

From: [Greenwood, David N \(DEC\)](#)
To: [Matthew D. Norfolk](#)
Cc: [Sullivan, Grace \(APA\)](#); [Ommen, Todd D.](#); Executivedirector@protectadks.org; [Hubbard, Jennifer M \(APA\)](#); pgitlen@WOH.com; [Seitelman, Anna V.](#); [Chelsie Geesler](#); [Sean Davis](#); PVanCott@woh.com; [David Gibson](#); [Christopher Amato](#)
Subject: Re: P2021-0276 - UCI Ballistic Range Application
Date: Wednesday, August 12, 2026 10:36:14 AM
Attachments: [image.png](#)

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

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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

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Dear Judge Greenwood:

Please find attached my letter-request.

Sincerely,
Matthew D. Norfolk, Esq.



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