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**Vermont Agency of Natural Resources**

Office of General Counsel

Enforcement & Litigation Section

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April 7, 2020

**By ePUC**

Judith Whitney, Clerk

Vermont Public Utility Commission

112 State Street, Drawer 20

Montpelier, VT 05620-2701

[puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov)

Re: Case No. 8585

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

**ANR Response to Respondent's Schedule Proposal**

Dear Ms. Whitney:

The Hearing Officer is presently considering a schedule for the remainder of this proceeding. The Agency takes no position on the remaining schedule and at this time defers to the other parties on scheduling matters. The Agency is taking this opportunity to address two misrepresentations made by Respondent's counsel in the letter filed on March 27, 2020. The Agency wishes to correct the record.

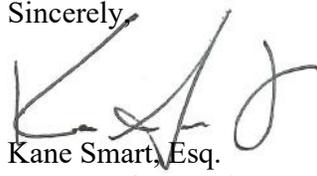
First, Respondent's counsel represents that it intends to call Agency witnesses "if the Agency's counsel remains unwilling to stipulate to their admission into the evidentiary record." This statement is not accurate. At no time has Respondent's counsel requested that the Agency stipulate to the admission of any evidence, and at no time has the undersigned refused such a stipulation. It is incorrect and misleading to contend that Agency's counsel "remains unwilling" when the request was never made.

Second, Respondent's counsel alleges that Respondent "was accused by the Department, the Town, and the Agency of Natural Resources (hereinafter 'government parties') of violating Section 246." This is not correct and is not supported by the materials cited in the letter. The Agency took no position on the issue of liability and has interests that are distinct from the other "governmental parties." It should not be grouped with the other parties without adequate support.

On March 31, the undersigned asked Respondent's counsel to explain the basis for these two statements. Recognizing the length of the proceeding and that Agency staffing has changed over time, the undersigned wanted to confirm its recollection of the positions the Agency has taken in this matter. Respondent's counsel provided no response. Unless and until these baseless statements are supported, the Agency respectfully requests that the Commission disregard these misrepresentations in reaching any decisions in this proceeding.

Thank you for your attention to this matter. Please contact me with any questions. **This letter was filed via ePUC today.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Kane Smart', written over a faint, illegible background.

Kane Smart, Esq.  
Agency of Natural Resources