



LEGAL COUNSELORS & ADVOCATES PLC  
P.O. Box 827 • Castleton, VT • 05735

Leslie A. Cadwell  
lac@lac-lea.com  
802-842-8114

**By Overnight Mail and Email**

July 21, 2016

Judith C. Whitney, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, VT 05602-2701

Re: Docket No. 8585  
Respondent's Opposition to Motion to Quash and for Protective Order

Dear Ms. Whitney:

Enclosed for filing in the above-referenced matter, please find an original and 3 copies of the Respondent's Opposition to Motion to Quash and for Protective Order.

Thank you for your attention to this filing.

Very truly yours,

Leslie A. Cadwell

Enclosure(s)

Cc: Geoff Commons & Aaron Kisicki for the Department of Public Service  
Leslie Welts for the Agency of Natural Resources  
Ron Holland for the Town of Irasburg  
Sara Davies-Coe, courtesy copy

STATE OF VERMONT  
PUBLIC SERVICE BOARD

VERMONT PUBLIC  
SERVICE BOARD

Docket No. 8585

2016 JUL 22 AM 10 58

Investigation into Meteorological Tower at 700 )  
Kidder Hill Road in Irasburg, Vermont )

OPPOSITION TO MOTION TO QUASH AND FOR PROTECTIVE ORDER

NOW COMES the Respondent in the above-captioned action, by and through the undersigned counsel, to oppose the motion to quash and for protective order filed by and on behalf of the Vermont Department of Public Service, Vermont Agency of Natural Resources, and the Town of Irasburg through its designated representative, Ron Holland ("Prosecuting Parties"). The Department of Public Service and Town of Irasburg filed the motion without regard to their respective obligations under Rules 11 and 26(h), and failed to meet their burden of proof to establish good cause pursuant to Rule 26(c), of the Vermont Rules of Civil Procedure, all of which are made applicable to this Public Service Board proceeding pursuant to Public Service Board Rules 2.103 and 2.214. These rules apply to non-attorney representatives, such as Ron Holland, in the same manner and to the same effect as any attorney admitted to practice in Vermont pursuant to Rule 2.201(B). The following memorandum of law, and attached affidavit of Respondent's counsel in accordance with Rule 26(h), provide support for this

opposition. An order denying the Prosecuting Parties' motion to quash and for protective order is appropriate.<sup>1</sup>

Memorandum of Law

The Prosecuting Parties seek to prevent the Respondent from legitimate and reasonable discovery of facts, information, and documents in their possession relative to one or more issues encompassed in this investigation opened pursuant to the Board's authority granted by 30 V.S.A. §§ 30, 209, 246, 247, 248. *See Order Opening Investigation and Notice of Hearing*, Docket No. 8585, Order of 9/23/2015 at 2 ("Pursuant to 30 V.S.A. §§ 30, 209, 246, 247, and 248, an investigation is opened into the factual circumstances and legality of the site preparation, construction, and operation of a meteorological tower located in Irasburg, Vermont, and owned by David Blittersdorf.") Since the first procedural schedules were proposed in this proceeding in November, 2015, the Respondent has sought to understand the Prosecuting Parties' positions on all issues and exercise his right to discovery granted by the Vermont Rules of Civil Procedure and the Public Service Board's Rules. By order of June 16, 2016, the Hearing Officer finally granted the Respondent one 30-day discovery period prior to the filing of testimony by

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<sup>1</sup> Counsel for the Respondent and the Agency of Natural Resources reached an agreement regarding the V.R.C.P. 30(b)(6) depositions noticed to Agency after the filing of the motion to quash and for protective order. Therefore, this opposition addresses the actions of the Department of Public Service and Town of Irasburg through its representative, Ron Holland. If the Agency of Natural Resources does not honor the oral agreement reached between counsel on July 21, 2016, the opposition should be read to include the Agency as well.

the Prosecuting Parties, and reserved a second opportunity for Respondent's discovery after the Prosecuting Parties prefile testimony, if any, at a date still not yet established. *Scheduling Order*, Docket No. 8585, Order of 6/16/2016 at 1. For Respondent, the initial 30-day discovery period is critical to his defense in the event that the Prosecuting Parties decide not to prefile testimony or produce any witnesses for hearing, a realistic possibility given that there is no schedule for further proceedings at this time.

The Board has long recognized that the discovery rules, which include the right to conduct depositions, should be liberally construed to ensure that the parties have knowledge of all relevant facts because such knowledge is "essential to proper litigation." *Investigation into General Order No. 45 Notice filed by Vermont Yankee Nuclear Power Corporation re: proposed sale of Vermont Yankee Nuclear Power Station and related transactions*, Docket No. 8300, Order of 3/28/2000. The various methods of discovery, such as depositions, requests for admission, and interrogatories, "may be used in any sequence" unless a scheduling order provides otherwise. *See* V.R.C.P. 26(d) ("Unless a Superior Judge upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery."); *see also* V.R.C.P. 26(a) (allowing discovery by any method, including depositions).

In this case, the Hearing Officer's June 16, 2016 scheduling order, which was amended on June 30, 2016, did not limit the Respondent to any particular topics or method of discovery during the first 30-day discovery period, and the Prosecuting Parties never sought to limit the subject matter or discovery methods otherwise available to Respondent under the discovery rules. The Prosecuting Parties nevertheless seek a protective order, which the Board may issue for good cause shown, so as to protect a party from "annoyance, embarrassment, oppression, or undue burden or expense." V.R.C.P 26(c).

As the parties seeking protection from their obligation to answer discovery, the Prosecuting Parties bear a heavy burden to show that good cause exists to deny Respondent the right to conduct the requested depositions. *One Source Envtl., LLC v. M + W Zander, Inc.*, 2014 U.S. Dist. LEXIS 143814, \*3; *see also Brown v. Astoria Fed. Sav. & Loan Ass'n*, 444 F. App'x 504, 505 (2d Cir. 2011) (quoting *Gambale v. Deutsche Bank AG*, 377 F.3d 133, 142 (2d Cir. 2004)) (explaining that party seeking protective order bears burden to show good cause exists to issue one). The Prosecuting Parties' burden must be satisfied by providing more than generalized allegations that the discovery sought is unduly burdensome, oppressive, or expensive or will cause annoyance or embarrassment. *See Petition of Vt. Transco LLC and Vt. Elec. Power Co., Inc.*, Docket No. 7752, Order of 11/9/2011 at 2 (explaining that conclusory and stereotyped statements are not sufficient to establish good cause to prevent a deposition of a party); *see also*

The Prosecuting Parties have failed to carry their burden to establish good cause to avoid the depositions noticed pursuant to V.R.C.P 30. Their motion contains a litany of generalized complaints and unsupported allegations, and it fails to provide the memorandum with the verbatim listing of items sought to which they object that Rule 26(h) requires. The issues in this proceeding are wide ranging, and include not only whether the Respondent's meteorological mast was installed in violation of Sections 246 and 248, but also whether, among other things, such alleged violation was intentional and knowing, what aggravating and mitigating circumstances exist, and what harm, if any, it caused to the environment and the public's health, safety and welfare. 30 V.S.A. § 30(c). Respondent's notices of deposition seek to gather information that bear on these and other issues, including Respondent's good-faith belief that only local permitting applied to his installation in light of the Vermont Anemometer Program funded by a grant managed by the Department of Public Service and authorized by the Vermont legislature, *see* 30 V.S.A. § 8015(h)(3), and the Town of Irasburg's position that Respondent's meteorological mast is a permanent fixture and taxable as real property and is not an untaxable, temporary installation that falls within the Board's jurisdiction under 30 V.S.A. § 246. Having failed to meet their burden, the Prosecuting Parties' motion to quash and for protective order must be denied.

The Prosecuting Parties' motion should also be denied on grounds that they filed their motion without good faith compliance with their obligations under Rule 26(h).

*Weinstein v. Univ. of Conn.*, 2012 U.S. Dist. LEXIS 115059, \*15-17 (outlining opposing party's burden to prove good cause for protective order). In fact, a specific showing of harm to the responding party is required, *Weinstein*, 2012 U.S. Dist. LEXIS 115059 at \*15-17, along with a "specific verbatim listing of each of the items of discovery . . . opposed." V.R.C.P. 26(h); see *Petition of Barton Solar, LLC*, Docket No. 8148, Order of 4/28/2014 at 3-4 (explaining that omission of detailed memorandum required by V.R.C.P. 26(h) "is a serious procedural deficiency" because it is not possible to assess the legitimacy of the opposing party's grounds for not answering discovery). As the Board has noted in past cases, "[a] motion seeking to prevent the taking of a deposition 'is very unusual' and 'absent extraordinary circumstances, such an order would likely be in error.'" *Petition of Vt. Transco LLC and Vt. Elec. Power Co., Inc.*, Docket No. 7752, Order of 11/9/2011 at 2 (quoting *Salter v. Upjohn Co.*, 593 F.2d 649, 651 (5<sup>th</sup> Cir. 1979)). Contrary to the Prosecuting Parties' assertions that they should be allowed to avoid depositions simply by claiming they do not have relevant information, see Motion at 5, V.R.C.P. 30 "authorizes depositions precisely for the purpose of allowing a party to discover whether a possible witness in fact possesses potentially relevant information." *Id.* at 3. Cutting short Respondent's "right to a full and fair opportunity to discover" the strengths and weaknesses of the Prosecuting Parties' case is wholly inappropriate under the discovery rules. *Id.*

Rule 26(h) requires counsel for the party opposing discovery to confer in good faith with the requesting party's counsel to resolve any dispute over discovery before filing a motion with the Board. V.R.C.P. 26(h). As explained in the Reporters' Notes to the 1992 amendment that added this mandatory obligation:

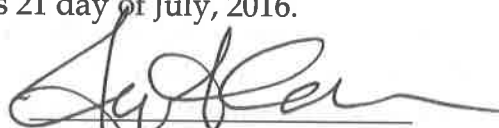
The rule prohibits filing of discovery motions unless and until the party filing the motion has conferred with opposing counsel in an effort to resolve the dispute. An affidavit, or a certificate pursuant to Rule 11, must be filed with the motion, documenting the date of the consultation and the participants. Refusal to participate in a discovery conference may lead to sanctions, including attorney's fees.

V.R.C.P. 26, Reporters' Notes to 1992 Amendment. No such affidavit or certificate was filed with the Prosecuting Parties' motion in violation of Rule 26(h). The Affidavit of Counsel filed with this opposition provides the information required by V.R.C.P. 26(h), and it demonstrates unequivocally that the DPS Attorneys and Ron Holland failed to honor both the letter and spirit of Rule 26 by not engaging with Respondent's counsel in good faith to resolve the dispute prior to filing the motion to quash and for protective order. The offer from Respondent's counsel to both the Department of Public Service and Town of Irasburg to reschedule the noticed depositions before the close of the first discovery period and to a more convenient location remains on the table.

Conclusion

For the foregoing reasons, the Board should deny the pending motion to quash and for protective order because good cause to grant it does not exist and it was filed in violation of the opposing parties' obligations under the discovery rules.

Dated at Kennebunk, Maine this 21 day of July, 2016.



Leslie A. Cadwell, Esq.

Legal Counselors & Advocates, PLC

PO Box 827

Castleton, VT 05735

802-342-3114

lac@lac-lca.com

VERMONT PUBLIC  
STATE OF VERMONT  
PUBLIC SERVICE BOARD

2016 JUL 22 AM 10 58

Docket No. 8585

Investigation into Meteorological Tower at 700 )  
Kidder Hill Road in Irasburg, Vermont )

**AFFIDAVIT OF COUNSEL PURSUANT TO V.R.C.P. 26(h)**

I, Leslie A. Cadwell, counsel for Respondent David Blittersdorf in the above-captioned action, being duly sworn, over 18 years of age, and competent to testify on these matters say:

1. The facts and information about which I testify in this affidavit are based on my personal knowledge and first-hand experience.
2. On June 16, 2016, the Hearing Officer in the above-referenced matter granted the Respondent's request for a 30-day discovery period without limitation as to methods or subject matters relevant to the pending litigation before the Board.
3. On June 29, 2016, in accordance with V.R.C.P. 30(a), (b)(1) and (b)(6) and the Hearing Officer's June 16, 2016 scheduling order, I served notices of deposition on behalf of Respondent to the Department of Public Service, Agency of Natural Resources, and Town of Irasburg. The notices seek depositions of certain individuals, Andy Perchlik and Ron Holland, who I reasonably believe possess information relevant to one or more issues encompassed in this proceeding, as well as individuals unknown to me, but known to the opposing parties, who are authorized to speak on the parties' behalf about information that I also reasonably believe to be relevant to one or more issues in this proceeding.
4. The notices of deposition were served on the parties at least ten days before their scheduled dates as required by V.R.C.P. 30(b)(1).

Depositions Noticed to Department of Public Service

5. On July 11, 2016, I received by email a letter from Geoffrey Commons and Aaron Kisicki, counsel for the Department of Public Service ("DPS Attorneys") and filed with the Public Service Board, acknowledging that discovery under Rule 26(d) of the Vermont Rules of Civil Procedure includes depositions, but stating their position that the Hearing Officer's scheduling order did not require the Department to respond to any discovery requests until August 5. The letter concluded: "Mr. Perchlik and/or unnamed Department representatives will not be available for deposition until August 5, 2016, pursuant to the schedule established by the Hearing Officer in this proceeding." A copy of the letter is attached as Exhibit A.
6. On July 12, 2016, I spoke to DPS Attorney Kisicki by telephone about the contents of the July 11, 2016 letter. The purpose of my call was to better understand the DPS Attorneys' position about the deposition of Andy Perchlik noticed for July 15, 2016 and the V.R.C.P. 30(b)(6) depositions noticed for July 27, 2016. The call lasted approximately 22 minutes.
7. During the telephone call, DPS Attorney Kisicki and I debated the meaning of the June 16, 2016 scheduling order and discussed our respective positions on whether depositions were excluded from the 30-day discovery period established by the order. DPS Attorney Kisicki expressed his view that depositions were not needed and burdensome and reiterated that the Department would not make Mr. Perchlik or any 30(b)(6) witnesses available before August 5. DPS Attorney Kisicki also represented that Mr. Perchlik had a conflict on July 15, 2016. I asked DPS Attorney Kisicki to clarify if his letter meant that Mr. Perchlik would be made available on August 5. After some further

discussion, DPS Attorney Kisicki offered to make Mr. Perchlik available on August 5 at 9:30 A.M.

8. After checking my schedule, I emailed DPS Attorney Kisicki shortly before 1:00 P.M. on July 12, 2016 and confirmed the deposition of Andy Perchlik for August 5 starting at 10:30 A.M. due to a prior commitment at 9:30 A.M. A copy of my email is attached as Exhibit B.
9. On July 14, 2016 at approximately 4:19 P.M., I notified the other parties and the Clerk of the Board by email that Mr. Perchlik's deposition had been rescheduled for August 5, 2016 per my agreement with the Department. I also indicated that I would send revised notices of deposition when I returned from Maine following a family emergency. A copy of my email is attached as Exhibit C.
10. At 4:31 P.M. on July 15, 2016, DPS Attorney Aaron Kisicki sent an email with a Motion to Quash and Motion for Protective Order jointly signed by the Department of Public Service, Agency of Natural Resources, and Ron Holland for the Town of Irasburg. In addition to me and my co-counsel, the email was sent to the Clerk of the Board, counsel for the Agency of Natural Resources, and Ron Holland. I did not open and read the email until Saturday, July 16, 2016.


#### Depositions Noticed to the Town of Irasburg

11. On July 6, 2016, I received an email from Sara Davies-Coe, outside counsel for the Town of Irasburg, regarding the notices of deposition served on the Town relative to the above-captioned proceeding. Attorney Davies-Coe represented that the Town of Irasburg had contacted her about the notices of deposition and requested to reschedule them both as to time and location to accommodate the Town Clerk's vacation and avoid the need for town officials to travel to Montpelier. Attorney Davies-Coe explained that the Irasburg Select Board was

scheduled to meet with her the following week, and after the meeting they would “try to come up with some days that work for all of the Town officials and then try to schedule the depositions with you.” I responded to Attorney Davies-Coe by email the following day, July 7, 2016. A copy of our email exchange is attached as Exhibit D. We subsequently scheduled a call for Tuesday, July 12, 2016 at 1:00 P.M. to discuss the matter further.

12. At approximately 1:00 P.M. on July 12, 2016, my co-counsel, Alison Milbury Stone, and I spoke to Attorney Davies-Coe by telephone. We discussed the timing for lodging the grand list relative to the real property tax assessment for Respondent’s meteorological mast and the request for documents that accompanied the notice of deposition, and we agreed to reschedule the V.R.C.P. 30(b)(6) deposition noticed for July 15, 2016 to a later time to be determined.
13. On July 13, 2016, Attorney Davies-Coe and I exchanged emails in which I confirmed that the deposition for July 15, 2016 would be rescheduled for a later time to be determined and that the rescheduled deposition would take place at her office in Barton, Vermont. A copy of our email exchange is attached as Exhibit E.
14. On July 16, 2016, I forwarded the July 15, 2016 email and joint Motion to Quash and for Protective Order from DPS Attorney Kisicki to Attorney Davies-Coe expressing my surprise that the Town of Irasburg had joined the motion after our July 12 agreement to reschedule the depositions noticed to the Town of Irasburg and its representative in the above-captioned proceeding. Attorney Davies-Coe responded to my email on July 18, 2016. A copy of our email exchange is attached as Exhibit F.

15. Since our email exchange on July 18, 2016, I have not received any further communication from the Town of Irasburg, either through Attorney Davies-Coe or Ron Holland about rescheduling the noticed depositions.
16. At no time prior to executing the joint Motion to Quash and Motion for Protective Order did the Town of Irasburg's designated representative, Ron Holland, contact me or my co-counsel about the notice of deposition issued to him or the notice of deposition issued under V.R.C.P. 30(b)(6) to the Town of Irasburg.



Leslie A. Cadwell, Esq.

STATE OF MAINE  
COUNTY OF York, SS.

On this 21st day of July, 2016, personally appeared Leslie A. Cadwell, and she swore to the truth of the foregoing statements.

Before me,



Notary Public

Printed Name: MAUREEN C HIRST

Notary commission issued in:

My commission expires:

**Maureen C. Hirst, Notary Public**  
State of Maine  
**My Commission Expires 11/4/2016**

# Exhibit A



State of Vermont  
Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
<http://publicservice.Vermont.gov>

[phone] 802-828-2811  
[fax] 802-828-2342  
[tdd] 800-734-8390

July 11, 2016

Leslie Cadwell, Esq.  
Alison Milbury Stone, Esq.  
Legal Counselors & Advocates, PLC  
PO Box 827  
Castleton, VT 05735

Re: Docket No. 8585 – Irasburg/Blittersdorf MET Tower Investigation

Dear Leslie and Alison:

The Department of Public Service (“Department”) is in receipt of your notice of deposition of Andrew Perchlik, and notice of deposition *deces tecum* of unnamed Department representatives, both dated June 29, 2016 and filed in the above-referenced proceeding. I write to inform you that no Department representative will be made available for deposition until August 5, 2016. Likewise, no documents listed in the notice of deposition – to the extent that any of the requested documents are not privileged, are relevant to the subject matter of the proceeding, and appear reasonably calculated to lead to the discovery of admissible evidence – will be made available until August 5, 2016.

Vermont Rule of Civil Procedure 26(d), as applied by Vermont Public Service Board Rule 2.214(A), makes clear that the Hearing Officer may order the sequencing of discovery used in the proceeding, and that “discovery” as understood in V.R.C.P. 26(d) includes depositions. As you are aware, the Hearing Officer established a schedule for the latest phase of the proceeding in his Scheduling Order dated June 16, 2016. The Scheduling Order sets a deadline for the Department (and all other non-respondents) to file responses to your first round discovery requests by August 5, 2016. The Hearing Officer has therefore ordered the sequencing of the use of and obligations under discovery requests issued under the Scheduling Order, and we will respond to your discovery requests consistent with that order.

In sum, Mr. Perchlik and/or unnamed Department representatives will not be available for deposition until August 5, 2016, pursuant to the schedule established by the Hearing Officer in the proceeding.



Sincerely,

A handwritten signature in black ink, appearing to read 'G. Commons', written over a horizontal line.

Geoffrey Commons  
Director of Public Advocacy  
Aaron Kisicki  
Special Counsel

cc: Vermont Public Service Board  
Docket 8585 Service List

# Exhibit B

**Leslie Cadwell**

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**From:** Leslie Cadwell  
**Sent:** Tuesday, July 12, 2016 12:56 PM  
**To:** Aaron Kisicki  
**Cc:** Geoff Commons; Alison Milbury Stone  
**Subject:** 8585 Depo - Perchlik

Hi Aaron -

Thanks for your time this morning and for offering to make Andy Perchlik available for deposition on August 5. You told me that Andy has a conflict on July 15th and that the Department does not have to provide any discovery until the last day of our discovery period. While we disagree with the Department's position, we will accommodate Andy's conflict and reschedule the deposition for August 5. I have to start a little later that day due to a previous commitment from 9-10, so let's set 10:30 as the start time. I'll send a revised notice of deposition before Friday confirming our agreement.

When you have the 30 (b)(6) witnesses identified, we can discuss alternative dates within our discovery period. I don't think it is possible to do all depositions in one business day, which is why I spaced them out. I'm happy to work with you as I said to arrange dates and times consistent with our right to discovery within the first discovery period that the hearing officer provided to the respondent and the absence of limitations on discovery methods in the hearing officer's scheduling order.

Again, thank you for your time and willingness to resolve the discovery disagreement without need for Board intervention. Best, Leslie

Sent via the Samsung Galaxy S®6 active, an AT&T 4G LTE smartphone

# Exhibit C

## Leslie Cadwell

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**From:** Leslie Cadwell  
**Sent:** Thursday, July 14, 2016 4:19 PM  
**To:** Kisicki, Aaron; Alison Milbury Stone  
**Cc:** PSB - Clerk; Welts, Leslie; Robert Holland (kcf.rrh@gmail.com); Commons, Geoff  
**Subject:** RE: PSB 8585 - Irasburg/Blittersdorf MET Tower Investigation

The deposition of Andy Perchlik has been rescheduled for 8/5 per agreement with the Department, and the 30 (b)(6) deposition with Irasburg is being rescheduled for another time to be decided in the near future. Revised notices will be issued when I return from a family emergency in Maine.

Sent via the Samsung Galaxy S6 active, an AT&T 4G LTE smartphone

----- Original message -----

**From:** "Kisicki, Aaron" <Aaron.Kisicki@vermont.gov>  
**Date:** 7/11/16 3:50 PM (GMT-05:00)  
**To:** Leslie Cadwell <lac@lac-lca.com>, Alison Milbury Stone <Alison@lac-lca.com>  
**Cc:** PSB - Clerk <PSB.Clerk@vermont.gov>, "Welts, Leslie" <Leslie.Welts@vermont.gov>, "Robert Holland (kcf.rrh@gmail.com)" <kcf.rrh@gmail.com>, "Commons, Geoff" <Geoff.Commons@vermont.gov>  
**Subject:** PSB 8585 - Irasburg/Blittersdorf MET Tower Investigation

Leslie and Alison,

Please see the attached letter in response to your June 29 notices of deposition. Hard copy will follow.

Thanks,

Aaron Kisicki  
Special Counsel  
Vermont Public Service Department  
112 State Street  
Montpelier, VT 05620-2601  
802.828.3785  
Aaron.Kisicki@vermont.gov



Exhibit D

**Leslie Cadwell**

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**From:** Leslie Cadwell  
**Sent:** Thursday, July 07, 2016 3:27 PM  
**To:** Sara Davies Coe  
**Cc:** Alison Milbury Stone  
**Subject:** RE: Docket 8585 - Notices of Deposition

Hi Sara -- apologies for the delayed response. Would you have time tomorrow to discuss plans and dates by phone? I'm between appointments right now (doctor) and won't be free today until after 5.

Thanks so much for reaching out -- it's nice to have experienced counsel assisting the town. It will make the discovery process so much more efficient for all.

Regards, Leslie

Sent via the Samsung Galaxy S@6 active, an AT&T 4G LTE smartphone

----- Original message -----

**From:** Sara Davies Coe <saradavies@together.net>  
**Date:** 7/6/2016 10:46 AM (GMT-05:00)  
**To:** Leslie Cadwell <lac@lac-lca.com>, Ron Holland <kcf.rrh@gmail.com>, dandnwarner@yahoo.com  
**Subject:** Docket 8585 - Notices of Deposition

Hi Leslie,

I have been contacted by the Town of Irasburg regarding your deposition requests. The Selectboard is meeting this coming Monday and at that meeting, the Board will review the request and determine which individuals should be deposed regarding the various matters.

We request that the depositions take place at the Town of Irasburg, or if that will not work for some reason, at my office in Barton, so that the Town officials do not need to travel all the way to Montpelier.

The July 15 date will not work because the Town Clerk is on vacation that week, and we believe that she is one of the Town officials with some of the information that you have requested.

After the meeting on Monday, we will try to come up with some days that work for all of the Town officials and then try to schedule the depositions with you. Please let me know if this is all acceptable.

Thank you,  
Sara

**From:** Leslie Cadwell [<mailto:lac@lac-lca.com>]  
**Sent:** Wednesday, June 29, 2016 4:36 PM  
**To:** Aaron.Kisicki@vermont.gov; 'Welts, Leslie' <Leslie.Welts@vermont.gov>; Ron Holland <kcf.rrh@gmail.com>; Commons, Geoff <Geoff.Commons@vermont.gov>

Cc: Alison Milbury Stone <Alison@lac-lca.com>; Valentinetti, Angela  
<Angela.Valentinetti@vermont.gov>; irasburgtc@comcast.net  
Subject: Docket 8585 - Notices of Deposition

Docket 8585 parties:

The attached notices of deposition were hand delivered to the Public Service Board this afternoon. Hard copies to the parties are in the mail.

Alison and I are happy to work out a better schedule for the depositions if the deponents and/or counsel have conflicts that can't be resolved. If a conference call would help make it easier for scheduling, we are happy to organize one.

Some of the information we are seeking is relevant to our anticipated response to the DPS's motion for partial summary judgment motion so we need to work within the time constraints in the schedule for our response to the motion. In addition, a revised schedule will need to work around my vacation in mid-July (the week of 7/18). Feel free to call or email me and/or Alison to discuss if you'd like to discuss the dates/times for the depositions.

Regards, Leslie

Legal Counselors & Advocates, PLC

PO Box 827 | Castleton VT | 05735

Office 802.232.4591 | Mobile 802.342.3114

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---  
Sara Davies Coe, Esq.  
May & Davies  
424 Main St.  
PO Box 303  
Barton, VT 05822  
Phone: (802)525-3766  
Fax: (802)525-3647

\*\*\*\*\*

# Exhibit E

**Leslie Cadwell**

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**From:** Leslie Cadwell  
**Sent:** Wednesday, July 13, 2016 11:51 AM  
**To:** 'Sara Davies Coe'  
**Cc:** Alison Milbury Stone  
**Subject:** RE: Irasburg

You got it. No depositions on 7/15 so we can reschedule at another time and at your office in Barton, rather than Montpelier. If we can get alt dates by Friday I can reissue the notices to let all parties know. Thanks!

LEGAL COUNSELORS & ADVOCATES, PLC  
PO Box 827 | Castleton VT | 05735  
Office 802.232.4591 | Mobile 802.342.3114

-----Original Message-----

**From:** Sara Davies Coe [mailto:saradavies@together.net]  
**Sent:** Wednesday, July 13, 2016 11:49 AM  
**To:** Leslie Cadwell <lac@lac-lca.com>  
**Subject:** Irasburg

Hi Leslie,

Can you please just confirm that we spoke and that there are not going to be depositions on July 15? The Town asked that I get it in writing from you that we are working on scheduling this, but that they will not be on July 15.

Thanks,  
Sara

Sara Davies Coe, Esq.  
May & Davies  
424 Main St.  
PO Box 303  
Barton, VT 05822  
Phone: (802)525-3766  
Fax: (802)525-3647

\*\*\*\*\*  
CONFIDENTIALITY, ATTORNEY CLIENT PRIVILEGE, & ATTORNEY WORK PRODUCT

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\*\*\*\*\*

# Exhibit F

## Leslie Cadwell

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**From:** Sara Davies Coe <saradavies@together.net>  
**Sent:** Monday, July 18, 2016 12:27 PM  
**To:** Leslie Cadwell  
**Cc:** Alison Milbury Stone  
**Subject:** Re: FW: PSB 8585 - Non-respondent Motion to Quash & Protective Order

Hi Leslie,

As you know, representing a municipality can be difficult, especially in these circumstances where I am only asked to assist when the Town feels that they need my assistance. I was asked to work with you to schedule the depositions, and also to have them at my office since the Town believes that it would be beneficial to have me present, so that's what I did.

Apparently the Town had the opportunity to join in a Motion to Quash, and chose to so do. I think that the Town's position is made clear in the Motion that they joined, and as I have only been given the authority to act on behalf of the Town in scheduling the depositions, I am not in the position to do anything beyond that.

Thanks,  
Sara

On 7/16/2016 11:07 AM, Leslie Cadwell wrote:

> Hi Sara:

>

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> We were very surprised to see the Town of Irasburg join in this motion  
> by the DPS and ANR considering our conversation last week to  
> reschedule the depositions of Ron Holland and 30(b)(6) witnesses at a  
> mutually agreeable time and location. Would you be available to  
> discuss Irasburg's position on Monday? I'm supposed to be on vacation  
> next week, but I'd like to get this resolved amicably and in  
> accordance with our respective obligations under VRCP 26(h) as soon as  
> possible. I'll have internet access but may not have good cell  
> coverage while I'm away so if you can't get me, please give Alison a call.

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> Thanks very much and best regards, Leslie

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