



In the Matter of the Application of

APA Project No. 2021-0276

UNCONVENTIONAL CONCEPTS, INC.
AND MICHAEL HOPMEIER

**APA HEARING STAFF
SUMMARY OF ONGOING ISSUES**

Dear Judge Greenwood,

On May 20, 2026, APA hearing staff received e-mail correspondence requesting clarification of the hearing staff's role in the above captioned hearing (Exhibit A). In particular, the e-mail raised concerns regarding the APA hearing staff's preliminary statement served on the Administrative Law Judge and parties to the hearing on April 2, 2026 (Exhibit B).

The staff statement was provided pursuant to the "Second Revised Scheduling Order" (Exhibit C) and 9 NYCRR 580.6(b) which requires agency staff to "state at the outset of the hearing which of the development considerations and other required findings it considers pertinent to the project and [to] *briefly* outline the evidence it intends to present." [Emphasis Added]. At the request of the intervening parties, Agency staff agreed to provide this statement earlier in the proceedings than is required under the regulations to promote transparency and facilitate the continuity of the hearing process.

The staff statement outlines each of the development considerations and provisions of the Act identified in the Project Order and provides a high-level overview of the evidence agency staff will likely present. As provided for in the staff statement, these are "preliminary comments as they relate to the identified hearing issues and relevant development considerations" and that the "proposed testimony and evidence are subject to modification at the Agency's discretion."

The May 20th e-mail contains several "requests" in connection with specific portions of the staff statement. The e-mail suggested that if the agency hearing staff does not comply with these "requests," then they are not meeting their obligations under Agency Regulations §580.6(a). This provision states that

"the agency staff shall present evidence concerning the pertinent development considerations and the other required findings of §809(9) or §809(10) of the Adirondack Park Agency Act, the Wild Scenic and Recreational Rivers System Act, section 814 of the Adirondack Park Agency Act, or other applicable provisions of these regulations. The agency staff, while not a party to the hearing,



shall have the right to participate fully in the hearing and shall act as an advocate for a full and complete record upon which an informed decision can be made. The staff is not required to assume the project sponsor's burden of proof."

These obligations must be balanced against §580.15(a)(2) which "preclude[s] immaterial, irrelevant or *unduly repetitious* evidence."

Agency hearing staff will continue to assess whether additional evidence should be provided by agency staff for the purpose of developing "a full and complete record upon which an informed decision can be made" as we move through the prehearing phases and hearing proceeding. The previously provided staff statement is intended to serve as a framework for the hearing structure and a high-level overview of the supplemental evidence the Agency intends to present at the hearing based on the Project Order, application, intervenors' petitions and any other project materials available prior to April 2, 2026. The statement is not a directive or a binding commitment. Considering the need for a comprehensive picture of the evidence intended to be presented at the hearing, the APA hearing staff propose the attached scheduling order (Exhibit D).

Finally, to allege at this phase in the hearing process, and almost two months after Agency hearing staff submitted its staff statement, that Agency staff has failed to meet their obligations under §580.6(a) is improper and a drain on administrative resources. At nearly every stage of the prehearing proceedings the intervening parties have questioned or challenged the APA hearing staff's approach to the hearing. These repetitive attempts to undermine the hearing staff's position reflect a deep misunderstanding of the purpose of §580.6 proceedings and the hearing staff's role in such proceedings. While the applicant and the intervening parties each have a clear desired outcome, APA hearing staff take no such position based on the information we have at this time. The APA Project Review Staff recommended this project proceed to a public hearing under §580.6 because they lacked critical information which would allow them to make a recommendation to the Agency Board as to the approvability of the proposed project *not* because they are seeking a denial. While it is true that a project cannot be denied without the opportunity for a public hearing, the recommendation to proceed to a hearing and Board's decision to order a hearing are not synonymous with a denial outcome.

The purpose of this hearing is to build a record upon which the board can make an informed decision regarding the requirements under §809(10)(a), (b) and (e). The applicant will present evidence it deems relevant to this determination. The intervenors will also present evidence in connection with their position on the project. The APA hearing staff will present supplemental evidence they believe is necessary for the board to make an informed decision. At the outset of the hearing, consistent with Agency regulations



**Adirondack
Park Agency**

KATHY HOCHUL
Governor

BARBARA RICE
Executive Director

§580.6(b), APA hearing staff will provide an updated statement concerning the pertinent development considerations and evidence it intends to present. After the hearing commences, “upon a sufficient showing by any person or party...the hearing officer may order the hearing staff to produce evidence with respect to the development considerations or other required findings.” 9 NYCRR §580.6(c).

To date, the hearing proceedings have been hampered by preemptive, frivolous, tangential challenges and allegations. APA hearing staff respectfully request that each of the parties prioritize preparing for the evidentiary portion of the hearing and refrain from raising issues beyond the scope of the present proceedings.

Respectfully Submitted,

A handwritten signature in black ink that reads "Grace Sullivan". The signature is written in a cursive, flowing style.

Grace Sullivan
APA Hearing Staff – Attorney

EXHIBIT A

From: [VanCott, Paul](#)
To: [Sullivan, Grace \(APA\)](#); [Hubbard, Jennifer M \(APA\)](#)
Cc: [Ommen, Todd D.](#); Executivedirector@protectadks.org; [Christopher Amato](#); [David Gibson](#); pgitlen@WOH.com; [Seitelman, Anna V.](#); [Matthew D. Norfolk](#); [Greenwood, David N \(DEC\)](#)
Subject: Email from Intervenors Regarding APA Staff's role in the Adjudicatory Hearing
Date: Wednesday, May 20, 2026 4:01:15 PM
Importance: High

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

APA Hearing Staff –

Our collective thoughts on a revised hearing schedule in part reflect questions we have about Staff's intended role in the hearing, based on our review of the 4/2/2026 APA Hearing Statement. Please let us know who the witnesses for APA staff from Regulatory Programs, State Lands and RASS will be. We also ask for clarification and/or reconsideration by APA Hearing Staff of the following statements in the Hearing Staff Statement:

Staff statement

APA hearing staff do not have a recommendation regarding whether the project should be approved or denied, or regarding any conditions that may be included in an approval issued by the APA Board following the hearing.

Request

Please clarify and/or reconsider whether Staff will provide opinion testimony on the project's compliance with the APA Act 809(10) criteria ordered for adjudication by the APA Board, including testimony on whether any proposed conditions of approval would result in such compliance. Staff will participate fully in the hearing and hear and consider all of the testimony and evidence provided. Under 9 NYCRR 580.6(a), staff have an affirmative obligation to present testimony concerning pertinent APA Act 805(4) development considerations and the required findings of APA Act 809(10).

Staff will have the opportunity through its participation in the hearing to present testimony and to evaluate the credibility of witnesses, testimony and evidence presented by the applicants and the intervenors. Ultimately, after hearing all of the testimony and evidence provided on the potential impacts and benefits of the project, presumably John Burth, the appointed Deputy Director of Regulatory Programs ("DDRP"), will provide testimony on whether or not the project complies with the APA Act 809(10) statutory criteria for approval that the APA Board ordered for adjudication. As you know, in his capacity as DDRP John signs almost all of the permits issued by APA and is primarily responsible for all staff recommendations made on applications reviewed by the APA

Board. For all of those staff decisions or recommendations, John is thus at the heart of determining or recommending whether applications comply with the same APA Act 809(10) criteria the Board seeks to have adjudicated here. Through the hearing, the APA Board seeks opinion testimony from all parties and APA hearing staff on whether the project complies with those criteria and it is respectfully submitted that John's testimony on such compliance or noncompliance is critical to a full, complete and competent record.

Staff Statement on Commercial Use Testimony

A member of the Agency's Regulatory Programs division will provide testimony covering the use classification process and the considerations applicable to the Agency's use determinations.

Request

Please clarify and/or reconsider whether John Burth will provide testimony on whether the project is a listed use in APA Act 810 and the primary or secondary list of uses for Rural Use provided in APA 805 for the same reasons as discussed above. Again, this is a legal determination that John makes for every permit he signs and every application he is responsible for making a recommendation made to the APA Board. His opinion on this legal issue, which the APA Board ordered for adjudication, is critical to a full, complete and orderly record.

Staff Statement on whether the Applicants have submitted reliable, comprehensive and accurate noise information

APA hearing staff expect to retain an expert witness who will review the September 2023 sound study submitted by the applicant and submit a report regarding the accuracy and reliability of that study....APA staff members may also provide testimony concerning adjoining nearby land uses.

Request

Staff have identified the "pertinent" development considerations for this issue and intend to present testimony on the accuracy and reliability of the Applicants' noise analysis as required by 580.6(a) – APA staff's obligation to present testimony in this regard necessarily extends to expert testimony about the potential adverse impacts of the project's noise. The application contains additional noise information submitted by the applicants, both before and after the September 2023 sound study. It is respectfully submitted that until the applicants file their pre-filed testimony and supporting evidence, it is premature for staff's expert, and potentially a waste of public monies and staff resources, to review anything previously submitted in order to form an opinion as to

whether the applicants have submitted “reliable, comprehensive and accurate noise information.” Further, given staff’s obligation under 580.6(a), staff have a non-discretionary, affirmative obligation to present testimony about noise impacts on adjoining and nearby land uses, as well as with respect to the other pertinent development considerations (Note: Please correct the reference in the Hearing Statement to be adjoining and nearby land uses).

Staff Statement on Noise Mitigation Measures

APA hearing staff expect this question to be addressed by one or more expert witnesses appearing at the hearing.

Request

Staff have identified the “pertinent” development considerations for this issue and have an affirmative obligation to present testimony on Noise Mitigation Measures pursuant to 580.6(a). Please clarify and/or reconsider whether APA staff intend to present expert and/or staff testimony and evidence regarding this issue, as required by 580.6(a). It is respectfully submitted that, based upon 580.6(a) and since the APA Board ordered adjudication of this issue, it is incumbent upon staff to provide testimony on this issue as part of its review of the testimony and evidence submitted by the applicants and intervenors, and to offer expert opinion on whether any effective noise mitigation measures exist.

Staff Statement on Wildlife Impacts

APA hearing staff will provide testimony regarding existing habitats at and around the project site and species associated with those habitats. APA hearing staff also expect to retain an expert witness to provide a report and testimony regarding potential noise impacts to identified wildlife at and around the project site.

Request

Please clarify and/or reconsider this statement. What is the range “around the project site” staff will review? Will staff review the full range of species that typically and could potentially use those habitats? Will the uses account for migration and movement of species on a seasonal basis?

Staff Statement on Economic Issues, including Potential Impacts of the Project on the Value of Nearby Properties

APA hearing staff do not intend to present affirmative testimony on this issue. APA hearing staff expect evidence concerning potential economic impacts, including impacts on property

values, to be presented by the intervening parties.

Request

Staff have identified the “pertinent” development considerations for this issue and are required to present competent testimony on this issue pursuant to 580.6(a). Please reconsider this statement and any suggestion that only the applicants and the intervening parties have a responsibility to present testimony and evidence on the project’s potential economic impacts and, per APA Act 809(10)(e), benefits. Staff have a shared responsibility for ensuring that the record includes full, complete and competent testimony and evidence on all of the hearing issues ordered for adjudication by the APA Board. Having recommended that the APA Board include the issues of potential adverse impact on nearby property values and “undue adverse impact,” it is incumbent upon staff to provide experts, as needed, to review and provide competent testimony and evidence regarding the applicants’ claims with respect to these issues, including the potential benefits of the proposed project. Expert or otherwise competent testimony and evidence is required from staff on the potential for adverse economic impacts of the project on nearby property values, as ordered by the APA Board, to evaluate any claims made by the applicants and to provide affirmative testimony as appropriate. Equally, expert or otherwise competent testimony and evidence is required from staff with respect to any assertions of benefits of the project made by the applicants. Staff’s testimony and evidence on these questions, demonstrating that it has reviewed and considered the applicants’ claims and information, if any, provided by the intervenors is required in order for John Burth to provide full, comprehensive and competent testimony on the APA Act 809(10) legal issues ordered for adjudication by the APA Board on staff’s recommendation.

Conclusion

Overall, our requests for clarification and reconsideration reflect a belief that APA hearing staff’s review role for the project must be continued through the hearing process, comply with 580.6(a) and encompass all of the issues ordered for adjudication in the hearing by the APA Board. This is all the more critical here because all of the testimony regarding the potential impacts and benefits of the project must be considered by all of the parties and APA hearing staff in forming opinions with respect to the legal issues ordered for adjudication by the APA Board. Just as staff have a responsibility to consider all of a project’s impacts and benefits with respect to any project for which John issues a permit or makes a recommendation to the APA Board, that review responsibility must be fulfilled by staff here in order for John to provide the opinion testimony required on the APA Act 809(10) issues and to ensure that a full, comprehensive and competent record is provided to the APA Board.

We respectfully request that Staff respond to these requests at your earliest convenience

as they relate to the scheduling discussion you seek with ALJ Greenwood.

Thank you.

Paul

Paul Van Cott | Whiteman Osterman & Hanna LLP

Of Counsel

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EXHIBIT B



In the Matter of the Application of

APA HEARING STAFF STATEMENT

**UNCONVENTIONAL CONCEPTS, INC.
AND MICHAEL HOPMEIER**

APA Project No. 2021-0276

The Adirondack Park Agency (“APA”) received an application for a proposed howitzer testing range from Unconventional Concepts, Inc. and Michael Hopmeier (the “Project Sponsors”) on November 19, 2021. The project involves two parcels classified as Rural Use under the Adirondack Park Land Use and Development Plan Map. The first parcel, Tax Map Number 38.1-1-29.00 (Lot 29), an approximately 8± acre parcel located at 87 Hale Hill Lane, is owned by Diversified Upstate Enterprises, LLC, and would be used to store equipment associated with testing. The second parcel, Tax Map Number 38.1-1-31.000 (Lot 31), an approximately 197± acre parcel located at 195 Hale Hill Lane, is owned by Pulsifer Logging LLC and would be used as the testing site. Project Sponsors would be granted access to Lot 31 by the landowner to conduct testing.

The Project Sponsors propose placement and operation of a portable 155mm howitzer barrel assembly within a 100-foot by 100-foot crushed gravel pad on Lot 31. Each test would involve firing a steel projectile towards the designated target area. No explosive warheads are proposed. The howitzer is proposed to be fired up to 30 times per year on weekdays, between the hours of 10:00 am and 4:00 pm. A kinetic energy-absorbing system (a “soft catch system”) is proposed at the eastern end of the range to capture projectiles.

By Order dated November 14, 2025, the APA Board directed the proposed project to proceed to a public hearing. Upon completion of the hearing, the Administrative Law Judge will submit a complete record of the proceeding to the APA Board. The Board must render a decision within 60 days of receipt of the complete record, unless otherwise extended by the hearing officer or by stipulation. 9 NYCRR §580.18(d).

At the hearing, the burden is on the applicant to demonstrate that the project meets all applicable statutory and regulatory requirements. 9 NYCRR §580.14(b).

The duties of APA hearing staff are set forth in 9 NYCRR §580.6. APA hearing staff are not a party to the hearing but have the right to participate fully and shall act to develop a full and complete record upon which the APA Board may base its decision. APA hearing staff, the applicant, and all parties are prohibited from communicating with the APA Board about the project outside of the hearing process. 9 NYCRR §580.17.

The following issues have been identified for review:

- (1) Whether the proposed howitzer testing range is a commercial use (APA Act §810(2)(c)(16)), another use in APA Act §810(2)(c), or a use that is not “included on either the list of primary uses or the list of secondary uses for rural use areas” (APA Act §810(2)(c)(16)).
- (2) Whether the howitzer testing range would have any adverse impacts upon the natural, scenic, ecological, wildlife, recreational, or open space resources of the park considering the development considerations contained in APA Act §805(4) and 9 NYCRR §574.5, including, but not limited to the following:
 - i. Whether the howitzer testing range involves any potential discharges, residues, or other pollutants that may adversely affect water resources, land resources, or air resources (APA Act § 805(4)(a)(1)-(3)).
 - ii. Whether the howitzer testing range would have any adverse impacts to land resources within the park, such as soils, forest, and open space resources, including the quality and availability of nearby lands for outdoor recreational purposes (APA Act §805(4)(a)(1) and (2)).
 - iii. Whether the Applicant has provided a reliable, comprehensive and accurate modeling of the noise that would be produced by the howitzer testing range and whether such noise will have any adverse impacts upon the Park’s resources or nearby uses (APA Act §805(4)(a)(1)).
 - iv. Whether noise mitigation measures exist that are feasible to implement that would minimize or avoid any adverse impacts to the Park’s resources from the howitzer testing range (APA Act §805(4)(a)(1)).
 - v. Whether the howitzer testing range would create any ecological impacts or disruption to native or migrating wildlife and their habitats at or near the howitzer testing range, considering species’ sensitivities (APA Act §805(4)(a)(5) and (6)).
 - vi. Whether the howitzer testing range could have adverse health and safety impacts relating to the operation, storage, and transport of military equipment (APA Act §805(4)(c)(2)(a))

- vii. Whether the howitzer testing range would adversely impact nearby Wilderness and Wild Forest areas or their use and enjoyment (APA Act §805(4)(c)(2)(a)).
 - viii. Whether the howitzer testing range would have an adverse economic impact on adjoining and nearby land uses, such as property values (APA Act §805(4)(c)(2)(a)).
- (3)** Whether the howitzer testing range would be consistent with the Adirondack Park land use and development plan, including, but not limited to, whether the howitzer testing range would be consistent with the purpose of insuring overall conservation, protection, preservation, development and use of the unique scenic, wildlife, recreational, open space, ecological, and natural resources of the Adirondack Park (APA Act §809(10)(a)).
- (4)** Whether the howitzer testing range would be compatible within the Rural Use land area classification, and whether it would be compatible with the character description and purposes, policies and objectives of the Rural Use land area classification (APA Act §809(10)(b)).
- (5)** Whether the howitzer testing range would have any undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational, or other benefits that might be derived from the project (APA Act §809(10)(e)).

During the proceedings, APA hearing staff intend to offer testimony and evidence on the following development considerations: APA Act §805(4)(a)(1) (Water); §805(4)(a)(2) (Land); §805(4)(a)(3) (Air); § 805(4)(a)(4) (Noise); §805(4)(a)(5) (Critical Resource Areas); §805(4)(a)(6) (Wildlife); §805(4)(c)(1) (Natural Site Factors); §805(4)(c)(2)(a) (Adjoining nearby land uses);, and §805(4)(d) (Governmental Considerations). APA hearing staff will also follow the testimony and evidence presented by the applicant and the parties and may ask clarifying questions for the purpose of developing a full and complete record.

APA hearing staff do not have a recommendation regarding whether the project should be approved or denied, or regarding any conditions that may be included in an approval issued by the APA Board following the hearing. At the close of the hearing, APA hearing staff may summarize the record for the benefit of the Agency. The participating parties may provide written comments with respect to the completeness of that summary. 9 NYCRR §580.18(a). Agency staff who did not participate in the proceedings may

provide a recommendation to the APA Board about the project and/or potential permit conditions. 9 NYCRR §580.18(b)

For the parties' consideration, APA hearing staff offer the following preliminary comments as they relate to the identified hearing issues and relevant development considerations. Please note that the proposed testimony and evidence are subject to modification at the Agency's discretion.

Question: Whether the proposed howitzer testing range is a commercial use (APA Act §810(2)(c)(16)), another use in APA Act §810(2)(c), or a use that is not "included on either the list of primary uses or the list of secondary uses for rural use areas" (APA Act §810(2)(c)(16)).

Relevant Development Considerations: N/A

Relevant Findings: APA Act §809(10)(b)

Testimony: A member of the Agency's Regulatory Programs division will provide testimony covering the use classification process and the considerations applicable to the Agency's use determinations.

Question: Whether the howitzer testing range involves any potential discharges, residues, or other pollutants that may affect water resources, land resources, or air resources.

Relevant Development Considerations: APA Act §805(4)(a)(1) (Water), APA Act §805(4)(a)(2) (Land), APA Act §805(4)(a)(3) (Air)

Relevant Findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: APA hearing staff expect to retain an expert witness who will provide a report and testimony regarding this issue. APA hearing staff reserve the right to present supplemental or rebuttal testimony based on any expert report produced in connection with this issue or upon receipt of new information obtained through discovery.

Question: Whether the howitzer testing range would have any adverse impacts to land resources within the park, such as soils, forest and open space resources, including the quality and availability of nearby lands for outdoor recreational purposes.

Relevant Development Considerations: APA Act §805(4)(a)(1) (Water), APA Act §805(4)(a)(2) (Land), APA Act 805(4)(c)(1) (Natural Site Factors)

Relevant Findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: APA hearing staff expect to provide a combination of expert and staff testimony on this issue. A member of the Agency's State Lands division is expected to provide testimony regarding potential impacts to the quality and availability of nearby lands for outdoor recreational purposes. Expert testimony will address the environmental

impacts to soil, forest, and water. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the Applicant has provided a reliable, comprehensive and accurate modeling of the noise that would be produced by the howitzer testing range and whether such noise will have any adverse impacts upon the Park's resources or nearby uses (APA Act § 805(4)(a)(1)).

Relevant Development Considerations: §805(4)(a)(5) (Critical Resource Areas), §805(4)(a)(6) (Wildlife), §805(4)(c)(2)(a) (Adjoining nearby land uses)

Relevant Findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: APA hearing staff expect to retain an expert witness who will review the September 2023 sound study submitted by the applicant and submit a report regarding the accuracy and reliability of that study. The expert will provide testimony in connection with their report and be available for cross examination. APA staff members may also provide testimony concerning noise impacts to adjoining nearby land uses. APA hearing staff reserve the right to present supplemental or rebuttal testimony.

Question: Whether noise mitigation measures exist that are feasible to implement that would minimize or avoid any adverse impacts to the Park's resources from the howitzer testing range (APA Act § 805(4)(a)(1)).

Relevant Development Considerations: §805(4)(a)(5) (Critical Resource Areas), §805(4)(a)(6) (Wildlife), §805(4)(c)(2)(a) (Adjoining nearby land uses)

Relevant Findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: APA hearing staff expect this question to be addressed by one or more expert witnesses appearing at the hearing. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range would create any ecological impacts or disruption to native or migrating wildlife and their habitats at or near the howitzer testing range, considering species' sensitivities.

Relevant Development Considerations: APA Act §805(4)(a)(5) (Critical Resource Areas) and §805(4)(a)(6) (Wildlife)

Relevant findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Staff Testimony: APA hearing staff will provide testimony regarding existing habitats at and around the project site and species associated with those habitats. APA hearing staff also expect to retain an expert witness to provide a report and testimony regarding potential noise impacts to identified wildlife at and around the project site. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range could have adverse health and safety impacts relating to the operation, storage, and transport of military equipment.

Relevant Development Considerations: APA Act §805(4)(c)(2)(a) (Adjoining and nearby land uses), §805(4)(d)(1)(a) (Ability of Government to provide facilities and services)

Relevant findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: APA hearing staff expect to retain an expert witness to provide testimony on this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range would adversely impact nearby Wilderness and Wild Forest areas or their use and enjoyment.

Relevant Development Considerations: APA Act §805(4)(c)(2)(a) (Adjoining and nearby land uses)

Relevant findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: A member of the Agency's State Lands division will provide testimony on this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range would have an adverse economic impact on adjoining and nearby land uses, such as property values.

Relevant Development Considerations: APA Act §805(4)(c)(2)(a) (Adjoining and nearby land uses)

Relevant findings: APA Act §809(10)(a), §809(10)(b), §809(10)(e)

Testimony: APA hearing staff do not intend to present affirmative testimony on this issue. APA hearing staff expect evidence concerning potential economic impacts, including impacts on property values, to be presented by the intervening parties. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range would be consistent with the Adirondack Park land use and development plan, including, but not limited to, whether the howitzer testing range would be consistent with the purpose of insuring overall conservation, protection, preservation, development and use of the unique scenic, wildlife, recreational, open space, ecological, and natural resources of the Adirondack Park.

Relevant Development Considerations: APA Act §805(4)

Relevant findings: APA Act §809(10)(a)

Testimony: A member of the Agency's Regulatory Programs division will provide testimony in connection with this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range would be compatible within the Rural Use land area classification, and whether it would be compatible with the character description and purposes, policies and objectives of the Rural Use land area classification (APA Act § 809(10)(b)).

Relevant Development Considerations: APA Act §805(4)

Relevant findings: APA Act §809(10)(b)

Testimony: A member of the Agency's Regulatory Programs division will provide testimony in connection with this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

Question: Whether the howitzer testing range would have any undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational, or other benefits that might be derived from the project

Relevant Development Considerations: APA Act §805(4)

Relevant findings: APA Act §809(10)(e)

Testimony: A member of the Agency's Regulatory Programs division will provide testimony in connection with this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

EXHIBIT C



In the Matter of the Application of

**UNCONVENTIONAL CONCEPTS, Inc., and
MICHAEL HOPMEIER**

**SECOND REVISED
SCHEDULING ORDER**

APA Project No. 2021-0276

The adjudicatory hearing in the above-captioned matter has been **adjourned** from April 22, 2026 and shall now **commence** on **June 24, 2026**, at 10:00 A.M. at Adirondack Park Agency headquarters located at 1133 NYS Route 86, Ray Brook, New York 12977 and such additional dates as determined to be necessary.

I. Witness List and APA Staff Statement

All parties shall file and serve a list of the witnesses they intend to present on or before **April 8, 2026**. The list should be served on the hearing officer and the parties by email by 5:00 p.m. on that date. In addition, APA staff shall file and serve on or before 5:00 p.m. on **April 8, 2026**, a statement concerning the development considerations and other required findings it considers pertinent to the project and outline the evidence it intends to present, as required by 9 NYCRR 580.6(b).

II. Preliminary Discovery

Any preliminary interrogatories and requests for productions of documents shall be served on or before **April 8, 2026**. Copies of discovery requests shall be served on all parties and the hearing officer by 5:00 p.m. on that date.

Responses to discovery requests shall be served on all parties by 5:00 p.m. on **April 29, 2026**, unless otherwise mutually agreed between the parties or upon an Order of the hearing officer following a motion for extension of time to respond.

III. Pre-filed Direct Testimony

Pursuant to 9 NYCRR 580.14(f), the hearing officer may require the submission of pre-filed written testimony for witnesses. Unless otherwise ordered, all testimony shall be written and pre-filed in accordance with the schedule established in this Order, and service on the hearing officer and the parties shall be by email. Each witness offered as an expert must provide either a resume or curriculum vitae as an exhibit to the pre-filed direct testimony and must provide all information and data supporting the statements offered in the pre-filed direct testimony, as well as a bibliography of reports or other documents relied upon in the preparation of the pre-filed direct testimony.

The pre-filed submissions will be limited to direct testimony with the associated exhibits. The pre-filed direct testimony will be prepared in question and answer format. Each line on every page will be numbered, and each page of the pre-filed testimony must be numbered. Errata will not be accepted after the filing date. During the hearing, the witnesses will have the opportunity to correct any typographical errors of their written pre-filed direct testimony before cross-examination. In the alternative, the witness may file an affidavit in advance of the hearing session describing any changes or corrections to the pre-filed direct testimony and associated exhibits.

Subsequent to the submission and service of pre-filed written testimony, but no later than ten (10) business days after service of such testimony, any party may serve upon the party making the submission interrogatories and requests for production of documents concerning the facts or data supporting any conclusion offered in the pre-filed testimony. Responses to interrogatories and document requests shall be provided no later than twenty (20) days after service of such interrogatories and document requests, unless otherwise mutually agreed between the parties or upon an Order of the hearing officer following a motion for extension of time to respond.

The applicant will file and serve pre-filed testimony of witnesses and related exhibits on or before 5:00 p.m. on **May 20, 2026**.

APA staff and the intervenors shall file and serve pre-filed direct testimony and related exhibits on or before 5:00 p.m. on **June 10, 2026**.

At the hearing, the sponsoring party will ask the witness to attest to the pre-filed testimony. The parties will have the opportunity to cross-examine each witness unless the parties stipulate otherwise. If a party intends to introduce any exhibits during cross-examination, copies of the exhibits must be provided to each party and the hearing officer at that time. The sponsoring party may ask its witness questions on re-direct, followed by recross-examination.

The hearing will continue, as needed, until each party has presented their direct case, and the other parties have exercised their right to cross-examine the witnesses.

Any requests to modify or amend this Scheduling Order must be filed in writing at least 10 calendar days before the established due date. Prior to filing the request, the parties must confer and attempt to resolve the conflict before filing the request with the hearing officer.

SO ORDERED



David N. Greenwood
APA Hearing Officer

Dated: March 13, 2026
Albany, New York
To: Attached Service List

Service List
APA 2021-0276 Public Hearing
Unconventional Concepts, Inc. and Michael Hopmeier

**Project Sponsor / Applicant
Representatives**

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Intervenors

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David N. Greenwood
Administrative Law Judge
NYS DEC
Office of Hearings and Mediation Services
625 Broadway, 1st Floor
Albany, New York 12233-1550

Exhibit D



In the Matter of the Application of

APA Project No. 2021-0276

UNCONVENTIONAL CONCEPTS, INC.
AND MICHAEL HOPMEIER

**THIRD REVISED
SCHEDULING ORDER**

The adjudicatory hearing in the above-captioned matter has been **adjourned** from June 24, 2026, and shall now commence on **Wednesday October 28, 2026**, at 10:00 A.M. at Adirondack Park Agency Headquarters Located at 1133 NYS Route 86, Ray Brook, New York 12977 and such additional dates as determined to be necessary.

I. Discovery

Responses to preliminary interrogatories and requests for production of documents were due at 5:00 p.m. on April 29, 2026.

APA hearing staff shall supplement their April 29, 2026 responses by production of all relevant, material, and non-privileged documents, excluding expert reports, by serving such documents on all parties and the hearing officer on or before 5:00 p.m. on **June 26, 2026**.

Applicant and intervening parties are not required to supplement their April 29, 2026 discovery responses, unless otherwise ordered following any motion to compel.

Any deadline for challenges to the April 29, 2026 responses shall be served on all parties and the hearing officer by 5:00 p.m. on **Wednesday, June 3, 2026**.

II. Site Visit

Parties will meet and confer with the Hearing Officer on or before **June 10, 2026**, to schedule a site visit for APA hearing staff, intervening parties, and any retained experts.

III. Pre-filed Direct Testimony

Pursuant to 9 NYCRR 580.14(f), the hearing officer may require the submission of pre-filed written testimony for witnesses. Unless otherwise ordered, all testimony shall be written and pre-filed in accordance with the schedule established in this Order, and service on the hearing officer and the parties shall be by email. Each witness offered as an expert must provide either a resume or curriculum vitae as an exhibit to the pre-filed

direct testimony and must provide all information and data supporting the statements offered in the pre-filed direct testimony, as well as a bibliography of reports or other documents relied upon in the preparation of the pre-filed direct testimony.

The pre-filed submissions will be limited to direct testimony with the associated exhibits. The pre-filed direct testimony will be prepared in question and answer format. Each line on every page will be numbered, and each page of the pre-filed testimony must be numbered. Errata will not be accepted after the filing date. During the hearing, the witnesses will have the opportunity to correct any typographical errors of their written pre-filed direct testimony before cross-examination. In the alternative, the witness may file an affidavit in advance of the hearing session describing any changes or corrections to the pre-filed direct testimony and associated exhibits.

There will be no additional opportunity for discovery. Any supplemental requests for the production of specified documents may be submitted directly to the Administrative Law Judge who will grant or deny such request pursuant to his authority under 580.14(a)(4)(vii).

The applicant will file and serve pre-filed testimony of witnesses and related exhibits on or before 5:00 p.m. on **Wednesday July 29, 2026**.

Intervenors shall file and serve pre-filed direct testimony and related exhibits on or before 5:00 p.m. on **Wednesday August 19, 2026**.

APA hearing staff shall file and serve pre-filed direct testimony and related exhibits on or before 5:00 p.m. on **Wednesday September 9, 2026**.

IV. Order of Proceedings

The parties shall meet and confer with the Hearing Officer on **Wednesday October 7, 2026** to discuss (i) the order of proceedings; (ii) scheduling of witnesses; and (iii) proposed schedule and locations for hearing dates.

At the hearing, the sponsoring party will ask the witness to attest to the pre-filed testimony. The parties will have the opportunity to cross-examine each witness unless the parties stipulate otherwise. If a party intends to introduce any exhibits during cross-examination, copies of the exhibits must be provided to each party and the hearing officer at that time. The sponsoring party may ask its witness questions on re-direct, followed by recross-examination.

The hearing will continue, as needed, until each party has presented their direct case, and the other parties have exercised their right to cross-examine the witnesses.

At the conclusion of the hearing the parties shall have the opportunity to submit final briefs relating to any issue of law, ruling, or positions taken.

V. Modification of Scheduling Order

Any requests to modify or amend this Scheduling Order must be filed in writing at least 10 calendar days before the established due date. Prior to filing the request, the parties must confer and attempt to resolve the conflict before filing the request with the hearing officer.

SO ORDERED:

ALJ Greenwood

DATED: