd of 100 people about importance of this investment. Introduced former Deputy Secretary Merrigan as keynote speaker.

Other

Budget – worked with staff to submit budget to Governor's office.

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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: October 25, 2013
Subject: ANR Weekly Report

Please note that both Justin and I are out this week and so we are sending an abbreviated report. There are no big pending issues for the Governor's attention.

Moretown Landfill and PPL: An increasing hydrogen sulfide concentration trend at the landfill has raised concerns about air pollution impacts. We have requested more details from the facility to verify and address the issue.

Castleton Crystal Heights: A determination was made that extending municipal sewer service to a residential subdivision located near Lake Bomoseen is not eligible for state funding as there is no known pollution problem and the area does not meet the designated growth center criteria in the Municipal Pollution Control Priority System Rule.

Moretown Landfill Cell 4 Pre-application Meeting: At the request of Moretown Landfill Inc. (MLI), Waste Management Division staff met with several consultants on the MLI permitting team to discuss the forthcoming Cell 4 application. This will be the third application submitted for a Cell 4 expansion at Moretown Landfill. The MLI permitting team generally explained how Cell 4 will be designed and operated in an attempt to address our previous concerns. Their proposal is to construct a landfill cell that is hydraulically separate from previous cells (Cells 1, 2, 3 and the unlined), a cell that can be sampled uniquely (and not simply down gradient of the whole facility), a fortified early detection program should there be liner leakage, elimination of the majority of the previously proposed bedrock blasting, and adoption of a comprehensive odor control plan to prevent offsite odors. MLI intends to submit the Cell 4 application by late November.

Lake Champlain Clean-up Plan (TMDL): Now that the federal government is back up and running, Watershed Management staff have scheduled a meeting with EPA in late October for substantive discussions about the wasteload allocation, including what wastewater policies will be presented in modeling scenarios, and how other point sources will be represented in the TMDL. We will revise the draft policy commitments document to incorporate a phased implementation schedule. We are encouraging EPA to commit to a series of public meetings in early December so that the policy and program commitments we are considering can be presented to the public prior to the Legislative session.

Barre City Dam: We met with Barre City representatives to try to resolve the city's appeal of a Chapter 43 Dam Safety Order. The issue is conservation flows required in the permit and their potential impact on the city's water supply during droughts. While a detailed settlement needs to be developed, we seem to have identified a concept that addresses the city's concerns while meeting conservation flow requirements.

Hermitage/Haystack - Stormwater and Wetlands Issues: The Stormwater Program reviewed the most recent application for an operational stormwater permit, and provided review comments. The consultant for Haystack subsequently identified additional deficiencies in their application and will be revising the application. Our review is on hold pending resubmittal. The Wetlands Program is sending a letter to the project proponent as a result of a recent site visit. In sum, the letter describes the concerns that the wetlands program has with the current proposed airport runway expansion. As currently configured, there would be an undue adverse effect on significant wetlands. A wetlands permit application has not been submitted. This letter essentially serves as "advance notice" of potential permitting problems if the project is not reconfigured.

F&W Overtime: There was a concern raised about a spike in overtime, particularly in Fish & Wildlife. Steve Gomez will be providing details, but as we expected, most of the spike involves a change in the way guaranteed overtime is now reported. Overtime is also up due to Fish & Wildlife fully staffing their warden force.



Privileged and Confidential

MEMORANDUM

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

From: Christopher Recchia, Commissioner

Date: October 24, 2013

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY: We file briefs today supporting issuance of a CPG as being in the public interest with conditions subsequent related to the size of a site restoration fund, economic development benefit payment, and support of ANR on thermal discharge issues. We believe this positions us well for further negotiations with Entergy.

Telecom Legislation: PSD staff met with Representative Botzow to share our proposal for a telecom bill that would address USF high-cost support, a unified and lowered pole attachment rate, removal of the sunset from 248a, and any VTA legislation that may be proposed. Representative Botzow appeared very supportive of the proposed bill however he did not warm to the idea of having the VTA legislation included as a part of the bill. Staff proposed possibly having the new proposals added to the pre-paid wireless bill currently in Senate Finance, however, that too received a lukewarm reception. Representative Botzow also intends to have a lawyer from leg council attend the next VTA working group meeting. PSD staff are meeting with Senator Ashe on Tuesday to discuss the telecom bill and his potential sponsorship.

Regional Infrastructure: It is now clear NH is unwilling to sign on to the regional statement to which the other states can agree. Thank you for trying - several times - anyway. New Hampshire is welcome to participate in discussions regardless, and a meeting is being held today to begin discussions on the framework for regional infrastructure support. We do need some further guidance or final signoff on signing onto a five-state agreement. We are also under a time deadline of next Wednesday to decide whether to support the Order 1000 policy cost-sharing arrangement put forward either by Connecticut (suggesting a 50/50 share between host state and the region where VT would pay 4% of regional share – but 50% of state share if a policy project were proposed by Vermont), Massachusetts’ suggested formula matching existing reliability standards (VT share would be 4%, or NESCOE’s suggested formula of 70% state/30% region. We are in discussions with VELCO on this. Right now, VELCO supports the CT proposal, and Ed McNamara suggests supporting MA or the NESCOE proposal.

Net Metering: Vermont Electric Cooperative and Washington Electric Cooperative continue to oppose current net metering program and advocate (in media and member meetings) for lower solar value and other ideas such as socialization of costs. PSD is looking to issue a press release with high-level bullet points on our proposal on Monday, timed to coincide with REV conference. We have had conversations with the chairs of House Commerce and House NRE, and Senate Finance and Senate NRE about our ideas, and continue legislative outreach on this issue.

GMP Stafford Hill Solar in Rutland – Docket 8098: We are getting closer on this – GMP has revised the benefits and costs to get them closer, but in discussions with GMP we think they need to make an amended filing to get the project into the realm of something we can support – which is the goal we’re heading toward.

Significant Meetings/Events this week:

October 21: Chris attends VY meeting at 5th Floor

October 22: VY interagency meeting; Darren attends Governor visit to ISO-NE

October 23: VSNAP meeting, Chris attends Two Rivers RPC meeting

October 24: PSD/GMP meeting; Chris and Louise Porter meeting with Dan Smith on biomethane; Darren and Jim Porter meeting with Rep. Botzow

October 25: Chris to VEDA Board and Sherbrook for VT/Quebec meeting; Darren meeting with Rep. Yantachka and Senator Lyons on net metering

Next week significant events/meetings:

October 28: Chris and Darren lunch with Hydro Quebec at REV conference

October 29: REV conference – Chris, Darren, and Asa all on panels

October 30: Joint committees siting commission hearing, Chris and Ed McNamara testify

November 1: Darren and Asa meeting with Senator Bray on net metering

Media: Articles on VSnap, Governor visit to ISO, Vermont Edition on net metering into which we got a written statement. Friday afternoon, Chris is scheduled to speak to Digger (Andrew Stein) about our VY filing due at the end of the day.

Everything Else:

PERD

- CEDF:
 - For 3rd quarter (July through Sept) the program had the following activity:
 - 355 projects reserved incentives [306 PV (\$799,543), 49 SHW (\$61,285), and 2 Wind (\$32,040)], totaling \$892,868 in reserved funds.
 - \$863,074 in incentives for 192 installed systems was paid out (includes one wind project for \$117,163).
 - PV continued to maintain its position as the leading renewables market for the SSREIP. PV activity did not slow even when the incentives were dropped to \$0.45/watt.

Renewable Energy Items

- Prepared grant for energy storage grantee; just awaiting final answers to questions and requested items, including budget and schedule, so they can be aligned with Sandia contract deliverables. Though the federal government has reopened, Sandia is still preparing to furlough and is awaiting orders to resume business and usual as well as awaiting funding, all due to the lag time experienced by contractors to the federal government (including the national labs).
- Followed up with GMP on their idea of a demo project to attach solar PV panels to utility poles. Since it will be a net metered project with little opportunity for PSD input, and these types of projects are known to create aesthetic concerns where they have been installed, we advised that GMP should proceed at their own caution, and, as for any other project coming out of the Innovation Center, we urge them to track and share results and lessons learned from the pilot.

Total Energy Study

- Began designing and logistical planning for a public meeting on the TES legislative report to be held on November 14. Location is being determined – we are hoping for the Statehouse, Pavilion Bldg., or National Life. Intention is to focus the meeting on the 5 policy sets we designed based on the stakeholder process, and ask for public feedback on the pros and cons of each policy set.
- Agreed to hold a workshop on the TES at the VECAN conference on December 7.

Net Metering

Net Metering Activity 10/12/13 – 10/18/13

	Registrations	Applications	CPGs Granted
Count	2	4	37
kWAC	14.022	399.978	205.823
Ave Size kW	7.011	99.947	5.562

Cumulative Capacity of Registrations and Applications Submitted

Year To Date		Total Since 1999	
2012 kW	2013 kW	1999 – 2013 kW	% of CAP
6250.89	10626.29	37805.09	~ 94.5%

Other Items

- Met, along with representatives from other divisions at Departmental leadership, with Sec. Miller and Commissioner Gosselin from ACCD to discuss IBM's energy costs and opportunities IBM could take to reduce those costs.
- Local Investment Committee - Attended regular meeting during which participants continued to explore options for thermal and energy conservation in state buildings and a plan for financing these improvements as asked by the legislature; report due to the House Committee on Corrections and Institutions and Senate Committee on Institutions by January 7, 2014 from the Office of the Treasurer, BGS and PSD. The group is considering a new revolving fund for state properties that can increase the rate of energy efficiency improvements; continued review of Qualified Energy Conservation Bonds (QECBs) as a possible source of capital.

Engineering**Civil penalty maximums for violations of Pipeline Safety Regulations**

US DOT Pipeline and Hazardous Materials Safety Administration (PHMSA) has published final rules to update the administrative civil penalty maximums for violations of the pipeline safety regulations. The new rules are effective October 25, 2013 and implement the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (the "2011 Pipeline Safety Act"). The maximum administrative civil penalties for violations are increased to \$200,000 for each day the violation continues, not to exceed \$2,000,000. These penalties were previously \$100,000 per day, not to exceed \$1,000,000. The PSD/PHMSA partnership specifies that the Department will enforce the federal pipeline safety regulations in a manner substantially the same as PHMSA would. Consequently, the Engineering Division has drafted statute language to implement the new maximum civil penalty amounts for consideration this coming

legislative session.

VELCO Reactor Project

The Department is in receipt of the preliminary review reports on the sound studies performed for VELCO's New Haven, Coolidge, and Vernon substations. The reports were reviewed by an outside consultant for the Department as required in the PSB CPG for this project. All three locations appear to comply with the requirements of the CPG and the Department believes that the final reports will bear this out. The PSB CPG required that the project not have a significant or substantial increase in the sound (noise) heard at the nearest neighbors. Sound levels have increased for these projects, but not by more than the 5 dB considered by the consultant to be substantial. The CPG did not specify an absolute sound limit.

CAPI

YEAR	CALLS	COMPLAINTS
2011	122	74
2012	145	81
2013	97	59

Company	Complaint Numbers
GMP	16
FairPoint	9
Comcast	5
BED	3

CONSUMER COMPLAINTS

Complaint numbers above are for the period October 16^h – October 22nd.

Post-CPG wind complaints

CAPI took in one noise and health-related complaint regarding Georgia Mountain Community Wind (GMCW); seven noise and health-related complaints regarding Lowell Wind; and six noise and health-related complaints regarding Sheffield/First Wind. Also, GMP provided a report of the results of their 4th quarter, summer monitoring session. According to the report, "There were no exceedances of the 45 dba (Leq1-hour) exterior limit at any of the monitoring locations using either Method 2 or Method 3 analyses." And, "There were no exceedances of the prominent discrete tones clause during this monitoring session."

OTHER CAPI ITEMS

New CAPI Director

Our new Director, Autumn Barnett, began in her role this week.

PUBLIC ADVOCACY

Appointment of a Natural Gas Energy Efficiency Utility – Docket 7676 – The Department held a meeting with representatives of Vermont Gas Systems to discuss a schedule for drafting of documents and making critical determinations about the integration of VGS as the natural gas EEU into existing processes governing the electric efficiency utilities. We will hold a meeting with VGS and the other EEUs (VEIC/EVT and BED) before making a proposal to the Board on 11/8.

Kinsley Net Metering - CPG NM 2375 – Board process on this proposed 148.2 kW group net metered solar facility in Addison, Vermont is limited to aesthetics. A site visit was conducted on 10/14. The developer has proposed a landscape mitigation plan and the adjoining landowner has requested that the Board require the vegetative planting plan to include more and bigger trees, at a greater cost. The proposed screening will impact the viewshed on a single private landowner. As a consequence, the Department has not retained an aesthetics expert. Based on prior experience and very limited public viewsheds for this small (26 panel) project, it is not likely an aesthetic expert would recommend mitigation from public vantage points. PSD is monitoring the matter. A technical hearing will occur sometime between 11/12 and 11/15.

Appeal of Ecos Energy in Docket 7873/7874 (project selections pursuant to Standard Offer RFP) – SCOV Docket No. 2013-308 – Appellant Ecos Energy filed its initial brief with the VT Supreme Court on 10/18. The ultimate resolution of the case, wherein the PSB rejected one of two adjacent Ecos Energy projects on the basis that they were in fact a single 4.4 MW facility and thus exceeding the 2.2 MW cap, is likely to turn on whether the Board properly exercised its discretion in disallowing one of the two projects. PSD, defending the Board's action, will file an appellee brief on 11/8.

Ryegate Biomass Facility CPG amendment re: Selective Catalytic Reduction - Docket 8129 – On 10/11/13 the Public Service Board issued an Order in response to a query from Ryegate Associates finding that the installation of SCR technology at the facility required a CPG amendment. On 10/21/13 Ryegate issued a 45 day notice letter, a request for waiver of the 45 day notice, and a draft petition informing appropriate governmental entities of its intent to seek a CPG amendment, and describing the construction that would be involved in the installation of an SCR system. Based on a preliminary review of the applicable 248 criteria, the Department is likely to support the amendment as the SCR does not appear to raise any significant issues with substantive criteria.

Regulation of VoIP – Docket 7316 – The parties are working collaboratively on a set of Proposed Stipulated Facts, which are due to the Hearing Officer by the end of October. The Department is currently preparing for the technical hearing that will take place on December 5th. A witness preparation meeting with the Department's expert witness is scheduled for October 29th.

Earth Brothers Ltd. Solar Facility Expansion 248(j) Petition (CPG Amendment) – Docket 7877 – The Petitioner has proposed to expand its existing 382.8 kW solar facility to a 523.71 kW facility. The Department filed its comments with the Board on October 16th, recommending approval of the amendment.

Middle Road Ventures Middlebury Solar – Docket 8060 – Pursuant to a condition of its CPG, the Petitioner informed the Board that it has fulfilled all pre-construction CPG conditions and intends to commence construction.

GMP Stafford Hill Solar in Rutland – Docket 8098 – The Department propounded a second round of discovery requests on the petitioner. These discovery requests focused on the aesthetics of the proposed project. In a letter response to the Board's requests for comments on GMP's Motion for Confidential Treatment of Non-Redacted Discovery Responses, the Department raised no objections. Final discovery responses are due from the petitioner by October 31st. A stipulation or litigation schedule is due to the Board by November 5th.

Lowell Wind – Docket 7628 – Following a show-cause hearing relating to violation of the noise limit in the CPG for this project, the Board issued an Order on 9/25 directing GMP to investigate the feasibility of continuous noise monitoring and report back in 90 days. The Nelsons filed a motion to alter, asking the PSB to shorten the 90-day period by about six weeks. On 10/23 the PSB issued an order denying the motion, largely for the reasons advanced by DPSD and GMP. The PSD has committed to assisting with and expediting GMP's investigation to the extent possible.

Technology Drive Solar – Docket 8111 – The Department's aesthetic expert is reviewing the proposed site; her preliminary findings indicate that the project will likely not result in an undue adverse aesthetic impact on the area. The Department will tailor its comments once a final report is received. It is unclear whether a final report will be finished prior to the current comment deadline. The Petitioner sought and the Board approved a ten day extension for parties to comment in response to the Board's § 248(j) notice. A Brattleboro Reformer reporter called the Department inquiring about the Department's plans to comment on the project. Department counsel spoke on background and indicated that the Department's comments are pending. Comments are now due October 28.

Georgia Mountain Community Wind – Docket 7508 – Vermonters for a Clean Environment filed a Motion to Amend asking that the Board address the Department's request for GMCW to file copies of the final turbine specs at the site – which the Board did not speak to in its latest order. VCE is also seeking clarity on aggrieved resident Reggie Johnson's request that VCE represent him in any further Board proceedings related to Johnson's noise complaint. Again, the Board did not address VCE's possible representation in its latest order. The Department intends to file a Motion to Alter the Board latest order. The order requires that GMCW ensure that the cooling fans at the base of the turbines are operating for a "significant percentage" of the time during the last quarterly monitoring period – set to begin in late October/early November. The Department seeks to add language to the order to ensure that the sound from the cooling fan operation is not included as part of the baseline noise measurement for the monitoring period. The Department must file its motion to amend by October 25.

FairPoint PAP Proceeding – Docket 7506 – The Board has scheduled a status conference on October 25, 2013 to discuss the status update and stipulation filed by FairPoint and the participating CLECs on October 11. The Department was not privy to any discussions leading to the stipulation, so it has not taken a position going into the status conference.

FairPoint Customer Practices Investigation – No Docket – The Department has made a request to the Board to hold a scoping workshop to identify and discuss problem areas related to FairPoint customer practices, and to determine whether a formal investigation is warranted. The Department has committed to forwarding all CAPI documentation outlining areas of concern to the Board prior to the workshop. The Board has not yet responded to the Department's request.

Addison Expansion—Docket 7970—The Department continues to review the briefs of the other parties and to prepare our reply brief, which is due October 25. In its initial brief, the Department requested that the CPG be conditioned upon a VGS study/proposal with respect to its intended EE efforts and outreach in Addison County. We have been working with VGS and members of the Addison County delegation on an acceptable proposal to take to the Board.

VGS/Plouffe Condemnation—Docket 7819— Board staff conducted a technical hearing on the issue of necessity in this matter on October 18. The hearing was lengthy, but uneventful. It would appear that Board staff did not find Mr. Plouffe to be a credible witness and that a determination that the easement is necessary is probable. A second site visit will be conducted on October 30 (due to a change in Hearing Officer since the first site visit), with briefs due on November 14 and reply briefs due on December 5. There was no discussion regarding the issue of compensation.

Swanton Electric – Rate Investigation – Docket No. 8024 – On October 18, the Department recommended that the Board accept Swanton's tariffs as in compliance with the Board's order in this proceeding, authorizing a 1.0 percent rate increase. One issue remains in this case (which has appeared in past rate cases with other VPPSA municipal utilities). Swanton has informed the Board and the Department that it has a very limited ability to make customer-specific refunds of the amounts over-collected in the course of the investigation. On October 22, Swanton proposed different options for making refunds. The Department will comment on these methods by October 25.

Stowe Electric – Rate Investigation – Docket No. 8074 – On October 22, the Board issued a memorandum seeking comments on whether it would be appropriate to initiate a comprehensive review of Stowe's business processes. The Board noted concerns with Stowe's recent bonding decisions, as well as its general relationship with the Board. The Department's comments are due by November 1. The Department will likely support this idea. With respect to the remainder of the proceeding, the Department will file its final discovery questions on Stowe's cost of service by October 25.

TELECOM

Burlington Telecom Cable Advisory Council – PSD telecom staff met with BT staff and the two current members of the Cable Advisory Council. At issue is that due to the resignation of all but two members, Burlington Telecom is in violation of Condition 30 of its CPG. Burlington Telecom committed to send at least three candidates for review to the PSD within a month and then to schedule a meeting of the newly constituted Board thereafter.

USF High Cost – PSD staff is reviewing two draft reports on a possible Vermont Universal Service high cost fund. The PSD is also reviewing a methodology for a high-cost fund with the ILECs. The draft reports are in many instances inconsistent with administration policy and with the methodology under review. PSD staff has provided feedback to the consultants and requested that the reports be revised to comport with these policy positions.

Broadband Availability Table – PSD staff has directed Stone Environmental to proceed with the production of broadband availability information as of 12/31/12. Stone requested confirmation that the list of 172 unserved addresses agreed upon by the VTA in August is still valid. The VTA believes that 36 of these may already be served. The PSD has decided to proceed with production of the maps based on the 172 figure, and will incorporate the proposed VTA changes in the next iteration of the maps.

Health Exchange outage – The Department of Health experienced difficulty in processing applications on the health exchange due to a fiber cut in Boston. The call center service provider selected by DoH, Maximus, has call-takers in Burlington, but relies upon servers and end-office software in its head-office in Reston, Virginia. The company has private data service from Verizon to connect its offices, and when this service was interrupted by a fiber cut, the call takers were unable to process applications. It appears that Maximus did not anticipate service outages and had no backup link in place. It also appears that at least some services provided by Verizon in Vermont are subject to isolation with the break of a single fiber. Verizon had a similar failure in 2008 and assured the state that steps were going to be taken to ensure better reliability. The PSD will investigate.

Call with FCC regarding federal USF reforms – PSD staff had a call with FCC staff about the reforms in process. Specifically, PSD staff inquired about why the proposed FCC model identifies significantly more locations than are listed in the Vermont E-911 database. The FCC staff responded that the discrepancy is related to multi-unit dwellings. The FCC model is based on census household lists which include multiple households for a single location, whereas the 911 database lists just a single location regardless of the number of households at the location. The PSD staff also inquired about the issue of partially served census blocks. The FCC staff related that the FCC has decided in its orders that it will only offer support for completely unserved locations. The FCC staff indicated that if the PSD and/or PSB want to offer details about the partially served census blocks in an Ex-Parte filing it is free to do so. Finally, the FCC staff indicated that it was aware that the speeds on the broadband map related a “ceiling” instead of a “floor” but believes nevertheless that this serves its needs.

VTA MEMO -- Staff met with Chris Campbell of the VTA and Kiersten Bourgeois of AACD regarding the “consensus memo” the three agencies were charged with drafting. Telecom staffers are concerned that the three agencies will be unable to reach a consensus by the deadline. At issue is the memo’s overarching purpose as well as smaller issues of language and organization. The telecom division maintains that the memo should focus on the VTA, specifically, the amount, type, and ownership status of VTA assets.

FINANCE AND ECONOMICS

Electric

Electric Rates—participated in internal discussions regarding IBM Retention Strategies to reduce or mitigate the cost of power to IBM. Staff has met and has created a list of options for consideration that could provide leveled, stabilized and predictable rate paths for the foreseeable future along with options to acquire supply at potentially a lower cost.

PSB Workshop on Formula Rates and 30 V.S.A. § 226(b): At the workshop, the department agreed to draft an initial framework for handling formula rates. Staff is reviewing a draft of a framework document prepared by PA that is scheduled to be finalized and sent to all of the workshop participants by the end of next week.

VEC – Tariff # 8471 - To Implement Self Generating and Net Metering Schedule 2. This tariff is designed to allow VEC members to install additional net metering systems above the 4% cap set by statute. The filing replaces the \$.20 kWh incentive rate which VEC finds to be inconsistent with least cost planning principles. Subsequently, VEC is proposing a net metering rate of \$.125 per kWh for a ten year contract and \$.158 per kWh for a twenty year agreement. With the rates at this level, VEC claims the significant cross-subsidy flowing to its current net metering customers at the \$.20 rate level will be eliminated. VEC notes that it would “not object if the Board were to open an investigation into the proposed tariff to analyze the costs and benefits of existing and proposed net metering systems to VEC and its members.” Staff is review the filing and has been requested to identify a reasonable basis to request an investigation.

Financings/Mergers/Acquisitions/Consolidations

VELCO – Petition of Vermont Transco for the issuance of up to \$30 million of equity. This financing will be used for funding VT Transco’s system reliability and system enhancement projects. The offering will increase VELOC’s equity/debt ratio to 52.96% equity from 51.27%. Preliminary analysis finds a net benefit to VT ratepayers of \$1.28 million per year (includes the net return to purchasers of the equity issues plus the increment in VT Transco’s revenue requirement needed to support the return on the new equity units).

Memo



TO: Governor Peter Shumlin
FROM: Keith W. Flynn, Commissioner
DATE: October 25, 2013
SUBJECT: Governor's Report

Marijuana Dispensaries

The committee to review the fourth dispensary applications met this week. They have determined that the Burlington dispensary owner should be given the registration certificate for the last dispensary. He plans on opening a dispensary in Brattleboro and has several local community members on his Board of Directors. A meeting with the Commissioner has been set for next week to brief him on the committee's findings.

The colonel participated in public forum discussion regarding the cost of substance abuse in Rutland organized by Eldred French on October 23, 2013.

VSP

Interviewed a suspect for a reported rape in the jail at the correctional facility in St. Johnsbury. While interviewing the suspect he became violent towards the Trooper and had to be restrained by the guards. During the altercation the suspect made several violent threats towards the Trooper and spit in his face. The suspect is being charged with sex assault, L&L, and 4 counts of assault.

Arrested a 28 year old male from St. Johnsbury for armed robbery of Kinney Drugs on 10/10.

Arrested a 39 year old male from Newark after his girlfriend and his mother came to the barracks to report physical abuse, which the male has been inflicting since the beginning of July. During the course of the interview it was learned that about three weeks ago the offender was drunk and pointed a shotgun at his girlfriend's head from about three feet away and then discharged it about six inches from her head. He also shot up the area around the house hitting a truck several times and shooting at a trailer. He was taken into custody for First Degree Aggravated Domestic Assault X 2, Domestic Assault X 3, and Reckless Endangerment and lodged on \$10,000 bail.



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Jeb Spaulding, Secretary

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM TO THE GOVERNOR**

TO: Governor Peter Shumlin

FROM: Secretary Jeb Spaulding

DATE: October 25, 2013

SUBJECT: Confidential Report to the Governor

BUILDINGS AND GENERAL RESOURCES

Status of Governor's Priorities:

- Governor's policies remain intact. Break through on St. Albans project development agreement negotiations will help downtown development project schedule.

Legislative Issues/Contacts:

- Called chairs Emmons and Flory for monthly check-in. Talked about delayed deliverables, health lab, Berlin hospital, heat plant, Vermont veterans' home and St. Albans project.
- Talked with Rep. Klein about LIHEAP and potential role of BGS P&C.
- Discussed the relocation of the civil war memorials with Rep. Koch and suggested that he talk with Joe Benning.
- Discussed the possibility of a Vergennes campus feasibility study and how to tenant the RR station.

Significant Events/Meetings:

- Met with EfficiencyVT regarding an expanded relationship with the SOV including energy management and performance.
- Attended a BGS Building Communities grants meeting re: recreational facilities.
- Met to discuss the ownership and the operations and maintenance of the to be built expansion of the Lamoille court house.

FINANCE AND MANAGEMENT

Issues Update:

- Commissioner Reardon has begun meeting with departments to discuss their FY 2015 budget requests. For example, during the past week, he met with States' Attorneys, Sheriffs, ACCD, and AHS (the latter to discuss FY 2014 BAA pressures, with further discussions to be held regarding FY 2015).
- Commissioner Reardon traveled to San Antonio, Texas to attend a meeting regarding the Government Accounting Standards Board (GASB).
- The first Public Budget Forum was held on, Wednesday, 10/23 – with a summary to be provided in next week's report.

HEALTH CARE REFORM

No report

HUMAN RESOURCES

Legislative Issues/Contacts:

Commissioner Duffy attended the first meeting of the legislative study group on Social Networking Privacy Protection. At present, there is no consensus on whether the group would recommend a bill limited to applicants or whether a bill should address applicants and employees. To the extent a bill addresses applicants, it appears that only the Department of Public Safety would need an exemption from the bill. To the extent a proposed bill would encompass employees, additional exemptions would be needed.

Significant Events/Meetings:

Commissioner Duffy met with Frank Sadowski of Gallagher, Flynn regarding the study commissioned by DHR to create an attorney pay plan. Commissioner Duffy will confer with the Governor's counsel to obtain additional information needed for the plan and will review a proposed process with Secretary Spaulding to finalize and implement a plan.

Commissioner Duffy and DHR staff met with representatives of the Agency of Transportation to provide guidance on how best to control overtime costs.

Commissioner Duffy attended a meeting of the Vermont State Employees' Retirement Board. The Board reviewed the actuarial valuation report prepared by Buck Consultants. The consultant recommended a contribution for fiscal year ending June 30, 2014 of \$42,522,931. The Board voted to recommend this request to the Governor for inclusion in the Governor's budget.

Commissioner Duffy attended the kickoff of DHR's business process review. While the review will encompass all DHR processes, the initial work will focus on VTHR and ways to enhance our customer's experience with the various VTHR processes.

DHR met with AOT's Civil Rights Division to provide it with information requested to ensure AOT's compliance with federal regulations on equal employment.

Evolving Issues:

DHR has learned that the ERP vendor has not implemented the Fair Labor Standard Act in the manner initially proposed and agreed to, resulting in higher costs to the State. DHR is assessing the scope of the problem and working on potential resolutions. DHR has requested that retainage not be released to the contractor until this issue is resolved.

DHR's Classification Division provided training to VSEA on the classification process. At the training, Mark Mitchell indicated he wants to decrease the number of employees designated as managerial and confidential, and may take action to require redesignation of existing jobs.

The Auditor's Office has requested information about the total number of positions in state government by department.

At the request of the Treasurer's Office, DHR reported the total number of limited service positions created in the last two years. DHR is working to assess whether those positions are likely to be extended or become permanent classified positions.

INFORMATION AND INNOVATION

Status of Governor's Priorities:

Vermont Health Connect: Progress continues, but slower than we need. SOV IT resources are being actively consumed in testing bug fixes/changes to VHC that the vendor should have already tested. Unfortunately, the testing is not as prompt or as comprehensive as needed without our involvement. Richard believes, but have not verified, the business (DVHA, ESD & others) may be experiencing similar issues. To a certain extent, the pace of change that SOV is expecting has forced this issue.

On a positive note, CMS has approved of the actions taken on our minor security incident reported to them last week and have closed the issue.

Significant Events/Meetings:

Richard hosted a strategic alignment session with Agency Deputies, key program and technology staff, and DII on Friday 18 October. The session was kicked-off with comments from Secretary Spaulding who made it clear the strategic importance of technology, i.e. delivering services and the need to do more with less. This is a top priority and opportunity to demonstrate executive leadership. Throughout the day we discussed and gathered feedback on DII's vision, mission, and goals. We are happy with the results and were reminded that Agencies sincerely want to partner with us in an on-going fashion to identify opportunities for cross agency collaboration/simplification/streamlining.

Tax Systems Migration: The ERP admin team worked with VDT to transition their computer servers from a very slow legacy environment to the current server standards. The migration was a success and the team is working out the bugs associated with a migration of this size.

Evolving:

Harry Bell will be attending Socrata training online on 10/24 and 10/29 as part of the Open Data pilot project.

LIBRARIES

Nothing to report.

TAXES

Legislative Update:

JFO Data: The Ways and Means Committee wants the Secretary to testify, hopefully a sign that Rep. Ancel is willing to acknowledge (or at least listen to) the Administration's position on confidentiality. Steve Klein relates that the JFO is still waiting for more information from Chainbridge, and in the meantime, is exploring the functionality of the REMI, and similar models, which run simulations on non-tax data, to suit the legislature's appetite for "independent" analysis.

Renewable Energy Conference: The Commissioner will be speaking at the Renewable Energy Conference on a panel about tax on solar. My presentation will be on the rationale and mechanics behind the solar nameplate capacity tax.

Ed Finance Symposium: The Commissioner communicated with the Speaker, the Chair and Vice Chair of Ways & Means, as well as Sen. Ashe, about Larry Picus' idea for a finance expert symposium on possible alternatives to introduce cost deceleration into the rate formulas without destroying equity, local control or quality. All were positive.

IRS Delay: The IRS already has announced a delay in their tax season processing due to the shutdown. At this time, we do not anticipate that this will impact the timing of our filings (unlike last year, where we experienced a consistent lag when the IRS was delayed by the last minute cliff deal).

Integrated Tax System: We are pretty deep into the details of negotiation with FAST. They are definitely on board with benefits based payments. Roughly stated, we would agree to pay them from two revenue streams – the money we have accumulated/will accumulate in our computer modernization fund from our data warehouse projects (we will have at least \$5M to make the first milestone payment in year 1, about \$10M total), with the remainder to come from 80% of the enhanced revenue generated by the FAST project itself.

The contract would be capped at a total of \$X or 80% of the FAST enhanced revenue for Y number of years. X and Y are the sticking points. FAST is holding firmly to their bid price of \$28M. We are suggesting that this does not recognize the money we are bringing to the table from other projects, and that this may be a rather large premium over their recent non-benefits contracts with other states (our consultant is trying to get more concrete info on this point from other states). On the other hand, DII

had estimated last year that an ITS would cost us \$20-30M, so they are not out of range. Naturally, FAST also wants to limit its risk by extending Y far into the future – I have emphasized that this is a non-starter with the legislature; they will want to see the vendor commit to a ROI in a reasonable timeframe.

FAST also sent its proposed Project Manager to Vermont for 3 days this week – he was very well received by staff (including our IT staff, with the exception of the Director). He would move to VT for the 5 year contract, and they anticipate a team of 12-15 members working with our IT staff (according to other states, this typically consists of both local hires and relocations – although it is hard to imagine any local IT hires exist at this point in time). FAST would like to see a high level executive steering committee for the project that would consist of the Commissioner, Deputy and representatives from DII, the Secretary's Office and Finance and Management.

CONFIDENTIAL and PRIVILEGED

To: Governor Peter Shumlin
From: Michael J. Hogan, Commissioner of Liquor Control
Date: October 25, 2013
Re: Weekly Report

Status of Governor's Priorities: FY15 budget targets submitted and a meeting with Commissioner Reardon on 10/24.

Our staff will be attending a meeting in preparation for inclusion of performance measures for FY15.

Legislative Issues/Contacts:

- Reviewing final draft changes to Department Regulations.

Press Issues/Releases/Contacts: Nothing to report.

Significant Events/Meetings: Next Board Meeting 11/13 Enforcement Hearings. Marketing Meeting with suppliers 11/20-21 to review product introductions for 2014.

Evolving Issues:

- Working with vendor on contract for ERP/POS Project. Ongoing process.
- Preliminary review of department processes for potential licensing and enforcement system. .
- Working on evaluating additional agencies throughout the state and breaking down costs associated as well as the return on the investment.
- Auditor's Office is going to do an audit on the department's system of distribution and sale of liquor. Entrance Conference Monday 10/7. Will meet with our Board on 11/13 to direction of the audit.
- Responding to Administrative Hearing Officers Study Committee questionnaire.

Summary of Key Department Activity:

- October sales continue to look good at the + 4-6% range.

Commissioner's Commentary: Have a great weekend.