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and Counsel*

Via Email

March 6, 2026

Hon. 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

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

I write on behalf of intervenors Protect the Adirondacks, Adirondack Council, Sierra Club and Adirondack Wild: Friends of the Forest Preserve (collectively, "Intervenors") to respectfully request modifications to the February 11, 2026 Revised Scheduling Order ("Order") that are supported by the Intervenors. It is our further understanding from communications among all of the parties that APA staff are amenable to these proposed modifications to the Order.

The Order currently provides that witness lists and the APA staff statement be filed and served on or before March 18, 2026; that initial discovery requests be served on or before March 18, 2026; and that responses to discovery requests be served on or before April 8, 2026, unless otherwise agreed by the parties. However, since issuance of the Order, the date for commencement of the adjudicatory hearing has been adjourned to April 22, 2026. In addition, counsel for the applicants recently filed a motion seeking to stay the hearing and all pre-hearing proceedings pending a decision in the applicants' CPLR Article 78 proceeding currently pending in Essex County Supreme Court.

The Intervenors are developing their responses to the applicants' motion for a stay, subject to your direction on when responses must be provided. However, in light of these recent developments, and without waiver of and reserving their right to respond to the applicants' motion, the Intervenors respectfully request that the Order be modified as follows (proposed changes are underlined):

Protect the Adirondacks

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I. Witness List and APA Staff Statement

The Applicant and APA staff shall file and serve a list of the witnesses they intend to present on or before April 8, 2026, and the Intervenors shall serve and file a list of the witnesses they intend to present on or before April 15, 2026. The lists should be served on the hearing officer and the parties by email by 5:00 p.m. on or before the specified dates. In addition, APA staff shall file and serve on or before 5:00 p.m. on April 8, 2026, a statement concerning the development considerations and other required findings it considers pertinent to the project and outline the evidence it intends to present, as required by 9 NYCRR 580.6(b).

II. Preliminary Discovery

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

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

III. Pre-filed Direct Testimony

[The first three paragraphs are not proposed to be changed]

The applicant will file and serve pre-filed testimony of witnesses and related exhibits on or before 5:00 p.m. on May 20, 2026. APA staff and the intervenors shall file and serve pre-filed direct testimony and related exhibits on or before 5:00 p.m. on June 10, 2026.

The Intervenors submit that these relatively brief adjournments are warranted and necessary to provide more time for engagement of witnesses, which is proceeding apace but unlikely to be fully concluded by March 18, as well as preparation of initial discovery demands and pre-filed testimony. In addition, the requested adjournment will not prejudice the parties or unduly delay the proceeding, given that this request is far more limited than the open-ended stay of all proceedings sought by the applicants and would allow commencement of testimony by mid-July.

We further submit that having the applicants and APA staff provide their witness lists one week in advance of the Intervenors makes practical sense, because it will avoid needless duplication of witnesses and testimony and, moreover, more closely aligns with the sequence of proof set forth in APA's hearing regulations. *See* 9 NYCRR § 580.14(b)(4) (specifying that, "[a]s a general rule, the project sponsor shall proceed first, followed by agency staff, other governmental agencies and other parties.").

As required by the Order, we have consulted with counsel for all hearing parties, including the applicants and APA staff, in an effort to reach agreement prior to submitting this request. As noted above, our understanding is that APA staff are amenable to the proposed, modified dates in the Order. Counsel for the applicants had not responded to our outreach by the time this letter was submitted.

Thank you for your consideration of this request.

Respectfully submitted,

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

Christopher Amato
Conservation Director and Counsel

cc: Service List