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Via Email

June 11, 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:

Intervenor Protect the Adirondacks (PROTECT) submits this letter in response to the summary of ongoing issues and proposed Third Revised Scheduling Order submitted by Adirondack Park Agency (APA) staff under cover of an email dated May 26, 2026.

Summary of Ongoing Issues

Although styled as a “summary of ongoing issues” the submission by APA staff is simply a litany of complaints concerning the Intervenors’ participation in this proceeding. PROTECT will not respond to those complaints other than to note that they exhibit a fundamental misunderstanding of the role of intervenors in an administrative proceeding. PROTECT will continue to exercise its right as an intervenor to raise and address procedural and substantive issues in this proceeding.

APA Staff’s Proposed Scheduling Order

PROTECT does not generally oppose amending the deadlines in the current Scheduling Order. However, PROTECT objects to APA staff’s proposed scheduling order because it (i) alters the existing scheduling order in significant and prejudicial respects without providing any explanation or justification for

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such far-reaching changes; and (ii) improperly seeks to grant APA staff an additional two months to submit responses to discovery in violation of the terms of the Second Revised Scheduling Order.

Significant Changes to Existing Order

The current scheduling order provides an opportunity for discovery on pre-filed testimony and specifies that pre-filed testimony will be filed first by the applicant, followed by APA staff and the Intervenor. *See* Second Revised Scheduling Order § III, at 2. APA staff's proposed order eliminates all discovery on pre-filed testimony and reshuffles the order of proof by having the applicant file its pre-filed testimony first, followed by the Intervenor, and then APA staff filing last. APA staff has provided no explanation or justification for these significant changes to the existing Scheduling Order. In fact, the proposed changes will delay the proceedings and should be rejected.

Discovery on pre-filed testimony is essential to fully developing the factual, scientific and, where appropriate, legal basis for the testimony and streamlines the proceeding by eliminating the need for this essential background information to be elicited through cross-examination at the hearing. Eliminating discovery on pre-filed testimony will therefore needlessly prolong this proceeding. In addition, allowing APA staff to delay its pre-filed testimony until all other parties have filed will needlessly prolong this hearing. PROTECT therefore opposes these significant unjustified changes to the existing Scheduling Order.

Improper Extension of Discovery Deadline

The Second Revised Scheduling Order established a deadline of April 29, 2026 for responses to discovery. *See* Second Revised Scheduling Order § II. With the exception of APA staff, all other parties complied with this deadline. APA staff's proposed scheduling order includes a provision granting APA until June 26, 2026—an extension of nearly two months—to submit its discovery responses. That request is improper and untimely.

The Second Revised Scheduling Order states that “[a]ny requests to modify or amend this Scheduling Order must be filed in writing at least 10 calendar days before the established due date.” *Id.* § III at 2. Thus, APA staff was required to file its request for an extension by no later than ten calendar days before the April 29 deadline. APA staff's current request—filed nearly one month *after* the deadline—is therefore untimely under the terms of the Second Revised Scheduling Order and should be denied.

Respectfully submitted,



Christopher Amato
Conservation Director and Counsel

cc: Service List