



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

VERMONT PUBLIC
SERVICE BOARD

2016 JUN 9 AM 8 04

JW
GY

Leslie A. Cadwell
lac@lac-lca.com
802-342-3114

June 9, 2016

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

Re: Docket No. 8585

Dear Ms. Whitney:

I write in regards to the "Proposed Litigation Schedule of the Department of Public Service" filed yesterday in the above-referenced proceeding on behalf of the Department, the Agency of Natural Resources and the Town of Irasburg. The Department's filing raises two issues that require an immediate response to ensure the procedural record in this matter is clear and the proceeding is managed consistent with law.

First, the Proposed Litigation Schedule represents that the Town of Irasburg has been engaged in settlement discussions since early April. In fact, there have not to date been any direct settlement discussions between Respondent and the Town of Irasburg or its representative in this proceeding, at the Department's request. Moreover, it is the Town of Irasburg Select Board, not the Town's representative in this Board proceeding, that has the right to accept or reject a settlement offer. For that reason, we are providing a written settlement offer from Respondent to the Irasburg Select Board, to be sure that the Select Board has the opportunity to consider the Respondent's offer, which is designed to benefit the Town's interests.

Second, the Proposed Litigation Schedule does not contemplate litigation, which includes discovery, prefiled testimony, and a hearing. Rather, the Department's proposal sets a date for a summary judgment motion pursuant to V.R.C.P 56 and denies the Respondent his right to discover facts and documents in the other parties' possession that are relevant to issues before the Board. Setting a date for motion

Judith C. Whitney, Clerk
Docket No. 8585
June 9, 2016
Page 2

practice without any opportunity for Respondent to exercise his right to discovery under the Board's rules is fundamentally unjust.

Thank you for your assistance in bringing this letter to the Hearing Officer's attention.

Very truly yours,



Leslie A. Cadwell

Cc: Geoffrey Commons & Aaron Kisicki, Vermont Department of Public Service
Leslie A. Welts, Vermont Agency of Natural Resources
Robert R. Holland, for the Town of Irasburg
Sara Davies Coe, Esq.

