



In the Matter of the Application of

**UNCONVENTIONAL CONCEPTS, Inc., and
MICHAEL HOPMEIER**

**RULING ON SCHEDULING
MOTIONS**

APA Project No. 2021-0276

I. Introduction and Proceedings

This ruling arises from the November 14, 2025 Adirondack Park Agency (APA or the Agency) Project Order No. 2021-0276 (Project Order) wherein the Agency ordered this matter to public hearing pursuant to Executive Law Section 809 and State regulations at 9 NYCRR 580.2. In November 2021 Unconventional Concepts, Inc. and Michael Hopmeier (the Applicant or Project Sponsor) submitted an application to undertake a Class B Regional Project in the Town of Lewis, Essex County, New York to the APA, which proposes to develop a weapons range for testing the internal ballistics of 155 mm howitzer cannon barrels over a 5-year period (the proposed "howitzer testing range") (Project Application or Proposed Project).

Four organizations submitted petitions for intervention and party status in December 2025 and I granted each organization party status in a ruling dated January 12, 2026. The four organizations are: (i) Sierra Club Atlantic Chapter (Sierra Club); (ii) Adirondack Wild: Friends of the Forest Preserve (Adirondack Wild); (iii) Adirondack Council, Inc. (Adirondack Council); and (iv) Protect the Adirondacks. The Project Sponsor appealed the ruling granting party status to Adirondack Wild to the Agency's Executive Director and a review of the transcript of the February 19, 2026, APA Board meeting reveals that the Agency voted to uphold the ruling granting party status to Adirondack Wild.

Additionally, the Project Sponsor has initiated a Civil Practice Law and Rules (CPLR) Article 78 proceeding in New York State Supreme Court seeking to vacate the determination of the Agency to conduct a public hearing on the Project Application and to vacate the determination of the Agency's Executive Director to deny the Project Sponsor's motion to disqualify this hearing officer from presiding over the public hearing on the Project Application (*Matter of Michael Hopmeier v. Bd. of New York State Adirondack Park Agency*, et al, Index. No. CV26-0063 [Sup. Ct. Essex Cnty]). At the time of this writing that matter has a return date of April 20, 2026.

This ruling addresses a letter request for a ruling brought by one of the intervening parties, Protect the Adirondacks, on behalf of itself and the other intervenors (Adirondack Wild, Sierra Club and Adirondack Council), dated March 6, 2026, requesting modifications to the First Revised Scheduling Order issued February 11, 2026 (*see Appendix*). This ruling also addresses a Cross-Motion (Cross-Motion) brought by the Project Sponsor dated March 4, 2026 requesting a

stay of the public hearing and all pre-hearing proceedings during the pendency of the above referenced CPLR Article 78 proceeding and an adjournment of the first hearing date from the current date of April 22, 2026 to June 24, 2026 (*see* Appendix).¹ In response to the request for a ruling and the Cross-Motion, the parties submitted additional input and position comments as follows: (i) an email dated March 9, 2026 from Adirondack Wild; (ii) an email with attached letter dated March 10, 2026 from Protect the Adirondacks; (iii) an email with attached letter dated March 10, 2026 from Sierra Club; (iv) an email with attached letter dated March 11, 2026 from Adirondack Council; (v) an email with attached letter dated March 11, 2026 from APA hearing staff; and (vi) an email with attached letter dated March 11, 2026 from the Project Sponsor (*see* Appendix).

For the reasons discussed below, the letter request for modification of the First Revised Scheduling Order is granted in part. The Cross-Motion is granted in part.

II. Positions of the Parties

In pertinent part of its Cross-Motion, the Applicant requests a stay of the public hearing pending the resolution of the related CPLR Article 78 proceeding and a postponement of the first hearing date of the public hearing from April 22, 2026 to June 24, 2026 (Cross-Motion ¶ 7). The Applicant contends that denying a stay would potentially result in wasteful, duplicative proceedings because Supreme Court "could determine that the APA erred in sending the application to a public hearing and reverse that determination" or "could also determine that the Hearing Officer should be disqualified" (*id.* at ¶ 6).

In its March 6, 2026 letter, Protect the Adirondacks writing on behalf of itself and the other intervenors, requests a sequential delay in the due dates for production of witness lists, the APA staff statement, and preliminary discovery and pre-filed direct testimony. To support its request Protect the Adirondacks states its "understanding from communications among all the parties that APA staff are amenable to these proposed modifications to [the First Revised Scheduling Order]." The intervenors state that the "relatively brief adjournments are warranted and necessary to provide more time for engagement of witnesses, which is proceeding apace but is unlikely to be fully concluded by March 18 [the current due date]." The intervenors request that the due date for the Applicant and APA hearing staff to produce a witness list and for APA hearing staff to produce a statement on development considerations be moved from March 18, 2026, to April 8, 2026 (*see* 9 NYCRR 580.6[b]). The intervenors request that the due date for the intervenors to produce witness lists be moved from March 18, 2026 to April 15, 2026. The intervenors request that the due date for preliminary discovery requests be moved from March 18, 2026 to April 8, 2026. The intervenors request that the due date for discovery responses be moved from April 8, 2026 to April 29, 2026. The intervenors request that the due date for the Applicant to file and serve pre-filed direct testimony be moved from April 29, 2026 to May 20, 2026. The intervenors request that the due date for the APA staff and the intervenors to file and serve pre-filed direct testimony be moved from May 20, 2026 to June 10, 2026. The intervenors

¹ The Cross-Motion is titled a cross-motion as it arises in response to an earlier motion brought by Adirondack Council seeking to revise and re-order the issues to be considered in the public hearing dated February 24, 2026. The Cross-Motion is being addressed herein because it and Protect the Adirondacks' request for modifications to the First Revised Scheduling Order both seek modification of the First Revised Scheduling Order.

submit that having the Applicant 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 more closely aligns with the sequence of proof set forth in APA's hearing regulations.

In its March 10, 2026 letter Protect the Adirondacks argues that the Cross-Motion for a stay should be denied because the Applicant is also seeking a stay of the public hearing in its CPLR Article 78 proceeding, which has not yet been granted, and it would unduly delay this proceeding. Similarly, in its March 10, 2026 letter Sierra Club notes the duration of the CPLR Article 78 proceeding is unknown. Sierra Club further notes that the request for a stay of the hearing proceedings pending the outcome of the CPLR Article 78 challenge has already been denied by both this hearing officer and the Supreme Court of Essex County, which Sierra Club asserts raises the bar of collateral estoppel to the present request for a stay.

In its March 11, 2026 letter Adirondack Council requests that the Cross-Motion for a stay be denied and the intervenors' joint request for modification to the First Revised Scheduling Order be granted.

In its March 11, 2026 letter APA hearing staff presents a well-reasoned argument, consents to intervenors' proposed modifications to the First Revised Scheduling Order, and opposes the Applicant's Cross-Motion for a stay of the public hearing. In brief summary, APA hearing staff contends that the request for a stay is duplicative of prior requests that have been denied or not granted, and undermines the legitimacy of the Applicant's concerns for judicial efficiency and administrative resources. APA hearing staff argues that the two claims raised in Applicant's CPLR Article 78 proceeding are unlikely to succeed and that allowing the public hearing to move forward while the CPLR Article 78 is pending "provides all parties, including the applicant, the opportunity to lay the groundwork for the case they intend to present at the evidentiary portion of the public hearing." APA hearing staff asserts that the Applicant has not provided a compelling argument for how a stay would benefit any party, including the Applicant whose "purported goal is to ultimately obtain an Agency permit."

In a reply letter dated March 11, 2026, the Applicant responds in detail to all of the arguments raised against the Cross-Motion for a stay of the public hearing. Briefly, the Applicant asserts that the request for a stay is not "indefinite" because the Applicant requests adjournment of the first hearing date to a "date, time and place certain" of 10:00 a.m. June 24, 2026 at APA headquarters in Ray Brook, New York. Furthermore, the Applicant contends that the uncertain duration of the CPLR Article 78 proceeding weighs in favor of granting a stay of the public hearing "so as not to waste months' worth of time and money developing a record in this public hearing that could eventually be undone." Rather, the Applicant contends that the intervenors are "creating endless, frivolous busywork in an attempt to drain Applicants' resources." With respect to the intervenors' proposed scheduling order modification, the Applicant specifically opposes modifying the order to allow the intervenors to submit their witness lists a week after the Applicant, rather than simultaneous submission as the existing scheduling order provides, contending that the intervenors are seeking some sort of tactical advantage.

III. Discussion

In light of the arguments put forth above, I decline to order a general adjournment of the pre-hearing procedures and hearing dates in the form of a stay of all proceedings in the public hearing. Simply put, State Supreme Court has not yet issued a stay of the public hearing under the auspices of the CPLR Article 78 proceeding and I am determined to continue the process of this public hearing as called for in my appointment as Hearing Officer by the Agency until such a stay is ordered. Notwithstanding that, the intervenors and APA hearing staff all consent to or request moving the pre-hearing procedure due dates in order to give all the parties additional time to prepare for the hearing. The Applicant does not specifically oppose moving the pre-hearing procedure due dates to later dates as proposed by the intervenors. Because APA hearing staff and the intervenors request moving the due dates for pre-hearing proceedings and the Applicant does not oppose that, and also seeks delay, I will grant in part the request to modify the First Revised Scheduling Order. The request seeks to move the final due date for pre-filed direct testimony to June 10, 2026 which "would allow commencement of testimony by mid-July." In light of that, and cognizant of the Applicant's request to move the initial in-person hearing date to June 24, 2026, I will grant that portion of the Cross-Motion and deny the balance of the Cross-Motion. Lastly, in an effort to avoid any claim of advantage sought by the intervenors in modifying the order to allow the intervenors to submit their witness lists a week after the Applicant, rather than simultaneous submission as the existing scheduling order provides, I will deny that portion of the request for modification of the scheduling order.

The practical result of those determinations will be reflected in a Second Revised Scheduling Order, which I will issue concurrently with this ruling.

IV. Ruling

For the reasons discussed above, the request for modification of the First Revised Scheduling Order is GRANTED IN PART.

The Applicant's Cross-Motion for a stay is GRANTED IN PART.



David N. Greenwood
APA Hearing Officer

Dated: March 13, 2026
Albany, New York

To: Attached Service List
Appendix: Ruling on Scheduling Motions Record
Issued Concurrently: Second Revised Scheduling Order

APPENDIX

APA Project No. 2021-0276 Public Hearing Ruling on Scheduling Motions Record

1. Notice of Cross-Motion dated March 4, 2026.
2. Attorney Affirmation of Matthew D. Norfolk, Esq. dated March 4, 2026.
Exhibit A: Hon. Allison M. McGahay Scheduling order dated February 13, 2026.
3. Letter Requesting Ruling from Protect the Adirondacks to Hearing Officer dated March 6, 2026.
4. Email dated March 9, 2026 from Adirondack Wild.
5. Email with attached letter from Protect the Adirondacks to Hearing Officer dated March 10, 2026.
6. Email with attached letter from Sierra Club to Hearing Officer dated March 10, 2026.
7. Email with attached letter from Adirondack Council to Hearing Officer dated March 11, 2026.
8. Email with attached letter from APA hearing staff to Hearing Officer dated March 11, 2026.
9. Email with attached letter from the Applicant to Hearing Officer dated March 11, 2026.

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