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In the Matter of the Application of

**APA HEARING STAFF STATEMENT**

**UNCONVENTIONAL CONCEPTS, INC.  
AND MICHAEL HOPMEIER**

APA Project No. 2021-0276

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The Adirondack Park Agency (“APA”) received an application for a proposed howitzer testing range from Unconventional Concepts, Inc. and Michael Hopmeier (the “Project Sponsors”) on November 19, 2021. The project involves two parcels classified as Rural Use under the Adirondack Park Land Use and Development Plan Map. The first parcel, Tax Map Number 38.1-1-29.00 (Lot 29), an approximately 8± acre parcel located at 87 Hale Hill Lane, is owned by Diversified Upstate Enterprises, LLC, and would be used to store equipment associated with testing. The second parcel, Tax Map Number 38.1-1-31.000 (Lot 31), an approximately 197± acre parcel located at 195 Hale Hill Lane, is owned by Pulsifer Logging LLC and would be used as the testing site. Project Sponsors would be granted access to Lot 31 by the landowner to conduct testing.

The Project Sponsors propose placement and operation of a portable 155mm howitzer barrel assembly within a 100-foot by 100-foot crushed gravel pad on Lot 31. Each test would involve firing a steel projectile towards the designated target area. No explosive warheads are proposed. The howitzer is proposed to be fired up to 30 times per year on weekdays, between the hours of 10:00 am and 4:00 pm. A kinetic energy-absorbing system (a “soft catch system”) is proposed at the eastern end of the range to capture projectiles.

By Order dated November 14, 2025, the APA Board directed the proposed project to proceed to a public hearing. Upon completion of the hearing, the Administrative Law Judge will submit a complete record of the proceeding to the APA Board. The Board must render a decision within 60 days of receipt of the complete record, unless otherwise extended by the hearing officer or by stipulation. 9 NYCRR §580.18(d).

At the hearing, the burden is on the applicant to demonstrate that the project meets all applicable statutory and regulatory requirements. 9 NYCRR §580.14(b).

The duties of APA hearing staff are set forth in 9 NYCRR §580.6. APA hearing staff are not a party to the hearing but have the right to participate fully and shall act to develop a full and complete record upon which the APA Board may base its decision. APA hearing staff, the applicant, and all parties are prohibited from communicating with the APA Board about the project outside of the hearing process. 9 NYCRR §580.17.

The following issues have been identified for review:

- (1) Whether the proposed howitzer testing range is a commercial use (APA Act §810(2)(c)(16)), another use in APA Act §810(2)(c), or a use that is not “included on either the list of primary uses or the list of secondary uses for rural use areas” (APA Act §810(2)(c)(16)).
- (2) Whether the howitzer testing range would have any adverse impacts upon the natural, scenic, ecological, wildlife, recreational, or open space resources of the park 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 adversely affect water resources, land resources, or air resources (APA Act § 805(4)(a)(1)-(3)).
  - ii. Whether the howitzer testing range would have any adverse impacts 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 the Applicant has provided a reliable, comprehensive and accurate modeling of the noise that would be produced by the howitzer testing range and whether such noise will have any adverse impacts upon the Park’s resources or nearby uses (APA Act §805(4)(a)(1)).
  - iv. Whether noise mitigation measures exist that are feasible to implement that would minimize or avoid any adverse impacts to the Park’s resources from the howitzer testing range (APA Act §805(4)(a)(1)).
  - v. Whether the howitzer testing range would create any 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 adverse 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 would adversely impact nearby Wilderness and Wild Forest areas or their use and enjoyment (APA Act §805(4)(c)(2)(a)).
  - viii. Whether the howitzer testing range would have an adverse economic impact on adjoining and nearby land uses, such as property values (APA Act §805(4)(c)(2)(a)).
- (3)** Whether the howitzer testing range would be consistent with the Adirondack Park land use and development plan, including, but not limited to, whether the howitzer testing range would be consistent 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)).
- (4)** Whether the howitzer testing range would be compatible within the Rural Use land area classification, and whether it would be compatible with the character description and purposes, policies and objectives of the Rural Use land area classification (APA Act §809(10)(b)).
- (5)** Whether the howitzer testing range would have any 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 (APA Act §809(10)(e)).

During the proceedings, APA hearing staff intend to offer testimony and evidence on the following development considerations: APA Act §805(4)(a)(1) (Water); §805(4)(a)(2) (Land); §805(4)(a)(3) (Air); § 805(4)(a)(4) (Noise); §805(4)(a)(5) (Critical Resource Areas); §805(4)(a)(6) (Wildlife); §805(4)(c)(1) (Natural Site Factors); §805(4)(c)(2)(a) (Adjoining nearby land uses);, and §805(4)(d) (Governmental Considerations). APA hearing staff will also follow the testimony and evidence presented by the applicant and the parties and may ask clarifying questions for the purpose of developing a full and complete record.

APA hearing staff do not have a recommendation regarding whether the project should be approved or denied, or regarding any conditions that may be included in an approval issued by the APA Board following the hearing. At the close of the hearing, APA hearing staff may summarize the record for the benefit of the Agency. The participating parties may provide written comments with respect to the completeness of that summary. 9 NYCRR §580.18(a). Agency staff who did not participate in the proceedings may

provide a recommendation to the APA Board about the project and/or potential permit conditions. 9 NYCRR §580.18(b)

For the parties' consideration, APA hearing staff offer the following preliminary comments as they relate to the identified hearing issues and relevant development considerations. Please note that the proposed testimony and evidence are subject to modification at the Agency's discretion.

**Question:** Whether the proposed howitzer testing range is a commercial use (APA Act §810(2)(c)(16)), another use in APA Act §810(2)(c), or a use that is not "included on either the list of primary uses or the list of secondary uses for rural use areas" (APA Act §810(2)(c)(16)).

**Relevant Development Considerations:** N/A

**Relevant Findings:** APA Act §809(10)(b)

**Testimony:** A member of the Agency's Regulatory Programs division will provide testimony covering the use classification process and the considerations applicable to the Agency's use determinations.

**Question:** Whether the howitzer testing range involves any potential discharges, residues, or other pollutants that may affect water resources, land resources, or air resources.

**Relevant Development Considerations:** APA Act §805(4)(a)(1) (Water), APA Act §805(4)(a)(2) (Land), APA Act §805(4)(a)(3) (Air)

**Relevant Findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** APA hearing staff expect to retain an expert witness who will provide a report and testimony regarding this issue. APA hearing staff reserve the right to present supplemental or rebuttal testimony based on any expert report produced in connection with this issue or upon receipt of new information obtained through discovery.

**Question:** Whether the howitzer testing range would have any adverse impacts 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.

**Relevant Development Considerations:** APA Act §805(4)(a)(1) (Water), APA Act §805(4)(a)(2) (Land), APA Act 805(4)(c)(1) (Natural Site Factors)

**Relevant Findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** APA hearing staff expect to provide a combination of expert and staff testimony on this issue. A member of the Agency's State Lands division is expected to provide testimony regarding potential impacts to the quality and availability of nearby lands for outdoor recreational purposes. Expert testimony will address the environmental

impacts to soil, forest, and water. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the Applicant has provided a reliable, comprehensive and accurate modeling of the noise that would be produced by the howitzer testing range and whether such noise will have any adverse impacts upon the Park's resources or nearby uses (APA Act § 805(4)(a)(1)).

**Relevant Development Considerations:** §805(4)(a)(5) (Critical Resource Areas), §805(4)(a)(6) (Wildlife), §805(4)(c)(2)(a) (Adjoining nearby land uses)

**Relevant Findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** APA hearing staff expect to retain an expert witness who will review the September 2023 sound study submitted by the applicant and submit a report regarding the accuracy and reliability of that study. The expert will provide testimony in connection with their report and be available for cross examination. APA staff members may also provide testimony concerning noise impacts to adjoining nearby land uses. APA hearing staff reserve the right to present supplemental or rebuttal testimony.

**Question:** Whether noise mitigation measures exist that are feasible to implement that would minimize or avoid any adverse impacts to the Park's resources from the howitzer testing range (APA Act § 805(4)(a)(1)).

**Relevant Development Considerations:** §805(4)(a)(5) (Critical Resource Areas), §805(4)(a)(6) (Wildlife), §805(4)(c)(2)(a) (Adjoining nearby land uses)

**Relevant Findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** APA hearing staff expect this question to be addressed by one or more expert witnesses appearing at the hearing. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range would create any ecological impacts or disruption to native or migrating wildlife and their habitats at or near the howitzer testing range, considering species' sensitivities.

**Relevant Development Considerations:** APA Act §805(4)(a)(5) (Critical Resource Areas) and §805(4)(a)(6) (Wildlife)

**Relevant findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Staff Testimony:** APA hearing staff will provide testimony regarding existing habitats at and around the project site and species associated with those habitats. APA hearing staff also expect to retain an expert witness to provide a report and testimony regarding potential noise impacts to identified wildlife at and around the project site. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range could have adverse health and safety impacts relating to the operation, storage, and transport of military equipment.

**Relevant Development Considerations:** APA Act §805(4)(c)(2)(a) (Adjoining and nearby land uses), §805(4)(d)(1)(a) (Ability of Government to provide facilities and services)

**Relevant findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** APA hearing staff expect to retain an expert witness to provide testimony on this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range would adversely impact nearby Wilderness and Wild Forest areas or their use and enjoyment.

**Relevant Development Considerations:** APA Act §805(4)(c)(2)(a) (Adjoining and nearby land uses)

**Relevant findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** A member of the Agency's State Lands division will provide testimony on this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range would have an adverse economic impact on adjoining and nearby land uses, such as property values.

**Relevant Development Considerations:** APA Act §805(4)(c)(2)(a) (Adjoining and nearby land uses)

**Relevant findings:** APA Act §809(10)(a), §809(10)(b), §809(10)(e)

**Testimony:** APA hearing staff do not intend to present affirmative testimony on this issue. APA hearing staff expect evidence concerning potential economic impacts, including impacts on property values, to be presented by the intervening parties. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range would be consistent with the Adirondack Park land use and development plan, including, but not limited to, whether the howitzer testing range would be consistent 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.

**Relevant Development Considerations:** APA Act §805(4)

**Relevant findings:** APA Act §809(10)(a)

**Testimony:** A member of the Agency's Regulatory Programs division will provide testimony in connection with this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range would be compatible within the Rural Use land area classification, and whether it would be compatible with the character description and purposes, policies and objectives of the Rural Use land area classification (APA Act § 809(10)(b)).

**Relevant Development Considerations:** APA Act §805(4)

**Relevant findings:** APA Act §809(10)(b)

**Testimony:** A member of the Agency's Regulatory Programs division will provide testimony in connection with this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.

**Question:** Whether the howitzer testing range would have any 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

**Relevant Development Considerations:** APA Act §805(4)

**Relevant findings:** APA Act §809(10)(e)

**Testimony:** A member of the Agency's Regulatory Programs division will provide testimony in connection with this issue. APA hearing staff reserve the right to cross-examine witnesses and to present rebuttal or supplemental testimony.