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Via Email

March 10, 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**

Dear Judge Greenwood:

Protect the Adirondacks (“PROTECT”) submits this letter in opposition to the applicants’ motion seeking an indefinite stay of the adjudicatory hearing pending a ruling in the applicants’ Article 78 proceeding currently pending in Supreme Court, Essex County. The motion should be denied for several independent reasons. First, the relief sought substantially duplicates relief that Your Honor and Supreme Court have already provisionally declined to grant. Second, the applicants’ counsel failed to comply with the procedural requirements set forth in the Revised Scheduling Order prior to filing the motion. Finally, the requested stay would cause an undue and potentially lengthy delay of this adjudicatory hearing.

The Article 78 Proceeding

On January 30, 2026, one of the applicants filed an Article 78 petition (the “Petition”) in Supreme Court, Essex County, seeking to (i) annul the designation by the Adirondack Park Agency (“APA”) of Your Honor as Hearing Officer for this adjudicatory proceeding; and (ii) annul the APA’s Order referring the application to an adjudicatory hearing. The Petition names Michael Hopmeier as the sole petitioner; for reasons that are unexplained, the other applicant in this proceeding, Unconventional Concepts, Inc., is not named as a petitioner. The firm of Norfolk Beier, counsel for the applicants in this hearing, also represents Mr. Hopmeier in the Article 78 proceeding.

Protect the Adirondacks

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Along with the Petition, petitioner filed a proposed Order to Show Cause (“OSC”) seeking, among other things, an immediate stay of this adjudicatory proceeding and all pre-hearing procedures pending a final ruling on the Petition. On February 4, 2026, Supreme Court Justice Allison M. McGahay issued the OSC, establishing a return date of February 20, 2026 and setting a briefing schedule. The Court declined to issue the requested stay at that time, instead providing that the request would be considered on the return date.

By letter dated February 11, 2026, Matthew Norfolk, Esq. requested that Supreme Court modify the briefing schedule and return date due to his failure to properly effect service on the Attorney General within the deadline specified in the OSC. The Attorney General’s office did not oppose the requested modification. On February 17, 2026, Supreme Court issued a revised scheduling order establishing a modified briefing schedule and setting a new return date of April 20, 2026. The Court did not include a stay of this adjudicatory proceeding in the revised scheduling order.

The Applicants’ Stay Requests in This Proceeding

By email to Your Honor dated February 9, 2026, Mr. Norfolk requested that the commencement of the adjudicatory hearing be adjourned from February 25, 2026 to April 15, 2026; that “any deadlines” in the Scheduling Order be extended by thirty days; and that all prehearing conferences be suspended until March 25, 2026 to allow the pending Article 78 proceeding to be resolved.

On February 11, 2026, Your Honor adjourned the hearing commencement date to April 22, 2026, but provisionally denied the request to modify other dates in the Scheduling Order pending a determination of the request for a stay in the Article 78 proceeding.

Notwithstanding that ruling, the applicants have now filed a cross-motion dated March 4, 2026 seeking once again to stay all proceedings in this matter pending final resolution of the Article 78 proceeding.

The Motion for a Stay Should be Denied

The applicants’ motion fails to acknowledge that the much of the relief they now seek—namely, suspension of all pre-hearing deadlines and conferences—was already denied in Your Honor’s February 11, 2026 ruling. The affirmation submitted by the applicants’ counsel in support of the motion does not address that prior determination and offers no basis for revisiting it. *See* Affirmation of Matthew Norfolk, Esq., sworn to on March 4, 2026 (“Norfolk Aff.”).

Nor does counsel provide any persuasive reason why this tribunal should grant the very relief that Supreme Court Justice McGahay has already provisionally declined to grant. Notably, counsel’s affirmation does not acknowledge that the requested immediate stay was presented to Supreme Court and was not granted. Having failed to secure a temporary stay from the Court, applicants now ask Your Honor to grant a stay before Supreme Court has rendered its decision on the issue. The applicants offer no compelling reason why Your Honor should issue such an anticipatory ruling and essentially supplant Supreme Court’s authority to decide the stay request presently before it.

In addition, the motion is procedurally improper because applicants' counsel failed to comply with the procedures set forth in the Revised Scheduling Order, which 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.

Revised Scheduling Order at 2; (emphasis added).

The applicants' motion plainly seeks to modify the Scheduling Order by indefinitely suspending its deadlines and procedures. Yet counsel failed to confer with the parties in an effort to resolve the issue before filing the motion. On this basis alone, the motion should be denied.

Finally, the requested stay should be denied because it will unduly delay this proceeding for an indefinite period. Counsel's characterization of the requested relief as "temporary and narrowly tailored" is inaccurate. Norfolk Aff. ¶ 8. In reality, the motion seeks an open-ended stay that would remain in effect until a final decision is issued in the Article 78 proceeding—an outcome that could take months or even years. Indeed, as Mr. Norfolk is well aware from his role as counsel in other APA litigation, a recent Article 78 proceeding concerning an APA permit for the expansion of a commercial marina on Lower Saranac Lake did not result in a final decision until December 2025, more than two years after the petition was filed. Counsel's assertion that a decision in the Article 78 proceeding will "likely" be issued within sixty days, *id.* ¶ 7, is pure conjecture and unsupported by any indication that Supreme Court intends to resolve the matter on such an expedited basis.

For all of these reasons, the applicants' motion for an indefinite stay of this proceeding should be denied.

Respectfully submitted,



Christopher Amato
Conservation Director and Counsel

cc: Service List