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#### Via Email

December 3, 2025

Barbara Rice  
Executive Director  
Adirondack Park Agency  
P.O. Box 99  
Ray Brook, NY 12077

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

Dear Executive Director Rice:

Protect the Adirondacks ("PROTECT") has learned of a series of apparent communications between you, in your capacity as Executive Director of the Adirondack Park Agency ("APA") and Matthew Norfolk, counsel for the applicant in the above-referenced proceeding. PROTECT objects to these *ex parte* communications concerning a matter that has been ordered by the APA Board to an adjudicatory hearing.

As reported in the *Adirondack Explorer*<sup>1</sup> and the *Adirondack Daily Enterprise*,<sup>2</sup> APA apparently designated David Greenwood, an administrative law judge (ALJ) employed by the Department of Environmental Conservation, to preside over the adjudicatory hearing. According to the *Daily Enterprise*, the designation was set forth in a letter dated November 20, 2025 from you to Judge Greenwood. Mr. Norfolk was the only member of the public copied on the letter. According to the newspaper reports, Mr. Norfolk communicated with you, objecting to Judge Greenwood's designation based on an alleged conflict of interest, and you instructed him to submit "papers" regarding that objection by Friday, November 28. Mr. Norwood apparently responded by challenging your authority to require such a submission.

If true, the communications between you and Mr. Norfolk constitute improper *ex parte* communications because they occurred without notice to

<sup>1</sup> Gwendolyn Craig, "Lawyer questions APA's choice for judge in upcoming cannon project hearing," *Adirondack Explorer* (Dec. 2, 2025).

<sup>2</sup> "Applicant, APA clash over judge selection for Howitzer hearing," *Adirondack Daily Enterprise* (Dec. 2, 2025).

**Protect the Adirondacks**

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other interested persons or organizations and involved the crucial issue of who will preside over the adjudicatory hearing. At a minimum, notice should have been provided to all interested parties by posting the designation and subsequent communications on the APA's webpage devoted to this hearing or to the Freedom of Information Law Records Access Center page devoted to this proposed project.

The APA regulations make clear that such undisclosed communications are prohibited:

**(c) Prohibition**

(1) No party or representative of a party *shall communicate in any form with the agency or any member regarding any matter subject to an adjudicatory proceeding before the agency without serving copies of the communication on all other parties to the proceeding.*

(2) *Prior to or during an adjudicatory proceeding, no agency member or employee responsible for rendering a decision or making findings of fact and conclusions of law shall communicate in connection with any issue of fact, or issue of law, with any person, party or his representative, except upon notice and opportunity for all parties to participate.*

9 NYCRR § 587.4; (emphasis added).

In this case, the APA Executive Director engaged in several days of communication with the applicant's attorney regarding a matter squarely within the pending adjudicatory without informing the public or other interested parties—something that could have been easily accomplished by posting all relevant documents online. Although formal party status has not yet been granted, APA is fully aware that numerous individuals and organizations have participated extensively in the review of this application and many will likely petition for party status.<sup>3</sup> Not disclosing the ALJ designation and engaging in substantive communications with only one interested party plainly violates the *ex parte* prohibition in 9 NYCRR § 587.4(c)(1).

The communications also implicate the *ex parte* prohibition in 9 NYCRR § 587.4(c)(2). Under 9 NYCRR § 580.7(a), the Executive Director is responsible for rendering decisions on party status until an ALJ is selected. During the period in question, the public had no notice that an ALJ had been designated; therefore, any petitions for party status would have been directed to you, placing you squarely in the role of the agency official “responsible for rendering a decision.” As a result, the communications between you and the applicant's attorney also fall within the conduct prohibited by 9 NYCRR § 587.4(c)(2).

PROTECT further objects to the following procedural deficiencies:

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<sup>3</sup> See APA Order, Project No. 2021-0276 at 3 (noting that “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,” and that “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. “).

- Although the ALJ was apparently designated as ALJ on November 20, no notice of this was posted anywhere on the APA website. In fact, as of the date of this letter, there is still no public notice of that designation—eight business days later.
- Mr. Norfolk was apparently the only party notified of the ALJ despite the high level of public involvement in this matter and the reasonable expectation that numerous organizations and individuals will seek party status.
- Mr. Norfolk’s objection to Judge Greenwood’s designation was not posted on the APA’s website.
- Your directive to Mr. Norfolk to submit papers by November 28, and his response, were not posted on the APA’s website.
- Your November 20 letter reportedly included a tentative hearing commencement date of December 22, 2025—another critical piece of information that was not publicly disclosed.

APA’s failure to inform the public of both the selection of an ALJ and the tentative hearing date is severely prejudicial to other potential parties in two significant respects. First, it permitted the applicant to challenge the ALJ designation without any notice to, or participation by, other interested parties, thereby allowing a consequential procedural dispute to unfold in secret. Second, by disclosing the tentative hearing date only to the applicant, APA conferred upon that party an unfair strategic and substantive advantage, enabling it—and it alone—to prepare for commencement of the hearing while other parties remained unaware of this critical information.

APA has dedicated a specific webpage for public information related to this hearing; that resource must be used fully and promptly for the adjudicatory hearing process to maintain credibility and integrity.

Accordingly, PROTECT respectfully requests that:

- The Executive Director and APA senior staff involved in decision-making refrain from future substantive communications with the applicant or the applicant’s attorney outside of proper, publicly disclosed channels.
- All prior communications between the APA Executive Director and Mr. Norfolk concerning the designation of Judge Greenwood, and any other communications concerning or relating to this issue (including this letter), be immediately posted on the APA’s website.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", with a stylized flourish at the end.

Christopher Amato  
Conservation Director and Counsel

Cc: Matthew Norfolk, Esq.  
Damion Stodola, Esq.