

APA 2021-0276 Public Hearing
Summary for Record Prehearing Conference Call
January 21, 2026 1:00 p.m.

Attendees – APA Hearing Staff – Grace Sullivan, Jennifer Hubbard
Project Sponsor – Matthew D. Norfolk, Shane Kelly
Intervenors – Christopher Amato, Claudia Braymer (Protect), Paul Van Cott (Adirondack Council), David Gibson (Adirondack Wild), Todd D. Ommen, David Ramirez (Sierra Club)
OHMS – ALJ David Greenwood

1. Conduct of Hearing Order of Proceedings (9 NYCRR 580.14[b]) for February 4, 2026 Hearing Date.

- A. Hearing Officer Convene and summary of application and purpose of hearing.
- B. Court Reporter/stenographer.
- C. Appearances of the Parties.
- D. Project Sponsor informal presentation and answer questions of the public who are not parties.
- E. Hearing Officer determination of the sequence of participation.
- F. Opening Statements.

The parties and the hearing officer discussed the order of proceedings of the first day of the public hearing and considered adjourning the first day of the hearing briefly in order to address prehearing motions and requests for rulings. Applicant's counsel stated that the applicant would likely make an informal presentation and answer questions of the public who are not parties at the first hearing date, but may withdraw that request.

2. Notices of Appearance (9 NYCRR 580.10) and Service List.

3. Applicant's January 20, 2026 ALJ Disqualification challenge.

The parties and the hearing officer discussed the applicant's challenge to the appointment of the hearing officer but were unable to resolve the issue during the conference. As suggested in the January 21, 2026 letter from APA Executive Director Brabara Rice to the hearing officer and applicant's counsel, the other parties will have an opportunity to submit either a challenging affidavit or a responding affidavit by **5pm Friday January 23, 2026**. Additionally, the hearing officer discussed the requirements for serving as a hearing officer or disqualification in the hearing regulations at 9 NYCRR 580.14(a)(2) and affirmed that none of those conditions applied. The hearing officer also addressed questions from applicant's counsel about the lack of membership or affiliation with one of the intervening organizations, the Adirondack Council.

4. Applicant's Letter to ALJ dated January 15, 2026.

- A. Request for Adjournment
- B. Clarification of Record Availability

The parties agreed to **adjourn the February 4, 2026, hearing date**, to a date, time and place certain of **10:00 a.m. February 25, 2026 at APA HQ in Ray Brook, NY**. Grace Sullivan APA Hearing Staff agreed to draft a joint request and order for adjournment and circulate it to the parties for the hearing officer's signature. The parties discussed the difficulties in the lack of a central location to access record materials and correspondence between the parties. The hearing officer stated that the DEC does not have an electronic filing mechanism in place for ordinary proceedings. APA hearing staff agreed to make record materials prepared and sent on notice

between the parties and the hearing officer available upon the Agency's website, ideally within 24 hours of receipt.

5. Intervenor's Joint letter dated January 16, 2026 with Proposed Scheduling Order.

- A. Date for Witness Lists.
- B. Date for Preliminary Discovery Requests and Responses
- C. Date for Applicant's Pre-filed Direct Testimony
- D. Date for Agency Staff Pre-filed Direct Testimony
- E. Date for Intervenor's Pre-filed Direct Testimony
- F. In-Person Hearing Dates required to enter evidence and testimony
- G. Scheduling Order description of Identification of Exhibits (Numerical for Applicant, Alphabetical for Agency Staff and Intervenors).

This item was initially tabled to address other agenda items affecting the hearing schedule. After returning to the item the parties agreed to the following dates in **2026** to be reflected in a scheduling order to be prepared and issued by the hearing officer: Hearing to commence **February 25**; Witness Lists and APA staff statement **March 18**; Preliminary discovery requests **March 18**; Responses to discovery **April 8**; Applicant's witness' pre-filed direct testimony **April 28**; APA and intervenors' witness pre-filed direct testimony **May 20**.

6. Adirondack Council's January 20, 2026 Motion to ALJ for an Order disqualifying Norfolk Beier PLLC from representing project sponsor.

The parties discussed resolving the merits of the motion during the conference but were unable to do so. The applicant and other parties will have until **5:00 p.m. February 3, 2026** to submit opposition and responses to the motion to the hearing officer. The hearing officer will make a ruling on the motion due **February 10, 2026**.

7. Applicant's Email dated January 20, 2026 requesting a briefing schedule on Adirondack Council's motion to disqualify and requesting a stay in the proceeding.

A briefing schedule on the motion to disqualify was established and an adjournment of the February 4, 2026 hearing date to February 25, 2026 was agreed to by the parties.

8. Applicant's January 20, 2026 Partial Appeal of Ruling on Party Status Petitions.

Applicant's appeal of the party status ruling was discussed, and it was noted that the process for addressing that lied with the Agency and not the hearing officer.

9. Intervenors' Joint Letter dated January 20, 2026 requesting Applicant to be required to submit an updated comprehensive application and requesting an "administrative docket"

The intervenors' request regarding the hearing record was addressed in item 4 above. Applicant's counsel noted that although the application was the subject of multiple notices of incomplete application and responses, the final content of the project application could be discerned, and the APA has found the application to be complete. The hearing officer noted that the application was deemed complete and had been the basis for the matter being referred to the instant public hearing and the hearing officer would not require a new comprehensive application to be submitted. The intervenors agreed that the hearing officer's finding did not require a written order from the hearing officer and this request was resolved.

10. Intervenors' Joint letter dated January 20, 2026 proposing revision and addition to issues to be adjudicated at the hearing and Proposed Additional Issue: Protect: Permit Compliance Issues.

This matter was discussed at length. There were no changes consented to by the parties to the three issues referred by the Agency for public hearing in the APA Project Order 2021-0276 issued November 14, 2025. However, the parties agreed to conduct a further pre-hearing issues conference in order to "consider the simplification of issues by consent of the parties" as contemplated by Agency regulations at 9 NYCRR 580.14(a)(4)(i). **The hearing officer agreed to reach out to the parties to schedule a pre-hearing issues conference** to be conducted by videoconference before the February 25, 2026 hearing date.

11. Need for Site Visit?

The potential benefits of a site visit were discussed, the intervenors expressed an interest in doing so. Applicant's counsel stated that the applicant would likely object, and conducting a site visit was not agreed to.

12. Potential Hearing dates?

- How many days will this take?
- Start time?
- Stenographer.

No specific hearing dates beyond the February 25, 2026 hearing date were identified and agreed to. The hearing officer noted that as the hearing progressed specific hearing dates would need to be agreed to and subsequent scheduling orders would need to be issued.

13. Venue?

- APA HQ, room layout, public access.

Continued use of the APA headquarters in Ray Brook as the venue for the in-person hearing dates was agreed to. David Gibson Adirondack Wild requested that some portion of the public hearing should be conducted in the Town of Lewis where the proposed project is located to facilitate public comment and access to the public hearing. The parties and the hearing officer agreed to keep this request in consideration while planning specific hearing dates.

14. Additional Agenda Issues raised by parties.

There were no additional agenda items added by the parties during the conference.

15. Hearing Officer Summary of Pre-Hearing Conference for record per 9 NYCRR 580.9.

The hearing officer stated that a summary for the record of the actions taken at the conference and any admissions stipulations and agreements which were made by the parties was required, and this is that summary.