

STATE OF NEW YORK
ADIRONDACK PARK AGENCY

In the Matter of the Application of

UNCONVENTIONAL CONCEPTS, INC.
and MICHAEL HOPMEIER

NOTICE OF JOINT MOTION

For a Permit Pursuant to Section 809 of the
Adirondack Park Agency Act and
9 NYCRR Parts 573 and 574

Project No. 2021-0276

PLEASE TAKE NOTICE, that upon the annexed Affirmation of Christopher A. Amato, Esq., dated August 17, 2026, and upon all prior pleadings and proceedings had herein, Intervenor Adirondack Council, Adirondack Wild: Friends of the Forest Preserve, Protect the Adirondacks, and Sierra Club hereby move the Honorable David L. Greenwood, Administrative Law Judge, for an Order (i) dismissing this adjudicatory proceeding on the grounds that the Applicants have failed to comply with this tribunal's Third Scheduling Order, including failing without justification or good cause to submit pre-filed testimony in support of the application by the ordered deadline and therefore defaulting on their opportunity to submit additional information required by the Adirondack Park Agency ("APA") and necessary for the APA to make the statutorily required findings for permit issuance; and (ii) referring the pending incomplete application to the APA Board for final action; and for such other and further relief deemed just and proper.

Dated: Albany, New York
August 17, 2026



CHRISTOPHER A. AMATO

TO: Matthew Norfolk, Esq.
Grace Sullivan, Esq.
Jennifer Hubbard, Esq.

STATE OF NEW YORK
ADIRONDACK PARK AGENCY

In the Matter of the Application of

UNCONVENTIONAL CONCEPTS, INC.
and MICHAEL HOPMEIER

For a Permit Pursuant to Section 809 of the
Adirondack Park Agency Act and
9 NYCRR Parts 573 and 574

**AFFIRMATION IN SUPPORT
OF INTERVENORS' JOINT
MOTION TO DISMISS THIS
HEARING AND REFER TO APA
BOARD FOR FINAL ACTION
ON THE APPLICATION**

Project No. 2021-0276

CHRISTOPHER A. AMATO, an attorney duly admitted to practice before the courts of the State of New York, hereby affirms under penalty of perjury:

1. I am Conservation Director and Counsel for Intervenor Protect the Adirondacks ("PROTECT"). I submit this affirmation in support of the joint motion by Intervenor Adirondack Council, Adirondack Wild: Friends of the Forest Preserve, Sierra Club, and PROTECT (collectively, "Intervenors") to dismiss this adjudicatory proceeding and refer the pending application by Unconventional Concepts, Inc. and Michael Hopmeier (the "Applicants") to the Adirondack Park Agency ("APA") Board for final action.
2. The requested relief is warranted because the Applicants have (i) refused to acknowledge that the portion of the project site located at 87 Hale Hill Lane (the "missile silo site") is part of the application, even though that parcel, Lot 29, is specifically identified as part of the project site in the application and in the APA Board's November 14, 2025 hearing order; (ii) failed to provide Intervenor and their experts access to the missile silo site or to the other project site parcel (Lots 29 and 31) as required by the Third Revised Scheduling Order ("Order"); and (iii)

failed to submit pre-filed testimony in support of the application by August 12, 2026 as required by the Order.

3. Your Honor correctly denied the Applicants' untimely and substantively deficient request for an additional three weeks to prepare and submit testimony. The request was not submitted at least 10 days prior to the filing deadline, and the Applicants made no effort to confer with the other parties prior to submitting it, in direct violation of the Order's requirements. The Intervenor's oppose issuance of a Fourth Scheduling Order that would provide the Applicants with additional time to submit testimony because doing so would (i) effectively reverse Your Honor's prior ruling; (ii) be unwarranted, in any event, as the Applicants have not stated any reason, much less good cause, for the extension; and (iii) would significantly prejudice the Intervenor's which have already made arrangements with their witnesses for complying with the long-established schedule in the Order.
4. The Intervenor's likewise oppose issuance of yet another scheduling order because the Applicants have demonstrated a continuing disregard for the Order and for the fair and orderly conduct of this proceeding. Not only have the Applicants failed to comply with their obligation to submit pre-filed testimony (and have offered no adequate justification for that failure), but they have refused to permit the Intervenor witnesses to participate in the site inspection contemplated by the Order.
5. The Applicants' refusal to acknowledge that the missile silo site is part of the project site, their refusal to permit the Intervenor's to participate in the project site visit, and their failure to timely submit pre-filed testimony have prejudiced the Intervenor's.

6. The Applicants' claim that the missile silo site is not part of the project site, if allowed to stand, will misrepresent the full scope of the proposed project and result in an incomplete record that precludes the APA Board's full review of all aspects of the proposed project.
7. Additionally, the Applicants' refusal to allow the Intervenors and their experts to participate in the site visit deprives them of first-hand observation of the project site and hinders their preparation for and participation in the adjudicatory hearing.
8. Moreover, Intervenors and their experts have relied upon the timely filing of the Applicants' pre-filed testimony and have organized their schedules to ensure that it can be reviewed and assessed, and responsive testimony can be prepared, by the deadline in the Order for the Intervenors to submit pre-filed testimony. While a new scheduling order may establish new, later deadlines for submission of the parties' pre-filed testimony, altering the schedule at this late date—after it has been in place for months—means that Intervenors and their experts will need to significantly readjust their schedules to review the Applicants' testimony and to provide responsive pre-filed testimony due to scheduling conflicts that would have been avoid had the Applicants simply complied with the Order.
9. The APA's Order sending the application to an adjudicatory hearing explicitly states that the purpose of the hearing is to develop sufficient information to enable the APA Board to determine whether the application meets the statutory criteria for permit issuance.
10. Because the Applicants failed to submit any pre-filed testimony by the deadline established in the Order—despite having had approximately nine months to prepare—the information sought by the APA Board to determine whether the application meets the statutory criteria has not been submitted and the Applicants have failed to meet their burden of proof as required by the APA Act and the APA regulations. Because the Applicants have failed to avail themselves of

the ample time and opportunity to meet their burden, there is no justification for allowing them further time in a new scheduling order.

11. Because the Applicants have failed to meet their burden of proof despite having been provided every opportunity to do so, the APA Board cannot make its required findings under the APA Act and the application must be denied.
12. Denial of a permit application may occur only by vote of the full APA Board. Accordingly, the Intervenor's move for this proceeding to be dismissed and for the pending incomplete application be referred to the full APA Board for final action.

Procedural Background

13. The Applicants seek APA approval of an artillery testing range and related activities on properties located in the Town of Lewis, Essex County. The application clearly identifies the missile silo site as part of the project site and states that the site will be used to analyze materials and to store trailers and support equipment (presumably including the storage and possibly the processing of chemical materials that will be used in the testing) between artillery test series. *See* July 9, 2026 email from Grace Sullivan, APA, to Service List, annexed as **Exhibit A**. Clearly, the missile silo site is part of the property that will be used by the Applicants for the artillery testing.
14. The application was submitted on or about November 19, 2021. Between November 2021 and July 2025, APA staff issued six Notices of Incomplete Application ("NIPAs") seeking additional information from the Applicants. Despite repeated efforts by APA staff to obtain information necessary for an informed review of the application, the Applicants failed to provide much of the requested information.

15. Consequently, by Order dated November 14, 2025, the APA Board directed that the application be subject to an adjudicatory hearing to develop “more information to determine whether it can meet Agency approval criteria set forth in [the] APA Act” *See* APA Project Order, Project 2021-0276 (Nov. 14, 2025) annexed as **Exhibit B**, at 4.
16. On January 23, 2026, Administrative Law Judge (“ALJ”) David Greenwood issued a Scheduling Order requiring, among other things, that the Applicants’ pre-filed testimony be filed on or before 5:00 p.m. on April 29, 2026.
17. On March 13, 2026, ALJ Greenwood issued a Second Revised Scheduling Order requiring, among other things, that the Applicants’ pre-filed testimony be filed on or before 5:00 p.m. on May 20, 2026.
18. On June 24, 2026, ALJ Greenwood issued the Third Revised Scheduling Order. A copy of the Order is annexed as **Exhibit C**.
19. The Order stated: “The parties conferred and discussed a schedule for a site visit for APA hearing staff, intervening parties and any retained experts on June 15, 2026 and are proposing a site visit to occur July 15-17 or the week of July 27, 2026. An exact date has not yet been agreed to.” Ex. C, § II.
20. The Order further required the Applicants to submit pre-filed testimony on or before 5:00 p.m. on August 12, 2026. *Id.* § III.
21. The Order expressly provides: “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.” *Id.* § V.

The Applicants Refuse to Allow the Intervenors to Participate in the Site Visit

22. As stated in the application and confirmed by APA staff, and as demonstrated above, the missile silo site is part of the project site. *See* Ex. A.
23. The Applicants have nevertheless persisted in claiming that the missile silo site is not part of the project site. *See* Email from Grace Sullivan, Esq., APA, to Service List, dated July 13, 2026, annexed as **Exhibit D**.
24. In addition, despite having agreed to a site visit for all parties, and despite that agreement having been memorialized in the Order, the Applicants abruptly refused to allow the Intervenors to participate in the site visit. *See* Emails from Matt Norfolk, Esq. to Service List dated July 10, 2026, annexed as **Exhibit E**. The Applicants further threatened to prosecute the Intervenors for trespass if they appeared for the site visit. *Id.*
25. The circumstances surrounding this event, as well as an explanation of the prejudice suffered by the Intervenors as a result of the Applicants' refusal to comply with the terms of the Order, are set forth in the August 10, 2026 letter from Todd Ommen, Esq., counsel for Intervenor Sierra Club, to the ALJ, annexed as **Exhibit F**.

The Applicants Fail to Submit Pre-Filed Testimony

26. The Applicants have known since the APA Board's November 14, 2025 Order that their application would be the subject of an adjudicatory hearing.
27. In addition, the Applicants have known since at least the ALJ's January 23, 2026 Scheduling Order that they would be required to submit pre-filed testimony in support of their application.
28. Nevertheless, the Applicants nevertheless failed to submit pre-filed testimony on or before 5:00 p.m. on August 12 as required by the Order.

29. Instead, late in the afternoon of August 11—the day before the filing deadline—Applicants’ counsel submitted a letter requesting an additional 21 days to prepare and submit testimony. *See* Letter from Matt Norfolk, Esq. to ALJ Greenwood dated August 11, 2026, annexed as **Exhibit G**.
30. Counsel’s eleventh-hour request provided no justification or good cause for the requested extension, stating only: “I simply need more time.” *Id.*
31. By email dated August 12, 2026, Your Honor denied the Applicants’ request for an extension, noting that the request was untimely, had not been the subject of conferral between the parties, and failed to establish “good cause” for an extension. *See* Email from ALJ Greenwood to Service List dated August 12, 2026, annexed as **Exhibit H**.

The Scheduled Conference

32. The ruling denying the Applicants’ request for an extension proposed “a pre-hearing video conference between the applicant, APA hearing staff and the other parties as soon as possible to develop a Fourth Revised Scheduling Order that is mutually agreeable to the parties.” *See* Ex. G.
33. As set forth above, the Intervenors oppose issuance of a Fourth Revised Scheduling Order because it would: (i) effectively nullify Your Honor’s prior ruling denying the Applicants’ request for an extension; (ii) grant the Applicants the very relief that Your Honor has determined is unwarranted; (iii) in essence reward the Applicants’ flagrant disregard of the Order; (iv) significantly prejudice the Intervenors; and (v) result in a failure to maintain “order and the efficient conduct of the hearing” as required by APA regulations. 9 NYCRR § 580.14(a)(4)(xi).

34. The Intervenor respectfully submit that the conference, scheduled for August 19 at 10:00 a.m. is unnecessary and unwarranted.

The Applicants Have Failed to Meet Their Burden of Proof and the Application Must Therefore Be Referred to the APA Board for Final Action

35. The APA Act provides that the APA may not issue a permit for new land use and development unless it determines that the project will “not have an 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.” Executive Law § 809(10)(e).

36. The APA’s regulations further make clear that the applicant in an adjudicatory hearing has the burden of proving that the proposed project satisfies the statutory criteria for issuance of a permit. 9 NYCRR § 580.14(b)(6)(i).

37. The APA’s Order explicitly states: “Information currently available [in the application] is insufficient to make a determination as to any of [the APA Act] approval criteria. A public hearing would help to develop these issues and may reveal additional issues relating to other approval criteria.” Ex. B at 5.

38. The Applicants’ unjustified failure to submit pre-filed testimony in support of the application by the deadline established in the Order effectively constitutes a default on their application. As noted above, the Applicants have had months of notice that pre-filed testimony would be required. Their eleventh hour request for additional time, made in violation of the Order’s procedural requirements and without anything approaching a showing of good cause, cannot excuse their failure to comply with the Order.

39. The Applicants have disregarded the requirements governing this proceeding, and there is no basis to conclude that further extensions or revised scheduling orders will result in compliance. The Applicants' conduct has continued to prejudice the Intervenor, waste the time and resources of this Tribunal and the parties, and undermine the fair and orderly development of a complete record for APA decision-making.
40. The Applicants have had a full and fair opportunity to present their case for permit issuance and have failed to do so.
41. The APA Act provides that denial of a permit application may only be by vote of the full APA Board after an adjudicatory hearing. Executive Law § 809(3)(d).
42. Here, an ALJ has been assigned; numerous conferences have been held between the parties and the ALJ; discovery has been completed; and three scheduling orders have been issued. The hearing has therefore substantially commenced.
43. By failing to submit pre-filed testimony by the deadline established in the Order, the Applicants have failed to avail themselves of the opportunity to present evidence in support of their application.
44. Accordingly, this proceeding should be dismissed and the pending incomplete application should be referred to the APA Board for final action.
45. The APA's Order requiring an adjudicatory hearing was expressly based upon its finding that the Applicants had not provided sufficient information to allow the APA Board to make its required statutory findings under APA Act § 809(10).
46. Because the Applicants have failed to meet their burden of proof by failing to submit pre-filed testimony as required by the Order, the Applicants' application remains deficient and the only appropriate final action is denial of the permit application.

WHEREFORE, the Intervenors respectfully request that this proceeding be dismissed and that the pending application be referred to the full APA Board for final action, together with such other and further relief as Your Honor deems just and proper.

Dated: Albany, New York
August 17, 2026

A handwritten signature in black ink, appearing to read "Chris Amato", written in a cursive style.

CHRISTOPHER A. AMATO

EXHIBIT A

Preliminary response RE: P2021-0276: Site Visit Scheduling

Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>

Thu, Jul 9, 2026 at 1:32 PM

To: "Matthew D. Norfolk" <mnorfolk@norfolkbeier.com>, "Greenwood, David N (DEC)" <david.greenwood@dec.ny.gov>
Cc: "Executivedirector@protectadks.org" <executivedirector@protectadks.org>, "Hubbard, Jennifer M (APA)" <Jennifer.Hubbard@apa.ny.gov>, Christopher Amato <conservationdirector@protectadks.org>, "pgitlen@WOH.com" <pgitlen@woh.com>, David Gibson <dgibson@adirondackwild.org>, "Seitelman, Anna V." <ASeitelman@woh.com>, "Ommen, Todd D." <tommen@law.pace.edu>, "PVanCott@woh.com" <PVanCott@woh.com>, Sean Davis <sdavis@norfolkbeier.com>

Attorney Norfolk,

We are less than a week out from this site visit – we would appreciate some efforts to accommodate the Agency and intervening parties' experts.

1. Fine
2. I have no objection to this meeting time for myself, but considering the number of parties involved and the distance many people will have to travel I think shifting the meeting time to an hour and a half later would be the considerate thing to do. You have not provided a legitimate reason as to why the 10:00A.M. start time cannot be accommodated. The Agency would gladly arrange for accommodations for our expert witness, but because we are discussing this less than a week from the scheduled visit, and our expert is on vacation with his family, I do not know whether it will be practicable for him to travel the night prior. I do know that he would be able to attend a site visit at 10:00AM on July 15, 2026. I would like to bother him as little as possible. Moreover, I am sure the intervening parties would tend to agree that the later start is preferred.
3. If the Applicant has legitimate concerns about the safety, perhaps it makes sense to limit the number of individuals/site visit and arrange for additional site visits to accommodate the parties and their experts as needed.
4. I would like confirmation prior to the site visit that the site visit will be at least 1.5 hours.
5. Although only Lot 31 (Pulsifer's property, 195 Hale Hill Lane) is listed in the APA application material submitted to the Agency, as you can see on the attached supplemental page (which was attached as part of the initial submission), the applicant references storing equipment at 87 Hale Hill Lane. The applicant has also indicated that the material collected will be analyzed at this site. As such, the Agency has determined that both parcels are part of the Project Site.

I have updated the service list to include Sean.

Thank you,

Grace

From: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>
Sent: Thursday, July 9, 2026 12:48 PM

To: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc: Executivedirector@protectadks.org; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; PVanCott@woh.com; Sean Davis <sdavis@norfolkbeier.com>; Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>

Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

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

Good morning, Judge Greenwood and Counselors:

The terms and conditions that my clients have presented are reasonable. Judge Greenwood has no objection to them.

Below I address Attorney Sullivan's and Attorney Van Cott's objections or concerns, as the case may be.

1. The specific location where we are to meet will be provided under separate cover. I can tell you that the meeting location will be at the beginning of a wooded rough road which travels over a steep incline for a mile plus. My clients have no obligation to accommodate those who will be visiting the site. Yet, they will be dedicating vehicles, fuel and staff to transport the individuals attending the site visit.
2. Meeting at 8:30 am to begin the site visit is not unreasonable. The workday for many of us begins at 8:30 am. The State has vast resources and I am sure that it can afford accommodating its witnesses with housing the night before the site visit. There are many economical hotels in the area. I know there are two inns and a motel in Elizabethtown, which is not far from the site. The price of a hotel in the area is minute in comparison to what the State has expended to date in reviewing the present application for a temporary project. It should also be pointed out that it is the State (*i.e.*, the APA), and some would say The Adirondack Council, who mandates this hearing proceeding. Presumably, in ordering the hearing, the APA confirmed beforehand that it has the financial resources to prepare for and conduct the hearing.
3. With respect to the limitation of the number of people that may attend the site visit, my clients are sincerely concerned about the safety of those attending the site visit. The land is comprised of steep inclines, ledges or cliffs and uneven terrain, making it a treacherous, unsafe place to be for people. The more people that attend increases the risk of injury or death. The APA has no objection to limiting the number of people who may attend the site visit to three. Moreover, none of the parties have objected to this limitation. I acknowledge that Attorney Van Cott does not "believe" that the limitation on the number of individuals is reasonable and expresses concern that this limitation may prejudice the APA. However, as Attorney Sullivan states in her email below, the APA does not have an objection to the three-person limitation.
4. With respect to the time my clients are willing to allow the APA and the parties to visit the site, 45 minutes is reasonable. There is nothing preventing the APA and the parties from requesting more time during the site visit. In such case, I'll defer to my clients to decide the request.

5. Finally, the site visit is to be limited to the property expressly and specifically identified in my clients' application for a permit. I respectfully refer you to my clients' Application for Commercial and/or Industrial Uses (hereinafter referred to as the "Application"), page 2, section 4, *Project Site Location/Identification*. In this section, the project site is identified with particularity with its tax map parcel number, 38.1-1-31.000 (Lot 31). Additionally, my clients identified the owner of Lot 31, James Pulsifer, on page 1 of the Application. Mr. Pulsifer's owner-consent was submitted to the APA. Further identification of the project site (*e.g.*, the street address) can be found in the attachments and supplement to the Application. At no time throughout the entire application process did my clients amend the permit application to include more property(ies) to be part of the project site. The property the APA and the parties seek to inspect is not part of my clients' application. That property's street address is 87 Hale Hill Lane, bears tax map parcel number 38.1-1-29.000, and is owned by Diversified Upstate Enterprises, LLC. It should be noted that owner-consent has never been submitted to the APA on behalf of Diversified Upstate Enterprises, LLC. This is so because Diversified Upstate Enterprises, LLC is not an owner of the property designated as the project site.

P.S. I included on this email Sean Davis, a new employee of Norfolk Beier, as he will be assisting me with this matter. Kindly include Sean on all correspondence.

Sincerely,

Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

From: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>
Sent: Wednesday, July 8, 2026 2:24 PM
To: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Matthew D. Norfolk <mnorfolk@norfolkbeier.com>
Cc: Executivedirector@protectadks.org <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; PVanCott@woh.com <PVanCott@woh.com>
Subject: RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

Dear all,

I am in agreement with Attorney Van Cott that some of the proposed terms are unreasonable and unclear, particularly given the delayed notice. My notes are below:

1. Specify meeting location and time
2. Meeting location and time should be no earlier than 10:00 A.M. – It is at least an hour drive for most parties & their representatives. It is a multiple hour drive for our expert (without delays or wrong turns).
3. We are okay with 3 person limitation because only 1 expert, myself, and another staff member will be attending the visit, but believe that **every** expert retained by the parties should have the opportunity to visit on this date if they have determined it is necessary for their preparation of the hearing. I think it would be fair to provide a list of individuals planning to attend the site visit and their role in the hearing ahead of the July 15th visit. The applicant may then object to specific individuals if their purpose is duplicative and/or not justified. The current limitation of 3 individuals is arbitrary & contrary to the purpose of the site visit.
4. Duration of the site visit should be at least 1.5 hours from arrival at the site – We had discussed 2-3, but 1.5 should be sufficient for our expert. We worry that 45 minutes will be an insufficient amount of time to exit the vehicles, inspect the site, return to the vehicles. I do not want our expert to feel rushed, but we agree to not dally longer than necessary to complete the work we set out to do.
5. We had agreed to include both parcels in the site visit (though our expert only needs to visit the parcel at 195 Hale Hill Lane). If both parcels are not to be included, Applicant's Attorney must provide a compelling reason for this shift.

Thanks,

Grace

From: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>
Sent: Wednesday, July 8, 2026 1:58 PM
To: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>
Cc: Executivedirector@protectadks.org; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Ommen, Todd D. <tommen@law.pace.edu>; PVanCott@woh.com
Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

EXHIBIT B

 Adirondack Park Agency P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov	APA Project Order 2021-0276
In the matter of the application of Unconventional Concepts, Inc., and Michael Hopmeier subject to section 809 of the Adirondack Park Agency Act and 9 NYCRR Parts 573 and 574	Date Issued: 11/14/2025

INTRODUCTION

On November 19, 2021, the Adirondack Park Agency (Agency) received an application to undertake a Class B Regional Project, in the Town of Lewis, Essex County. The applicant proposes to develop a weapons range for testing the internal ballistics of 155 mm howitzer cannon barrels over a 5-year period (the proposed “howitzer testing range”).

The howitzer testing range utilizes two parcels both located on land classified as Rural Use in the official Adirondack Park Land Use and Development Plan Map: (1) Tax Map Number 38.1-1-29.00 (8± acres), located at 87 Hale Hill Lane, is owned by Diversified Upstate Enterprises, LLC (Lot 29), and will be used to store equipment associated with testing; and (2) Tax Map Number 38.1-1-31.000 (197± acres), located at 195 Hale Hill Lane, is owned by Pulsifer Logging LLC (Lot 31). The applicant will be granted access to Lot 31 to perform the testing. The applicant intends to use a logged area on Lot 31 that backs up to Big Church Mountain as the howitzer testing range. The proposed testing site is located approximately 300 feet from the closest point of Taylor Pond Wild Forest, 2.1 miles from the closest point of Jay Mountain Wilderness, 4.7 miles from the closest point of Hurricane Mountain Wilderness. There are 44 residences located within two miles of the howitzer testing range. The howitzer testing range is 3.2 miles from the hamlet of Lewis and within 1.5 miles of the surrounding Moderate Intensity Use residential area. The project site is also located 10.8 miles from Lake Champlain.

A portable 155mm howitzer barrel assembly is proposed to be placed on a 100-foot by 100-foot crushed gravel pad and test-fired on Lot 31. Each test would fire a steel projectile into a target area. No explosive warheads are proposed to be used. The howitzer assembly is proposed to be fired up to 30 times per year on weekdays,

between the hours of 10am and 4pm. The applicant proposes to place a kinetic energy-absorbing system (soft catch system) at the eastern side of the range to catch projectiles fired. The soft catch system would consist of an 8-foot by 8-foot by 40-foot long metal shipping container or similar filled container with sand and other material to stop the projectiles.

Additional proposed equipment includes a mobile power supply such as a generator on a trailer, portable instrumentation carriers, a trailer, a port-a-potty, and other mobile support equipment. In between test series, all trailers and equipment would be removed from Lot 31 and stored on Lot 29.

Between November 2021 and July 2025, Agency staff issued six Notices of Incomplete Permit Application. The applicant responded to the last notice on September 11, 2025 and Agency staff deemed the application complete on September 26, 2025, at which point Agency staff commenced their formal review. The matter comes to the Agency for a determination pursuant to 9 NYCRR 580.2 with respect to a project hearing. The Agency herein directs the matter to a formal project hearing pursuant to Adirondack Park Agency Act (APA Act) § 809.

FINDINGS

- I. In addressing the applicable criteria in 9 NYCRR 580.2, the record before the Agency supports the following conclusions:

- (1) “The size and/or complexity of the project, whether measured by cost, area, effect upon municipalities, or uniqueness of resources likely to be affected.”

The proposed activity is unique – the Agency has not permitted a howitzer testing range facility, nor is it aware of any existing facility of this type in the Adirondack Park. The howitzer testing range has the potential to affect the natural, scenic, ecological, wildlife, recreational, and open space resources of the park, including but not limited to: potential discharges, residues, or other pollutants that may affect water, air and land resources; noise impacts produced by the howitzer testing range; unknown disruption to native and migrating wildlife and their habitats at or near the proposed project site considering species’ sensitivities; and the impacts to adjoining and nearby land uses, including but not limited to effects on the residents of the Town of Lewis, impact to property values in the area, the community character and quality of life of the residents of the Town of Lewis, and health and safety impacts relating to the howitzer testing range, and the operation, storage and transport of military equipment outside of a designated military-controlled area.

- (2) “The degree of public interest in the project, as evidenced by communication from the general public, governmental officials or private organizations.”

- a. The level of public interest in this project is evidenced by the receipt of over 1,400 comments, the level of media coverage, and the scope of issues raised. Of the over 1,400 comments received, 19 comments expressed support for the project; the remaining raised concerns. Approximately 15 of the 44 residences within two miles of the howitzer testing range submitted comments.
- b. The comments were received from concerned individuals, including adjoining and nearby landowners, residents outside the Park, a regional media editorial board, and regional and local environmental advocacy organizations.
- c. The topics addressed in the comments include the following:
 - i. The permit application contains inaccurate, misleading, or internally inconsistent information with the applicant’s public statements and actions.

- ii. Issues raised about the applicability, accuracy, reliability, and scientific value of the sound study provided by the applicant.
 - iii. Concerns about the potential impact of noise on human health and safety, wildlife, and compatibility with the commercial, recreational, and residential uses.
 - iv. Concerns about potential pollutants related to the proposed activity.
- d. The project received significant media coverage following the Agency's public notice period from October 1, 2025 to October 30, 2025. Approximately 97% of all comments were received during this period.
- e. The applicant held a public information meeting in the Town of Lewis on October 16, 2025. According to a North Country Public Radio article, approximately 75 members of the public attended the meeting, and raised concerns and objections to the project similar to the written comments received by the Agency.
- (3) "The presence of significant issues relating to the criteria for approval of the project."

The proposed howitzer testing range requires more information to determine whether it can meet Agency approval criteria set forth in APA Act § 809(10)(a) and (b) concerning the land use and development plan and the compatibility of the project with the character and purposes of land classified as Rural Use and APA Act § 809(10)(e) concerning the development considerations in APA Act § 805(4) and 9 NYCRR 574.5; for example:

- a. Is a howitzer testing range compatible with the Adirondack Park Land Use and Development Plan? [APA Act § 809(10)(a)]
- b. Is the howitzer testing range compatible with the character description and purposes, policies and objectives of the Rural Use land area classification? [APA Act § 809(10)(b)] The APA Act describes the character in Rural Use Areas as being those areas where natural resource limitations and public considerations necessitate fairly stringent development constraints. The basic purpose and objective of Rural Use areas is to provide for and encourage those rural land uses that are consistent and compatible with the relatively low tolerance of the areas' natural resources and the preservation of the open spaces that are essential and basic to the unique character of the park. [APA Act § 805(3)(f)]
- c. Will a howitzer testing range have an undue adverse impact upon the natural, scenic, ecological, wildlife, recreational or open space resources of the park,

considering the following development considerations described in APA Act § 805(4) and 9 NYCRR 574.5:

- i. Whether there are impacts to water, land, and air resources [APA Act § 805(4)(a)(1) – (3)];
- ii. Whether there are noise impacts [APA Act § 805(4)(a)(4)];
- iii. Whether there are impacts to Critical Resource Areas and Wildlife. [APA Act § 805(4)(a)(5) – (6)]; and
- iv. Whether there are impacts to adjoining and nearby land uses. [APA Act § 805(4)(c)(2)(a)]

Information currently available is insufficient to make a determination as to any of these approval criteria. A public hearing would help to develop these issues and may reveal additional issues relating to other approval criteria.

- (4) “The possibility that the project can only be approved if major modifications are made or substantial conditions are imposed.”

Based on the current information available, the Agency is unaware of any modifications or substantial conditions the Agency could impose that would address the potential impacts outlined above. However, more information could develop during a hearing that could support the approvability or deniability of the project, and/or reveal conditions that could be imposed.

- (5) “The possibility that information presented at a public hearing would be of assistance to the agency in its review.”

The howitzer testing range raises unique issues and has the potential to affect the natural, scenic, ecological, wildlife, recreational, and open space resources of the park, including but not limited to: potential discharges, residues, or other pollutants that may affect water, air and land resources; noise impacts produced by the howitzer testing range; unknown disruption to native and migrating wildlife and their habitats at or near the proposed project site considering species’ sensitivities; and the impacts to adjoining and nearby land uses, including but not limited to effects on the residents of the Town of Lewis, impact to property values in the area, the community character and quality of life of the residents of the Town of Lewis, and health and safety impacts relating to the howitzer testing range, and the operation, storage and transport of military equipment outside of a designated military-controlled area.

A hearing would also help address and resolve concerns about inconsistent,

incorrect, or misleading information, including but not limited to concern about the applicability, accuracy, reliability, and scientific value of the sound study conducted by the applicant as it applies to a howitzer testing range.

A public hearing would facilitate the receipt of testimony to address these issues. This information would help the Agency make the findings and determinations it is required to make under the APA Act.

(6) “The extent of public involvement achieved by other means.”

The Agency is not aware of other government approvals or public hearings required to review the howitzer testing range by which the public may participate in the consideration of the proposed activity. Accordingly, the hearing contemplated in this Order may be the only hearing at which the unique issues identified above may be publicly considered. A hearing will therefore provide a unique opportunity for interested individuals or organizations to be involved and express support or concerns related to the project.

The degree of public interest has also demonstrated the public’s desire to be informed about the proposed project. Therefore, holding a hearing on this application will provide additional transparency that will be beneficial to the public.

- II. 9 NYCRR 580.3 provides that “the Agency may determine to limit the issues to be considered at the hearing, in which case it will advise the project sponsor of its determination, and the notice of hearing will specify the issues to be considered.”
- III. Notwithstanding the above, 9 NYCRR 580.9 provides “the hearing officer may direct the parties to appear for a conference to simplify, define, limit or resolve issues. The hearing officer shall summarize for the record the action taken at the conference and any admissions, stipulations or agreements which were made by the parties.”
- IV. Pursuant to 9 NYCRR 580.14(b)(3), the hearing officer may also order a brief, informal presentation at the outset of the hearing to answer questions from members of the public who are not parties to the hearing.
- V. The Agency is not requesting that the hearing officer make findings of fact or conclusions of law pursuant to 9 NYCRR 580.14(a)(5); the Agency reserves to itself the exclusive right to make its own findings of fact and conclusions of law as part of its final Agency determination and order pursuant to 9 NYCRR 580.18.

ORDER

THE AGENCY HEREBY ORDERS this matter to public hearing and, pursuant to 9 NYCRR 580.3, directs the following issues be considered at hearing:

- Issue #1:** Whether the proposed howitzer testing range is compatible with the Adirondack Park land use and development plan, including, but not limited to, whether the howitzer testing range is compatible 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)]
- Issue #2:** Whether the proposed howitzer testing range is a compatible use within the Rural Use land area classification, and whether it is compatible with the character description and purposes, policies and objectives of the Rural Use land area classification, including but not limited to whether the proposed use should be considered a “commercial use;” and if not, whether the proposed howitzer testing range is a compatible use. [APA Act § 809(10)(b)]
- Issue #3:** Whether the proposed howitzer testing range would have an undue adverse impact upon the natural, scenic, ecological, wildlife, recreational or open space resources of the park [APA Act § 809(10)(e)], 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 affect water resources, land resources, or air resources. [APA Act § 805(4)(a)(1) – (3)]
 - ii. Whether the howitzer testing range would have an undue adverse impact 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 there is a reliable, comprehensive and accurate projection of the noise that will be produced by the howitzer testing range and whether such noise will have an undue adverse impact upon the Park's resources. [APA Act § 805(4)(a)(1)]
 - iv. Whether noise mitigation exists or whether they are practical to implement that would avoid undue impact to the Park's resources. [APA Act § 805(4)(a)(1)]

- v. Whether the howitzer testing range will create undue 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 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 could impact nearby Wilderness and Wild Forest areas. [APA Act § 805(4)(c)(2)(a)]
- viii. Whether the howitzer testing range would have economic impact on adjoining and nearby land uses, such as property values. [APA Act § 805(4)(c)(2)(a)]

FURTHER ORDERED, the following are issues for which no testimony or evidence is necessary:

1. Conformance with the overall intensity guidelines.

The project does not propose development that would exceed the overall intensity guidelines for a Rural Use land use area that allows a maximum of 75 principal buildings per square mile, pursuant to APA Act § 809(10)(c) and APA Act § 805(3)(f)(3).

2. Shoreline Restrictions.

No shorelines have been identified on the proposed project site, pursuant to APA Act §§ 810(10)(d) and 806 and 9 NYCRR 575.

FURTHER ORDERED, the hearing officer shall have all the authority provided in 9 NYCRR 580.9, and the hearing notice shall direct potential parties to address the issues stated above in any petition for party status. The hearing officer may in their sole discretion simplify, define, limit, or resolve the scope of issues, or add an issue if not expressly excluded and for which a party makes an offer of proof to ensure that the record covers substantive and significant issues relating to the findings or determinations required of the Agency under APA Act § 805(4) and § 809(10). The determinations of the hearing officer on party status, issues and the conduct of the hearing shall be reported for the record prior to beginning the hearing as provided in 9 NYCRR 580.9.

FURTHER ORDERED, that the applicant be notified of the Agency's intent to hold a public hearing on the project before the Agency renders its decision to approve or disapprove the project, or to approve it subject to conditions.

FURTHER ORDERED, that the applicant be given, upon fifteen days' written notice by certified mail, an opportunity to submit a new application.

NOW, THEREFORE, upon all of the foregoing and under authority of the Agency's action, due deliberation having been had upon all of the foregoing, and upon a majority vote of Agency members on November 14, 2025, duly had and recorded,

ORDER issued this 14th day
of November 2025.

E N T E R

ADIRONDACK PARK AGENCY

BY: 

Barbara Rice
Executive Director

EXHIBIT C



In the Matter of the Application of

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

**THIRD REVISED SCHEDULING
ORDER**

APA Project No. 2021-0276

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.

II. Site Visit

The parties conferred and discussed a schedule for a site visit for APA hearing staff, intervening parties and any retained experts on June 15, 2026 and are proposing a site visit to occur July 15-17 or the week of July 27, 2026. An exact date has not yet been agreed to.

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, or must be accompanied by a technical report that provides, a full explanation of the basis for the views set forth therein, including data, tables, protocols, computations, formulae, and any other information necessary for verification of the views set forth, as well as a bibliography of reports, studies and other documents relied upon. Upon ten (10) days notice (which time may be shortened or extended by the Hearing Officer) the party submitting pre-filed testimony may also

be required to make available all raw data, well logs, laboratory notes, and other basic materials, as well as all items on the bibliography provided. Whenever pre-filed testimony is not required, any party may demand, from any other party or the Agency propounding an expert witness, all backup information that would be required in connection with pre-filed 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.

The applicant will file and serve pre-filed testimony of witnesses and related exhibits on or before 5:00 p.m. on **August 12, 2026**.

APA staff shall file and serve pre-filed direct testimony and related exhibits on or before 5:00 p.m. on **August 26, 2026**.

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



David N. Greenwood
APA Hearing Officer

Dated: June 24, 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**

Matthew D. Norfolk
Norfolk Beier PLLC
1936 Saranac Ave, Suite 106
Lake Placid, NY 12946

APA Hearing Staff

Grace Sullivan
Senior Attorney
Adirondack Park Agency
PO Box 99
1133 NYS Route 86
Ray Brook, NY 12977

Jennifer Hubbard
Adirondack Park Agency
PO Box 99
1133 NYS Route 86
Ray Brook, NY 12977

Intervenors

Roger Downs
Conservation Director
Sierra Club Atlantic Chapter

Care of Todd D. Ommen
Managing Attorney
Pace Environmental Litigation Clinic
78 North Broadway
White Plains, NY 10603

David Gibson
Managing Partner
Adirondack Wild: Friends of the Forest
Preserve
P.O. Box 9247
Niskayuna, NY 12309

Paul Van Cott, Esq.
Philip H. Gitlen, Esq.
Anna V. Seitelman, Esq.
Attorneys for Adirondack Council, Inc.
Whiteman Osterman & Hanna LLP
One Commerce Plaza
Albany, NY 12260

Christopher Amato, Esq.
Conservation Director and Counsel
Claudia Braymer, Esq.
Executive Director
Protect the Adirondacks
P.O. Box 48
North Creek, NY 12853

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

P2021-0276 - UCI Ballistic Range Application

Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>

Mon, Jul 13, 2026 at 3:40 PM

To: "Greenwood, David N (DEC)" <david.greenwood@dec.ny.gov>, "Matthew D. Norfolk" <mnorfolk@norfolkbeier.com>, "Executivedirector@protectadks.org" <executivedirector@protectadks.org>, "Hubbard, Jennifer M (APA)" <Jennifer.Hubbard@apa.ny.gov>, Christopher Amato <conservationdirector@protectadks.org>, "pgitlen@WOH.com" <pgitlen@woh.com>, David Gibson <dgibson@adirondackwild.org>, "Seitelman, Anna V." <aseitelman@woh.com>, "Ommen, Todd D." <tommen@law.pace.edu>, Sean Davis <sdavis@norfolkbeier.com>, Chelsie Geesler <CGeesler@norfolkbeier.com>, "PVanCott@woh.com" <PVanCott@woh.com>

Dear Judge Greenwood and all,

I was left off the e-mail chain initiated by Attorney Norfolk on Friday, so I was not in receipt of the below communications until flagged by co-counsel, Jennifer Hubbard, this afternoon. It also appears that Attorney Paul Van Cott was left off the chain.

It is my understanding that, at present, the applicant will not allow the intervening parties to attend a site visit at either parcel identified as part of the project site. However, the applicant has agreed to a site visit for APA staff, the Agency's noise expert, Dr. Timothy McAuley, and Administrative Law Judge, David Greenwood, at 10 A.M. on July 15, 2026 for TMP 38.1-1-31.000 ([195 Hale Hill Lane, Lewis, NY](#)). The Agency hearing staff intend to move forward with this scheduled site visit.

Judge Greenwood, we agree with your assessment below regarding your participation in a site visit which does not include all parties.

Agency staff will provide a copy our New York State Agency IDs and our expert will provide a copy of his license with any private personal information redacted. We will complete this step ASAP.

-

Attendees:

Grace Sullivan, Senior Attorney, APA hearing staff member

Megan Philips, Deputy Director of Planning, Expert Witness

Dr. Timothy McAuley, Noise and Environmental Expert Witness

Additionally, there are a few issues that have arisen from the site visit discussions which need to be resolved, but that should not prevent this site visit from moving forward. Those issues and the hearing staff's position on such issues are outlined briefly below.

1. **Definition of the Project Site.** In recent communications, attorney for the applicant has suggested that the project site should be limited to TMP 38.1-1-31.000 ([195 Hale Hill Lane, Lewis, NY](#)). This is inconsistent with

the Agency's November Order & Agency's designation of the project site since receipt of the Application and issuance of the Agency's first NIPA. The application identified TMP 38.1-1-31.000 ([195 Hale Hill Lane, Lewis, NY](#)) as the project site but indicated in the appendix to the application that materials for the project would be stored at TMP 38.1-1-29.00 (87 Hale Hill Lane, Lewis, NY). Based on this information, the Agency determined that both parcels are necessarily a part of the project site and has identified them as such on each communication since issuance of the first Notice of Incomplete Permit Application. Throughout the Agency's review of this project, the information provided by the Applicant has underscored the Agency's determination that lot 29 is integral to the proposed project – the proximity of lot 29 to lot 31 was cited as a reason that alternative locations are not plausible and the data gathered in connection with the proposed testing will be analyzed at the facilities on lot 29. Both parcels were also identified publicly in the Agency's November Board Presentation, November Order, and the Notice of Public Hearing.

It is Agency hearing staff's position that the project as currently proposed is inextricably tied to both lot 29 and lot 31. The attorney for the Applicant has suggested in recent communications that because the landowner for lot 29, Diversified Upstate Enterprises LLC, did not sign the application, as is required under Agency Regulations, that lot 29 cannot be included as part of the project review site. It is Agency hearing staff's understanding and belief that Michael Hopmeier, the Applicant, is the sole member of Diversified Upstate Enterprises LLC. As such, Michael Hopmeier's signature to the application, participation in the review process, and failure to raise this objection over the course of the project review, strongly support a conclusion of implied consent and any argument to the contrary is disingenuous. Nonetheless, Agency hearing staff recognize that Agency Regulations require written consent of the landowner and will separately seek written consent signed by an authorized representative of Diversified Upstate Enterprises LLC to include TMP 38.1-1-29.00 as part of the project site. Should Diversified Upstate Enterprises LLC refuse to sign such a consent, the Agency will be unable to continue processing the application as currently proposed and the hearing proceedings will be suspended.

2. **Opportunity for Intervenor's site visit.** While there are no specific regulations which mandate the opportunity for a site visit, the Agency agrees with Attorney Van Cott's assessment that the right to inspect the site can find support in CPLR and case law. The Agency is willing to expand upon this position if given additional time. That being said, Agency hearing staff do not believe that right is without limitation. The intervening parties should provide a justification for their needs as it relates to both parcels. The Applicant may be able to demonstrate that the site visit should be limited to a particular area or for specific purposes. At present, Agency hearing staff do not take a position as to the scope of an intervenors site visit. Agency hearing staff recognize that these issues will not be resolved prior to the July 15, 2026 site visit and as such propose resolution of these issues be addressed separately.

Sincerely,

Grace Sullivan

EXHIBIT E

P2021-0276 - UCI Ballistic Range Application

Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Fri, Jul 10, 2026 at 5:20 PM

To: Claudia Braymer <executivedirector@protectadks.org>

Cc: "Hubbard, Jennifer M (APA)" <jennifer.hubbard@apa.ny.gov>, Christopher Amato <conservationdirector@protectadks.org>, "Gitlen, Philip" <pgitlen@woh.com>, David Gibson <dgibson@adirondackwild.org>, "Seitelman, Anna V." <aseitelman@woh.com>, "Ommen, Todd D." <tommen@law.pace.edu>, Sean Davis <sdavis@norfolkbeier.com>, "Greenwood, David N (DEC)" <david.greenwood@dec.ny.gov>, Chelsie Geesler <CGeesler@norfolkbeier.com>

The Third Revised Scheduling Order does not mandate my clients to allow the intervening parties to attend the site visit or otherwise enter upon the land where the project site is located. Additionally, the Third Revised Scheduling Order does not authorize or give the intervening parties the right to attend the site visit or otherwise enter upon the land where the project site is located. My clients have made it abundantly clear to me that law enforcement will be called if any unauthorized individuals attempt to enter upon the land where the project site is located.

I don't know how to say it any other way. The intervening parties will not be allowed to attend a site visit.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

From: Claudia Braymer <executivedirector@protectadks.org>

Sent: Friday, July 10, 2026 5:03 PM

To: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Cc: Hubbard, Jennifer M (APA) <jennifer.hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <pgitlen@woh.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <aseitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; Sean Davis <sdavis@norfolkbeier.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Chelsie Geesler <CGeesler@norfolkbeier.com>
Subject: Re: P2021-0276 - UCI Ballistic Range Application

Dear Judge Greenwood,

I will note that a site visit for the APA staff, intervening parties and experts is included in the Third Revised Scheduling Order. We are prepared to attend with 2 or 3 individuals at 8:30am or 10:00am on July 15.

Thank you,
Claudia Braymer

On Fri, Jul 10, 2026 at 4:45 PM Matthew D. Norfolk <mnorfolk@norfolkbeier.com> wrote:

Dear Judge Greenwood:

My clients have agreed to start the site visit at 10:00, July 15, 2026. Attorney Sullivan has confirmed that she and two other representatives of the APA will attend the site visit, beginning at 10:00 am, on July 15, 2026. It is my understanding that a 10:00 am start will accommodate your schedule and alleviate the need for you to make plans to stay at a hotel the night before. I ask that you kindly advise if you will attend the site.

My clients will not agree to permit the intervening parties to visit the project site. There is no legal requirement for an applicant to allow intervening parties to visit the project site. Without any legal obligation, by and through my email sent on July 9, 2026, at 12:48 pm, my clients offered the intervening parties the opportunity to visit the project site with reasonable terms and conditions. In response, they audaciously objected to those terms and conditions - despite possessing no right to enter upon the project site or participate in a site visit. It appears the intervening parties wish to have unfettered access to the project site. As a result of the intervening parties' refusal to accept my clients' terms and conditions for a site visit, my clients exercised their lawful right and withdrew their offer extended to them. My clients have not changed their position. They will not allow the intervening parties access to the project site.

By Monday, July 13, 2026, I will provide a disclaimer/hold harmless agreement that my clients require those attending the site visit to execute. By copy hereof, I ask Attorney Sullivan to identify the individuals who will be accompanying her during the site visit and provide copies of their driver's licenses or equivalent forms of identity. I ask that this be done by noon, Monday, July 13, 2026. Well in advance of the site visit, I will also provide those authorized to attend the site visit directions to the location where we will meet to be transported to the project site by all-terrain vehicles my clients are making available.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

EXHIBIT F

PACE ENVIRONMENTAL LITIGATION CLINIC

JOHN JAY LEGAL SERVICES, INC.
ELISABETH HAUB SCHOOL OF LAW
78 NORTH BROADWAY
WHITE PLAINS, NEW YORK 10603
PHONE: 914.422.4343
FAX: 914.422.4437

OF COUNSEL
KARL S. COPLAN

SUPERVISING ATTORNEY
TODD D. OMMEN

ADMINISTRATOR
JENNIFER RUHLE

August 10, 2026

Via Email

Honorable David N. Greenwood
Administrative Law Judge
New York State Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway, First Floor,
Albany, NY 12233

Re: In the Matter of the Application of Unconventional
Concepts, Inc. and Michael Hopmeier
APA Project No. 2021-0276

Dear Judge Greenwood:

I write on behalf of the Intervenors to note for the record in this proceeding (the "Record") that the Applicants unjustifiably excluded Intervenors from the site inspection that occurred in July. The issues concerning the site inspection were thoroughly discussed and addressed prior to the inspection, and while we do not intend to reargue those issues, we want to put all the facts and Intervenors' full position into the Record being compiled for the APA Board because the emails regarding the site inspection may not ultimately be part of the Record.

As you know, the Parties originally intended and agreed to a site inspection that would be open to all parties to these proceedings. Some of the details were to be determined, but section II the Third Revised Scheduling Order dated June 24, 2026, plainly set out this agreement:

Site Visit:

The parties conferred and discussed a schedule for a site visit for APA hearing staff, intervening parties and any retained experts on June 15, 2026 and are proposing a

site visit to occur July 15-17 or the week of July 27, 2026. . .

By letter dated July 7, 2026, and circulated on July 8, 2026, one week before the proposed date of the agreed-upon inspection, the Applicants announced their “conditions” for the inspection, which included requiring a waiver of liability, limitations on the number of visitors “per party” (including Intervenors), and various time and transportation restrictions. *See* Ex. A (July 7, 2026, Letter). The parties agreed to most of the conditions, including the waiver and transportation conditions, but both APA staff and Intervenors raised issues with the start time, which properties would be included and the length of the inspection. The Intervenors also expressed some concern about the limitation on number of participants. *See* Exh. B (July 8, 2026, email from Paul VanCott); Exh. C (July 8, 2026, email from Grace Sullivan). After some attempts to negotiate these details, counsel for the Applicants abruptly stated that the Applicants “withdraw the offer extended to the intervening parties to perform an inspection of the project site.” *See* Exh. D (July 9, 2026, email from Matthew Norfolk). After both APA staff and Intervenors objected to this sudden change in position, which was directly contrary to the provisions of the Scheduling Order, the Applicants again confirmed their refusal to allow any Intervenors to attend the site visit and threatened to have them arrested if they attempted to:

My clients have made it abundantly clear to me that law enforcement will be called if any unauthorized individuals attempt to enter upon the land where the project site is located. I don't know how to say it any other way. The intervening parties will not be allowed to attend a site visit.

Exh. E (July 10, 2026, email from Matthew Norfolk). Our understanding is that the Site Visit occurred on July 15, 2026, with only APA representatives permitted to attend.

As Your Honor has repeatedly made clear, and no party disputes, the entire purpose of this proceeding is to gather sufficient information such that the APA Board can make a fully informed and reasonable decision on the pending Application. This is precisely why Your Honor permitted intervention by the Intervenors, and why all parties agreed to participate in the site inspection so that the experts testifying in this proceeding can be fully informed, which, in turn, will allow the APA Board to have a fully developed record. There is simply no principled basis to limit the content or quality of that Record by refusing to allow parties to these proceedings to inform their testimony with first-hand knowledge of the Site. There is certainly no basis for that limitation if the Applicants’ only justifications for the exclusion are disagreements over the starting time (which the

Applicants ultimately agreed to) and an additional 45 minutes at the Site (which may or may not have been permitted). We respectfully submit that the exclusion of the Intervenor and their experts from the site visit is prejudicial because it deprives them of first-hand observation of the project site.

In addition to the prejudice to Intervenor, we further submit that the Record to be provided to the APA Board will be incomplete and limited due to the Applicants' refusal to comply with a term of the Third Revised Scheduling Order that they had *already* agreed to.

We understand that Your Honor does not believe you have the authority to Order a site inspection, and while we respectfully disagree with that conclusion, at a minimum we want the facts to be clearly set out in the Record here. Intervenor remain willing to schedule a new site inspection should that opportunity be provided.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd D. Ommen", is written over a horizontal line.

Todd D. Ommen
Counsel for Sierra Club

Cc: Counsel of record

Exhibit A



July 7, 2026

Via Email Only

Hon. David Greenwood
Administrative Law Judge
NYS Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway
Albany, New York 12233-1550
david.greenwood@dec.ny.gov

Re: APA Project 2021-0276;
Sponsor/Applicant: Michael Hopmeier/Unconventional Concepts, Inc.;
Site Address: 195 Hale Hill Road, Town of Lewis, County of Essex

Dear Judge Greenwood:

Our clients, Mr. Michael Hopmeier (Sponsor) and Unconventional Concepts, Inc. (hereinafter referred to as “UCI”) (Applicant), require the terms and conditions stated hereinbelow to apply to and govern the site visit scheduled for July 15, 2026. The primary purpose of the terms and conditions is to ensure the safety and well-being of those visiting the site, as well as facilitate an efficient and organized site visit.

Terms and Conditions of Site Visit:

1. All individuals attending the site visit must sign a waiver of liability and hold harmless agreement, which shall be provided to Your Honor, the Adirondack Park Agency (hereinafter referred to as the “APA”) and the parties before 5 pm on Friday, July 10, 2026.
2. The taking of photographs and recording of videos shall be limited to the site.
3. Transportation to the site shall be provided by UCI (individuals will be transported to the site using well-equipped all-terrain passenger vehicles).
4. The visit shall begin at 8:30 am sharp.
5. The Adirondack Park Agency (hereinafter referred to as the “APA”) and each party shall be permitted to have no more than three individuals attend the site visit.
6. The APA and each party shall have 45 minutes to inspect the site.

[Signature On Following Page]

Hon. David Greenwood
July 7, 2026
Page 2

Sincerely,

Norfolk Beier PLLC

By: 

Matthew D. Norfolk

cc: Counsel of Record

Exhibit B



RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

From VanCott, Paul <pvancott@woh.com>

Date Wed 7/8/2026 1:55 PM

To Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc Claudia Braymer <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <PGitlen@woh.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Sullivan, Grace (APA) <grace.sullivan@apa.ny.gov>; Ommen, Todd D. <tommen@law.pace.edu>

I do not believe the limitations on # of individuals and time allowed for the site visit are reasonable, particularly for APA staff who have the most witnesses. I also question whether the 8:30 am start is reasonable given that some witnesses may be traveling from a greater distance. Lastly, I thought the visit was to include both properties involved in the project.

Matt, we are a week away and you have put off responding until today. Some additional flexibility should be allowed.

Thank you.

Paul

Paul Van Cott | Whiteman Osterman & Hanna LLP

Of Counsel

One Commerce Plaza | Albany | New York | 12260

| o | 518.487.7733 | f | 518.487.7777

| e | pvancott@woh.com | w | www.woh.com

From: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Sent: Wednesday, July 8, 2026 12:45 PM

To: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc: Claudia Braymer <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Sullivan, Grace (APA) <grace.sullivan@apa.ny.gov>; Ommen, Todd D. <tommen@law.pace.edu>; VanCott, Paul <pvancott@woh.com>

Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

CAUTION: This email originated from outside of the firm. Do not click links or open attachments unless you recognize the sender and are expecting the message.

Dear Judge Greenwood and Counselors:

Please find attached my letter regarding the anticipated site inspection.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

From: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>

Sent: Wednesday, July 8, 2026 9:31 AM

To: PVanCott@woh.com <PVanCott@woh.com>; Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Executivedirector@protectadks.org <executivedirector@protectadks.org>; Ommen, Todd D. <tommen@law.pace.edu>

Cc: Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASEitelman@woh.com>

Subject: RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

Following up on this as well... We are one week out from this date. Can we please get a confirmation (yes or no)? If no, please provide a date that works for the applicant today so that we can get something on the books.

Thanks,
Grace

From: VanCott, Paul <PVanCott@woh.com>

Sent: Tuesday, July 7, 2026 9:32 AM

To: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Executivedirector@protectadks.org; Ommen, Todd D. <tommen@law.pace.edu>

Cc: Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASEitelman@woh.com>

Subject: RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

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

Are we confirmed for the 15th?

Paul Van Cott | Whiteman Osterman & Hanna LLP

Of Counsel

One Commerce Plaza | Albany | New York | 12260

| o | 518.487.7733 | f | 518.487.7777

| e | pvancott@woh.com | w | www.woh.com

From: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Sent: Wednesday, July 1, 2026 2:21 PM

To: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; VanCott, Paul <PVanCott@woh.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Executivedirector@protectadks.org; Ommen, Todd D. <tommen@law.pace.edu>

Cc: Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASEitelman@woh.com>

Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

CAUTION: This email originated from outside of the firm. Do not click links or open attachments unless you recognize the sender and are expecting the message.

Good afternoon, Attorney Sullivan,

I will provide days this week - preferably tomorrow. I can say that my client will not agree to Adk Council's expert having his or her own day to inspect the site.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

From: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>
Sent: Wednesday, July 1, 2026 9:47 AM
To: PVanCott@woh.com <PVanCott@woh.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Executivedirector@protectadks.org <executivedirector@protectadks.org>; Ommen, Todd D. <tommen@law.pace.edu>
Cc: Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASEitelman@woh.com>
Subject: RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

Good morning all,

Attorney Norfolk, could you please indicate which days we may be able to schedule the site visit? If we schedule it for the 15th, can we do a separate site visit to accommodate Adirondack Council's expert?

Our expert is also available the week of the 27th. We would like to get something scheduled so that we may all plan around it.

Thanks,
Grace Sullivan

From: VanCott, Paul <PVanCott@woh.com>
Sent: Tuesday, June 23, 2026 3:01 PM
To: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Executivedirector@protectadks.org; Ommen, Todd D. <tommen@law.pace.edu>
Cc: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASEitelman@woh.com>
Subject: RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

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

Our noise expert is a critical witness. Is there a way that we can separately accommodate a site visit by him. As noted, he has a scheduled vacation the week that includes the 15th.

Paul

Paul Van Cott | Whiteman Osterman & Hanna LLP

Of Counsel

One Commerce Plaza | Albany | New York | 12260

| o | 518.487.7733 | f | 518.487.7777

| e | pvancott@woh.com | w | www.woh.com

From: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>
Sent: Tuesday, June 23, 2026 9:28 AM
To: Executivedirector@protectadks.org; Ommen, Todd D. <tommen@law.pace.edu>
Cc: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; VanCott, Paul <PVanCott@woh.com>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Christopher Amato

Exhibit C



Outlook

RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

From Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>

Date Wed 7/8/2026 2:24 PM

To Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Cc Executivedirector@protectadks.org <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; PVanCott@woh.com <PVanCott@woh.com>

Dear all,

I am in agreement with Attorney Van Cott that some of the proposed terms are unreasonable and unclear, particularly given the delayed notice. My notes are below:

1. Specify meeting location and time
2. Meeting location and time should be no earlier than 10:00 A.M. – It is at least an hour drive for most parties & their representatives. It is a multiple hour drive for our expert (without delays or wrong turns).
3. We are okay with 3 person limitation because only 1 expert, myself, and another staff member will be attending the visit, but believe that **every** expert retained by the parties should have the opportunity to visit on this date if they have determined it is necessary for their preparation of the hearing. I think it would be fair to provide a list of individuals planning to attend the site visit and their role in the hearing ahead of the July 15th visit. The applicant may then object to specific individuals if their purpose is duplicative and/or not justified. The current limitation of 3 individuals is arbitrary & contrary to the purpose of the site visit.
4. Duration of the site visit should be at least 1.5 hours from arrival at the site – We had discussed 2-3, but 1.5 should be sufficient for our expert. We worry that 45 minutes will be an insufficient amount of time to exit the vehicles, inspect the site, return to the vehicles. I do not want our expert to feel rushed, but we agree to not dally longer than necessary to complete the work we set out to do.
5. We had agreed to include both parcels in the site visit (though our expert only needs to visit the parcel at 195 Hale Hill Lane). If both parcels are not to be included, Applicant's Attorney must provide a compelling reason for this shift.

Thanks,
Grace

From: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Sent: Wednesday, July 8, 2026 1:58 PM

To: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Cc: Executivedirector@protectadks.org; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Sullivan, Grace (APA)

<Grace.Sullivan@apa.ny.gov>; Ommen, Todd D. <tommen@law.pace.edu>; PVanCott@woh.com

Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

Dear Parties:

I have reviewed the terms and conditions of site visit in the letter dated July 7, 2026 from Applicant's counsel addressed to me received today. In my role as Hearing Officer and as a personal matter I have no objections to the terms and conditions. I do not speak for APA hearing staff or any of the intervenors of course. I do have one request, and that is some directions on exactly where to park upon arrival at 195 Hale Hill Road.

DAVID N. GREENWOOD

Administrative Law Judge

New York State Department of Environmental Conservation

Office of Hearings and Mediation Services

625 Broadway, First Floor, Albany, NY 12233-1550

w: (518) 402-9004 | david.greenwood@dec.ny.gov

dec.ny.gov

From: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Sent: Wednesday, July 8, 2026 12:45 PM

To: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc: Executivedirector@protectadks.org <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; pgitlen@WOH.com <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASEitelman@woh.com>; Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Ommen, Todd D. <tommen@law.pace.edu>; PVanCott@woh.com <PVanCott@woh.com>

Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

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

Dear Judge Greenwood and Counselors:

Please find attached my letter regarding the anticipated site inspection.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

Exhibit D



Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

From Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Date Thu 7/9/2026 5:05 PM

To VanCott, Paul <PVanCott@woh.com>; Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc Executivedirector@protectadks.org <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <PGitlen@woh.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; Sean Davis <sdavis@norfolkbeier.com>

Dear Judge Greenwood:

On behalf of my clients, Project Sponsor Michael Hopmeier and Unconventional Concepts, Inc., the Applicant, I hereby withdraw the offer extended to the intervening parties to perform an inspection of the project site. The intervening parties object to the site visit terms and conditions my clients have presented. Furthermore, there is no legal requirement that a project sponsor or applicant permit intervening parties to enter upon and inspect a project site. I certainly could not find any. I invite all receiving this email to correct me if there is, indeed, a legal mandate requiring my clients to permit intervening parties to enter upon and inspect the project site.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

From: VanCott, Paul <PVanCott@woh.com>

Sent: Thursday, July 9, 2026 1:57 PM

To: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>; Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>
Cc: Executivedirector@protectadks.org <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <PGitlen@woh.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; Sean Davis <sdavis@norfolkbeier.com>
Subject: RE: Preliminary response RE: P2021-0276: Site Visit Scheduling

What do these last 2 emails from you mean, Matt?

Perhaps we should call off any site visit if your client is unwilling provide reasonable courtesies to accommodate staff and the other parties. You are essentially denying the parties a meaningful site visit and not allowing staff and the intervenors to obtain information needed for a full and complete record.

The APA Board said both parcels are considered to be part of the project site, by the way. You have had the Order since last Fall.

Pual

Paul Van Cott | Whiteman Osterman & Hanna LLP

Of Counsel

One Commerce Plaza | Albany | New York | 12260

| o | 518.487.7733 | f | 518.487.7777

| e | pvancott@woh.com | w | www.woh.com

From: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Sent: Thursday, July 9, 2026 1:50 PM

To: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc: Executivedirector@protectadks.org; Hubbard, Jennifer M (APA) <Jennifer.Hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <pgitlen@WOH.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <ASeitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; VanCott, Paul <PVanCott@woh.com>; Sean Davis <sdavis@norfolkbeier.com>

Subject: Re: Preliminary response RE: P2021-0276: Site Visit Scheduling

CAUTION: This email originated from outside of the firm. Do not click links or open attachments unless you recognize the sender and are expecting the message.

Take this issue up with APA Staff.

Sincerely,
Matthew D. Norfolk, Esq.



NORFOLK BEIER PLLC

D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

Exhibit E



Re: P2021-0276 - UCI Ballistic Range Application

From Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Date Fri 7/10/2026 5:20 PM

To Claudia Braymer <executivedirector@protectadks.org>

Cc Hubbard, Jennifer M (APA) <jennifer.hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <pgitlen@woh.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <aseitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; Sean Davis <sdavis@norfolkbeier.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Chelsie Geesler <CGeesler@norfolkbeier.com>

The Third Revised Scheduling Order does not mandate my clients to allow the intervening parties to attend the site visit or otherwise enter upon the land where the project site is located. Additionally, the Third Revised Scheduling Order does not authorize or give the intervening parties the right to attend the site visit or otherwise enter upon the land where the project site is located. My clients have made it abundantly clear to me that law enforcement will be called if any unauthorized individuals attempt to enter upon the land where the project site is located.

I don't know how to say it any other way. The intervening parties will not be allowed to attend a site visit.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza
55 Barn Road, Suite 201
Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

From: Claudia Braymer <executivedirector@protectadks.org>

Sent: Friday, July 10, 2026 5:03 PM

To: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Cc: Hubbard, Jennifer M (APA) <jennifer.hubbard@apa.ny.gov>; Christopher Amato <conservationdirector@protectadks.org>; Gitlen, Philip <pgitlen@woh.com>; David Gibson <dgibson@adirondackwild.org>; Seitelman, Anna V. <aseitelman@woh.com>; Ommen, Todd D. <tommen@law.pace.edu>; Sean Davis <sdavis@norfolkbeier.com>; Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>; Chelsie Geesler <CGeesler@norfolkbeier.com>

Subject: Re: P2021-0276 - UCI Ballistic Range Application

Dear Judge Greenwood,

I will note that a site visit for the APA staff, intervening parties and experts is included in the Third Revised Scheduling Order. We are prepared to attend with 2 or 3 individuals at 8:30am or 10:00am on July 15.

Thank you,
Claudia Braymer

On Fri, Jul 10, 2026 at 4:45 PM Matthew D. Norfolk <mnorfolk@norfolkbeier.com> wrote:

Dear Judge Greenwood:

My clients have agreed to start the site visit at 10:00, July 15, 2026. Attorney Sullivan has confirmed that she and two other representatives of the APA will attend the site visit, beginning at 10:00 am, on July 15, 2026. It is my understanding that a 10:00 am start will accommodate your schedule and alleviate the need for you to make plans to stay at a hotel the night before. I ask that you kindly advise if you will attend the site.

My clients will not agree to permit the intervening parties to visit the project site. There is no legal requirement for an applicant to allow intervening parties to visit the project site. Without any legal obligation, by and through my email sent on July 9, 2026, at 12:48 pm, my clients offered the intervening parties the opportunity to visit the project site with reasonable terms and conditions. In response, they audaciously objected to those terms and conditions - despite possessing no right to enter upon the project site or participate in a site visit. It appears the intervening parties wish to have unfettered access to the project site. As a result of the intervening parties' refusal to accept my clients' terms and conditions for a site visit, my clients exercised their lawful right and withdrew their offer extended to them. My clients have not changed their position. They will not allow the intervening parties access to the project site.

By Monday, July 13, 2026, I will provide a disclaimer/hold harmless agreement that my clients require those attending the site visit to execute. By copy hereof, I ask Attorney Sullivan to identify the individuals who will be accompanying her during the site visit and provide copies of their driver's licenses or equivalent forms of identity. I ask that this be done by noon, Monday, July 13, 2026. Well in advance of the site visit, I will also provide those authorized to attend the site visit directions to the location where we will meet to be transported to the project site by all-terrain vehicles my clients are making available.

Sincerely,
Matthew D. Norfolk, Esq.



D: 518.302.7064

F: 518.302.7100

A: The Outpost Plaza

55 Barn Road, Suite 201

Lake Placid, NY 12946

E: mnorfolk@norfolkbeier.com

The information contained in this electronic message and any attached document(s) are intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient(s), you are hereby notified that you have received this electronic message in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone 518.302.8080 or by electronic mail at nbadmin@norfolkbeier.com. Thank you.

EXHIBIT G



August 11, 2026

Via Email

Hon. David Greenwood
Administrative Law Judge
NYS Department of Environmental Conservation
Office of Hearings and Mediation Services
625 Broadway
Albany, New York 12233-1550
david.greenwood@dec.ny.gov

Re: APA Project 2021-0276
Sponsor/Applicant: Michael Hopmeier/Unconventional Concepts, Inc.

Dear Judge Greenwood:

I request a 21-day extension to file written witness testimony and exhibits. I simply need more time to complete the submission. If you are inclined to grant my request, of course, I will have no objection to Attorney Sullivan and counsel for the intervenors to be granted more time for them to file their written testimony and exhibits.

Thank you for your consideration of my request herein.

Respectfully,

Norfolk Beier PLLC

By: 
Matthew D. Norfolk, Esq.

cc: Service List

EXHIBIT H

P2021-0276 - UCI Ballistic Range Application

Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Wed, Aug 12, 2026 at 10:36 AM

To: "Matthew D. Norfolk" <mnorfolk@norfolkbeier.com>

Cc: "Sullivan, Grace (APA)" <Grace.Sullivan@apa.ny.gov>, "Ommen, Todd D." <tommen@law.pace.edu>,

"Executivedirector@protectadks.org" <executivedirector@protectadks.org>, "Hubbard, Jennifer M (APA)"

<Jennifer.Hubbard@apa.ny.gov>, "pgitlen@WOH.com" <pgitlen@woh.com>, "Seitelman, Anna V."

<aseitelman@woh.com>, Chelsie Geesler <CGeesler@norfolkbeier.com>, Sean Davis <sdavis@norfolkbeier.com>,

"PVanCott@woh.com" <PVanCott@woh.com>, David Gibson <dgibson@adirondackwild.org>, Christopher Amato

<conservationdirector@protectadks.org>

Dear Parties:

In the interests of responding as quickly as possible to the letter request for "a 21-day extension to file written witness testimony and exhibits" I received from Applicant's counsel at 3:38 p.m. yesterday August 11, 2021, my response to the request is this email rather than a letter ruling. Per the Third Revised Scheduling Order dated June 24, 2026, the Applicant was to file and serve pre-filed testimony of witnesses and related exhibits on or before 5:00 p.m. today August 12, 2026. Also, Per the Third Revised 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." Additionally, the APA hearing procedures provide under "Extension of time by consent" at 9 NYCRR 580.20 that "Any time period specified in this Part may be extended for good cause by written mutual consent of the project sponsor and the agency staff".

The Applicant's request for a 21-day extension was not made "at least 10 days before the established due date."

There is no indication that "Prior to filing the request" the parties conferred to attempt to resolve the conflict.

There is no indication that the extension is for "good cause" rather the only reason stated in the request is "I simply need more time to complete the submission".

There is no indication that the "mutual consent of the project sponsor and the agency staff" has been obtained.

Because the untimely request for a 21-day extension to file written witness testimony and exhibits does not comport with the procedure for such requests set forth in the Third Revised Scheduling Order, or the APA's hearing procedures, I am required to deny it. The request for "a 21-day extension to file written witness testimony and exhibits" I received from Applicant's counsel at 3:38 p.m. yesterday August 11, 2026 is hereby DENIED.

Nonetheless, the hearing in this matter must proceed, and as the Applicant's request for a modification of the timelines in the Third Scheduling Order is an application to the hearing officer for a ruling, order or determination, 9 NYCRR 580.11(c) provides that "The hearing officer shall give all parties an opportunity to respond thereto." Accordingly, the most viable way to proceed is to conduct a pre-hearing video conference between the applicant, APA hearing staff and the other parties as soon as possible to develop a Fourth Revised Scheduling Order that is mutually agreeable to the parties.

The following dates and times for a conference call this week and next week work for myself, hopefully we can decide on a time that works for everyone:

Friday August 14 — 10am

Monday August 17 — 10am or 2pm

Wednesday August 19 — 10am or 2pm

Please reply all with dates and times that you are available by **2pm on Thursday August 13**. Once we find a date and time for the conference call, I would ask APA hearing staff to kindly provide us all with a Webex link to use to log into the call.

Thank you for your time and attention to these matters.

Sincerely and thank you,

DAVID N. GREENWOOD

Administrative Law Judge

New York State Department of Environmental Conservation

Office of Hearings and Mediation Services

625 Broadway, First Floor, Albany, NY 12233-1550

w: (518) 402-9004 | david.greenwood@dec.ny.gov

dec.ny.gov

From: Matthew D. Norfolk <mnorfolk@norfolkbeier.com>

Sent: Tuesday, August 11, 2026 3:38 PM

To: Greenwood, David N (DEC) <david.greenwood@dec.ny.gov>

Cc: Sullivan, Grace (APA) <Grace.Sullivan@apa.ny.gov>; Ommen, Todd D. <tommen@law.pace.edu>;

Executivedirector@protectadks.org <executivedirector@protectadks.org>; Hubbard, Jennifer M (APA)

<Jennifer.Hubbard@apa.ny.gov>; pgitlen@WOH.com <pgitlen@WOH.com>; Seitelman, Anna V.

<aseitelman@woh.com>; Chelsie Geesler <CGeesler@norfolkbeier.com>; Sean Davis

<sdavis@norfolkbeier.com>; PVanCott@woh.com <PVanCott@woh.com>; David Gibson

<dgibson@adirondackwild.org>; Christopher Amato <conservationdirector@protectadks.org>

Subject: Re: P2021-0276 - UCI Ballistic Range Application

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

[Quoted text hidden]