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June 12, 2026

Via Email

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 (the “Application”) of Unconventional
Concepts, Inc. and Michael Hopmeier (the “Applicant”)
APA Project No. 2021-0276

Dear Judge Greenwood:

On behalf of the Adirondack Council, Inc. (the “Council”), we submit this letter in response to the “APA Hearing Staff Summary of Ongoing Issues” that we received on May 26, 2026 and respectfully ask for discussion of: (1) the Intervenor’s May 20, 2026 requests for clarification and/or reconsideration of staff’s Hearing Statement for the reasons stated in that email (copy attached as Exhibit A); and (2) the revised hearing schedule as proposed by the Intervenor on May 15, 2026 consistent with and for the reasons stated in Exhibit B hereto.

Response to APA Hearing Staff’s Summary of Ongoing Issues

There may be a misunderstanding regarding the Council’s goals and its role to date in this adjudicatory hearing. We want to use this response to underscore our recognition that this is APA’s hearing and of the importance of APA hearing staff’s role in objectively providing the primary examination and review of the Application in order to inform the APA Board’s deliberations on whether the Applicant has met its burden of proof.

First, the Council sought to intervene in the hearing in order to support staff’s efforts to ensure that a full and complete record is provided to the APA Board for its decision. The Council is fully aware of the purposes of an APA hearing under 9 NYCRR Part 580 and will continue to exercise its rights as a party in this hearing consistent with those purposes and the Council’s role as a party.

The Council has always been ready to participate in the hearing based upon your scheduling orders. In fact, the Council objected to hearing delays proposed by the Applicant. To make the pre-hearing process more efficient, the Council has coordinated with the other Intervenor so that one and not four separate Intervenor positions require responses. For discovery, the Council complied with your order and provided a timely response to the Applicant's discovery requests. We have not heard anything from the Applicant regarding our response. The delays to the hearing schedule to date have only occurred due to the Applicant's CPLR Article 78 proceeding and staff's request to extend the hearing schedule until the end of October.

Second, the issues that have been raised by the Council individually, and together with the other Intervenor, have all been intended to ensure a hearing process with integrity, that complies with applicable law and regulations, and that would result in a factually and legally complete and orderly record for the APA Board's consideration. These efforts include:

- The Council initially brought the ethical conflict involving the Applicant's attorney to his and APA's attention, seeking resolution of the conflict without the need for any motion to you. APA and the Applicant's attorney could have addressed this conflict, but instead the Council had to seek a ruling from you to get the issue resolved.
- As was recognized by all of the parties except for the Applicant, the APA Hearing Order required changes. APA hearing staff supported the proposed revisions to the existing hearing issues advanced by the Intervenor and suggested some additional changes. When the Applicant did not agree to those changes, the Council sought an order from you revising the Hearing Order based upon staff's redlined version of the revised hearing issues. APA hearing staff supported that motion, which you granted.
- The Intervenor's May 15, 2026 response to the proposed revisions to the hearing schedule advanced by staff (See Exhibit A) was intended to accommodate staff's proposal to delay the hearing until late October. It also sought to provide sufficient time for staff and the Intervenor to prepare expert testimony in response to the information the Applicant presented in their pre-filed testimony, for the reasons explained in Exhibit B. Finally, it proposed a schedule based on a concern raised by the Council in the first pre-hearing conference, i.e., that testimony on the three APA Act § 809(10) legal issues ordered for adjudication should be deferred until after all of the testimony has been provided regarding the project's impacts (and, for "undue adverse impact," its benefits).
- From the Council's perspective, the Intervenor's May 20, 2026 request to APA hearing staff with respect to APA hearing staff's Hearing Statement (See Exhibit B) was made to better assess the need for Intervenor witnesses for the hearing. The Hearing Statement was required by your scheduling order and has been used by the Council as a road map for preparation for the hearing, based on our recognition of staff's primary role. The Intervenor's May 20, 2026 request provided questions that we believe should be discussed with APA hearing staff so it is better understood if and to the extent supplemental testimony from the Council is required. As an Intervenor in APA's

hearing, the Council believes its role should properly be limited to supplementing APA hearing staff's review and recommendations to the extent necessary, or (if necessary) to seek to have staff provide additional information pursuant to 9 NYCRR § 580.6(c).

Finally, the Council questions APA hearing staff's proposed reordering of the parties' testimony to have the Applicant go first, followed by the Intervenors, with APA staff only "supplementing" the record as needed. This proposal is not consistent with your scheduling orders or recent discussions among the parties regarding proposals to revise the schedule. Nor does it appear to consider the Intervenors' May 15th proposal included as Exhibit B, or the reasons for that proposal. Further, it is contrary to general order of proceedings prescribed in 9 NYCRR § 580.14(b):

As a general rule, the project sponsor shall proceed first, followed by the agency staff, other governmental agencies, and other parties.

Accordingly, we ask for discussion among the parties of the revised scheduling order provided by the Intervenors in Exhibit A.

In closing, it is respectfully submitted that in APA's hearing, APA hearing staff have the primary responsibility for expert review and examination of the information presented by the Applicant. This includes regarding the very deficiencies in the Application and the development considerations that APA staff identified in recommending that an adjudicatory hearing be held. APA's regulations (9 NYCRR § 580.6(a)) place this responsibility squarely on APA staff as a legal obligation:

The agency staff shall present evidence concerning the pertinent development considerations and the other required findings of section 809(9) or section 809(10) of the Adirondack Park Agency Act, the Wild, Scenic and Recreational Rivers System Act, section 814 of the Adirondack Park Agency Act, or other applicable provisions of these regulations.

"Shall" means "shall," and there is no legal basis for staff to rely on the Intervenors to fulfill this legal obligation.¹

If staff fails to fulfill this obligation, there is a risk that the Applicant's information will be unchallenged or given more weight than it deserves in the record provided to the APA Board, whether or not the Intervenors are involved. Further, because the APA Board ordered the issues for adjudication, we believe that APA hearing staff further have a legal obligation under 9 NYCRR § 580.6(a) to provide objective opinions informed by that review on whether the Applicant has met its burden of complying with the criteria for APA Act § 809(10) approval of the project ordered for adjudication by the APA Board.

¹ APA hearing staff certainly does not have the authority to relieve itself from this legal obligation, as suggested in its Summary of Ongoing Issues, based on the hearing officer's authority to "preclude immaterial, irrelevant or unduly repetitious evidence or cross-examination" under 9 NYCRR § 580.15(a)(2). That authority is reserved to the hearing officer and if the proper order of testimony is followed in this hearing consistent with 9 NYCRR § 580.14(b), the ALJ, not APA hearing staff, has the sole authority preclude Intervenor testimony that the ALJ determines "unduly repetitious."

The Council does not ask APA hearing staff to advocate for any specific decision by the APA Board. We only ask staff to engage the required internal and external expertise needed to ensure that a full, competent and complete review and examination of the information presented by the Applicant occurs in the hearing. Fundamentally, we believe that staff should not rely on the Intervenor to provide the primary review and examination of any aspect of the Applicant's case, or for bringing experts forward in place of APA hearing staff or its experts. As noted above, this is APA's hearing and we fully respect staff's primary role in the hearing to ensure that the information presented by the Applicant is fully and objectively tested in order to inform the Board's deliberations (which will be supported by non-hearing staff). That testing of the Applicant's case, however, can only be done during the hearing and the APA Board must be able to rely on its hearing staff to primarily fulfill that role, with or without intervening parties involved.

Staff expert testimony as required by law and its cross-examination of both Applicant and Intervenor witnesses are critical to ensure that an objectively-tested record is provided to the Board. Further, since the Board ordered adjudication of certain APA Act § 809(10) approval criteria in the hearing, staff's primary obligation for providing an objective evaluation of whether the Applicant has met its burden of proving compliance with those criteria is also critical to the record sought by the APA Board. ²

We look forward to what will hopefully be a collegial and productive discussion on Monday so that we can continue to move forward towards an October 28, 2026 hearing date.

Very truly yours,



Paul Van Cott

Attachments

Cc: Service List

²In the briefing following APA's Adirondack Club & Resort hearing, APA hearing staff concluded that the project could potentially meet the 809(10) criteria for approval if certain conditions were included in any approval. Here, unlike that hearing, the APA Board has expressly ordered adjudication of the relevant 809(10) approval standards. It is respectfully submitted that, while not advocating for any specific outcome, APA hearing staff have an obligation to provide opinions informed by testimony provided on the project's potential impacts and benefits on whether the Applicant has met its burden of demonstrating compliance with those statutory criteria.

EXHIBIT A

VanCott, Paul

From: VanCott, Paul
Sent: Wednesday, May 20, 2026 4:01 PM
To: grace.sullivan@apa.ny.gov; Hubbard, Jennifer M (APA)
Cc: Ommen, Todd D.; Claudia Braymer; Christopher Amato; dgibson@adirondackwild.org; Gitlen, Philip; Seitelman, Anna V.; Matthew D. Norfolk; Greenwood, David N (DEC)
Subject: Email from Intervenors Regarding APA Staff's role in the Adjudicatory Hearing
Importance: High

APA Hearing Staff –

Our collective thoughts on a revised hearing schedule in part reflect questions we have about Staff's intended role in the hearing, based on our review of the 4/2/2026 APA Hearing Statement. Please let us know who the witnesses for APA staff from Regulatory Programs, State Lands and RASS will be. We also ask for clarification and/or reconsideration by APA Hearing Staff of the following statements in the Hearing Staff Statement:

Staff statement

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.

Request

Please clarify and/or reconsider whether Staff will provide opinion testimony on the project's compliance with the APA Act 809(10) criteria ordered for adjudication by the APA Board, including testimony on whether any proposed conditions of approval would result in such compliance. Staff will participate fully in the hearing and hear and consider all of the testimony and evidence provided. Under 9 NYCRR 580.6(a), staff have an affirmative obligation to present testimony concerning pertinent APA Act 805(4) development considerations and the required findings of APA Act 809(10).

Staff will have the opportunity through its participation in the hearing to present testimony and to evaluate the credibility of witnesses, testimony and evidence presented by the applicants and the intervenors. Ultimately, after hearing all of the testimony and evidence provided on the potential impacts and benefits of the project, presumably John Burth, the appointed Deputy Director of Regulatory Programs ("DDRP"), will provide testimony on whether or not the project complies with the APA Act 809(10) statutory criteria for approval that the APA Board ordered for adjudication. As you know, in his capacity as DDRP John signs almost all of the permits issued by APA and is primarily responsible for all staff recommendations made on applications reviewed by the APA Board. For all of those staff decisions or recommendations, John is thus at the heart of determining or recommending whether applications comply with the same APA Act 809(10) criteria the Board seeks to have adjudicated here. Through the hearing, the APA Board seeks opinion testimony from all parties and APA hearing staff on whether the project complies with those criteria and it is respectfully submitted that John's testimony on such compliance or noncompliance is critical to a full, complete and competent record.

Staff Statement on Commercial Use 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.

Request

Please clarify and/or reconsider whether John Burth will provide testimony on whether the project is a listed use in APA Act 810 and the primary or secondary list of uses for Rural Use provided in APA 805 for the same reasons as discussed above. Again, this is a legal determination that John makes for every permit he signs and every application he is responsible for making a recommendation made to the APA Board. His opinion on this legal issue, which the APA Board ordered for adjudication, is critical to a full, complete and orderly record.

Staff Statement on whether the Applicants have submitted reliable, comprehensive and accurate noise information

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....APA staff members may also provide testimony concerning adjoining nearby land uses.

Request

Staff have identified the "pertinent" development considerations for this issue and intend to present testimony on the accuracy and reliability of the Applicants' noise analysis as required by 580.6(a) – APA staff's obligation to present testimony in this regard necessarily extends to expert testimony about the potential adverse impacts of the project's noise. The application contains additional noise information submitted by the applicants, both before and after the September 2023 sound study. It is respectfully submitted that until the applicants file their pre-filed testimony and supporting evidence, it is premature for staff's expert, and potentially a waste of public monies and staff resources, to review anything previously submitted in order to form an opinion as to whether the applicants have submitted "reliable, comprehensive and accurate noise information." Further, given staff's obligation under 580.6(a), staff have a non-discretionary, affirmative obligation to present testimony about noise impacts on adjoining and nearby land uses, as well as with respect to the other pertinent development considerations (Note: Please correct the reference in the Hearing Statement to be adjoining and nearby land uses).

Staff Statement on Noise Mitigation Measures

APA hearing staff expect this question to be addressed by one or more expert witnesses appearing at the hearing.

Request

Staff have identified the "pertinent" development considerations for this issue and have an affirmative obligation to present testimony on Noise Mitigation Measures pursuant to 580.6(a). Please clarify and/or reconsider whether APA staff intend to present expert and/or staff testimony and evidence regarding this issue, as required by 580.6(a). It is respectfully submitted that, based upon 580.6(a) and since the APA Board ordered adjudication of this issue, it is incumbent upon staff to provide testimony on this issue as part of its review of the testimony and evidence submitted by the applicants and intervenors, and to offer expert opinion on whether any effective noise mitigation measures exist.

Staff Statement on Wildlife Impacts

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.

Request

Please clarify and/or reconsider this statement. What is the range “around the project site” staff will review? Will staff review the full range of species that typically and could potentially use those habitats? Will the uses account for migration and movement of species on a seasonal basis?

Staff Statement on Economic Issues, including Potential Impacts of the Project on the Value of Nearby Properties

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.

Request

Staff have identified the “pertinent” development considerations for this issue and are required to present competent testimony on this issue pursuant to 580.6(a). Please reconsider this statement and any suggestion that only the applicants and the intervening parties have a responsibility to present testimony and evidence on the project’s potential economic impacts and, per APA Act 809(10)(e), benefits. Staff have a shared responsibility for ensuring that the record includes full, complete and competent testimony and evidence on all of the hearing issues ordered for adjudication by the APA Board. Having recommended that the APA Board include the issues of potential adverse impact on nearby property values and “undue adverse impact,” it is incumbent upon staff to provide experts, as needed, to review and provide competent testimony and evidence regarding the applicants’ claims with respect to these issues, including the potential benefits of the proposed project. Expert or otherwise competent testimony and evidence is required from staff on the potential for adverse economic impacts of the project on nearby property values, as ordered by the APA Board, to evaluate any claims made by the applicants and to provide affirmative testimony as appropriate. Equally, expert or otherwise competent testimony and evidence is required from staff with respect to any assertions of benefits of the project made by the applicants. Staff’s testimony and evidence on these questions, demonstrating that it has reviewed and considered the applicants’ claims and information, if any, provided by the intervenors is required in order for John Burth to provide full, comprehensive and competent testimony on the APA Act 809(10) legal issues ordered for adjudication by the APA Board on staff’s recommendation.

Conclusion

Overall, our requests for clarification and reconsideration reflect a belief that APA hearing staff’s review role for the project must be continued through the hearing process, comply with 580.6(a) and encompass all of the issues ordered for adjudication in the hearing by the APA Board. This is all the more critical here because all of the testimony regarding the potential impacts and benefits of the project must be considered by all of the parties and APA hearing staff in forming opinions with respect to the legal issues ordered for adjudication by the APA Board. Just as staff have a responsibility to consider all of a project’s impacts and benefits with respect to any project for which John issues a permit or makes a

recommendation to the APA Board, that review responsibility must be fulfilled by staff here in order for John to provide the opinion testimony required on the APA Act 809(10) issues and to ensure that a full, comprehensive and competent record is provided to the APA Board.

We respectfully request that Staff respond to these requests at your earliest convenience as they relate to the scheduling discussion you seek with ALJ Greenwood.

Thank you.

Paul

Paul Van Cott | Whiteman Osterman & Hanna LLP

Of Counsel

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EXHIBIT B

VanCott, Paul

From: VanCott, Paul
Sent: Friday, May 15, 2026 2:31 PM
To: 'Sullivan, Grace (APA)'; Matthew D. Norfolk; Hubbard, Jennifer M (APA)
Cc: Seitelman, Anna V.; David Gibson; Executivedirector@protectadks.org; Christopher Amato; Gitlen, Philip; Ommen, Todd D.
Subject: Intervenor comments on APA staff hearing schedule proposal
Attachments: Intervenors Revised Third Scheduling Order, 4897-4144-5804.docx

Matt, Grace and Jenny –

Please see the attached suggestions from the intervenors for revisions to the draft scheduling order APA staff shared last week. We look forward to discussing these suggestions with you all and to starting the hearing on October 28th.

Briefly, our collective thinking for these suggestions is as follows:

Discovery – Discovery was due to be produced on April 29, 2026 and no motion for an extension has been made or granted. The next step is for any motion to compel (or for parties to resolve any discovery issues, including timing, through negotiation).

Site Visit – The application and APA Board’s Hearing Order references both parcels on Hale Hill Lane as the project site.

Expert Reports – Our position is that no expert reports should be provided by other parties, including by APA staff, until the Applicants have provided pre-filed testimony and the expert reports or information they are relying on for the hearing. We don’t understand APA staff’s rationale for its proposal to “go first” and do not believe that it will contribute to an orderly and understandable record that is consistent with the burden of proof on applicants established by the APA Act and Part 580. With this proposal, staff is arguably assuming the Applicants’ burden contrary to its duties under 580.6(a). I am not aware of any precedent for such an extraordinary proposal in a permit hearing. Moreover, the Applicants may present new materials in their pre-filed testimony, so APA staff providing an expert report before the Applicants present their materials is premature and has the potential to unnecessarily waste public monies and staff resources to prepare and review.

Hearing Phases – We propose 2 phases to the hearing, one on the impacts/benefits and the second on the 809(10) approval criteria ordered for adjudication by the APA Board. Testimony on the 809(10) approval criteria would be provided after all of the testimony on the project’s impacts and benefits is in the record. All three of the 809(10) approval criteria ordered for adjudication must be informed by testimony and evidence regarding “impacts” and the determination regarding undue adverse impact must take into account “benefits.”

Pre-filed testimony – Because we will not know what the Applicants or APA staff intend to rely on from the application or any supplement to the application until they file their pre-filed testimony and exhibits, the intervenors will need a reasonable amount of time for our experts to review what is filed by the Applicants and APA staff in preparation for submitting expert reports and pre-filed testimony.

These suggestions are all made in a good faith effort to ensure that a full and orderly record is provided to the APA Board for its consideration consistent with the APA Act, Part 580 and the APA Board's hearing order (as modified by the ALJ's issues ruling).

Thank you all for your consideration of our suggestions.

Paul

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Of Counsel

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In the Matter of the Application of

APA Project No. 2021-0276

UNCONVENTIONAL CONCEPTS, INC.
AND MICHAEL HOPMEIER

**THIRD REVISED
SCHEDULING ORDER**

The adjudicatory hearing in the above-captioned matter has been **adjourned** from June 24, 2026, and shall now commence on **Wednesday, October 28, 2026**, at 10:00 A.M. at Adirondack Park Agency Headquarters Located at 1133 NYS Route 86, Ray Brook, New York 12977 and such additional dates as determined to be necessary.

I. Discovery

Responses to preliminary interrogatories and requests for production of documents were due at 5:00 p.m. on April 29, 2026.

~~APA hearing staff shall supplement their April 29, 2026 responses by production of all relevant, material, and non-privileged documents, excluding expert reports, by serving such documents on all parties and Any motion to compel concerning the hearing officer on or before 5:00 p.m. on July 29, 2026.~~

~~Applicant and intervening parties are not required to supplement their April 29, 2026 discovery responses, unless otherwise ordered following any motion to compel.~~

~~Any deadline for challenges to the April 29, 2026 responses or opportunity for supplemental discovery shall be served on all parties and the hearing officer by on or before 5:00 p.m. on Wednesday, May 27, 2026.~~

II. Site Visit

Parties will meet and confer with the Hearing Officer on or before **June 1, 2026**, to schedule a site visit for APA hearing staff, intervening parties, and any retained experts. ~~The Consistent with the APA Board's hearing order, the site visit shall be limited to the portion of include both parcels that comprise~~ the Project Site located at 87 and 195 Hale Hill Ln, Lewis, NY unless otherwise ordered.

III. Export Reports

~~APA hearing staff shall serve on all parties and the hearing officer any expert reports prepared in connection with the hearing on or before 5:00 p.m. on August 26, 2026. APA~~

~~hearing staff reserve the right to provide any supplemental or rebuttal evidence in connection with such expert reports.~~

IV.I. Order of Proceedings

~~Parties will meet and confer with the Hearing Officer on or before September 2, 2026, to discuss the order of proceedings, appearance of experts, and additional hearing dates.~~

III. Pre-filed Direct Testimony

V. Pursuant to 9 NYCRR 580.14(f), the hearing officer may require the submission of pre-filed written testimony for witnesses. Unless otherwise ordered, all testimony shall be written and pre-filed in accordance with the schedule established in this Order, and service on the hearing officer and the parties shall be by email. Each witness offered as an expert must provide either a resume or curriculum vitae as an exhibit to the pre-filed direct testimony and must provide all information and data supporting the statements offered in the pre-filed direct testimony, as well as a bibliography of reports or other documents relied upon in the preparation of the pre-filed direct testimony.

The pre-filed submissions will be limited to direct testimony with the associated exhibits. The pre-filed direct testimony will be prepared in question and answer format. Each line on every page will be numbered, and each page of the pre-filed testimony must be numbered. Errata will not be accepted after the filing date. During the hearing, the witnesses will have the opportunity to correct any typographical errors of their written pre-filed direct testimony before cross-examination. In the alternative, the witness may file an affidavit in advance of the hearing session describing any changes or corrections to the pre-filed direct testimony and associated exhibits.

Subsequent to the submission and service of pre-filed written testimony, but no later than ten (10) business days after service of such testimony, any party may serve upon the party making the submission interrogatories and requests for production of documents concerning the facts or data supporting any conclusion offered in the pre-filed testimony. Responses to interrogatories and document requests shall be provided no later than twenty (20) days after service of such interrogatories and document requests, unless otherwise mutually agreed between the parties or upon an Order of the hearing officer following a motion for extension of time to respond.

The hearing will occur in two phases. The first phase will be to receive testimony and exhibits with respect to the potential impacts and benefits of the Project. The second phase will be to receive testimony and exhibits regarding the legal issues identified by the APA Board for adjudication, namely whether the Project is a Commercial Use (Executive Law § 802), whether it is consistent with the Adirondack Park Land Use and Development

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Plan, whether it would be compatible with the Rural Use lands where it is proposed to be located, and whether it would result in an undue adverse impact (Executive Law § 809(10)).

The applicant will file and serve pre-filed testimony of witnesses and related exhibits on or before 5:00 p.m. on ~~September 16~~Monday July 20, 2026, with respect to the potential impacts and benefits of the proposed Project. Discovery, if any, regarding the applicant's pre-filed testimony shall be served on or before 5:00 p.m. on Thursday July 30, 2026 and the applicant's responses thereto shall be served no later than twenty (20) days after service.

APA staff ~~and the~~ shall file and serve pre-filed direct testimony and related exhibits with respect to the potential impacts and benefits of the project on or before 5:00 p.m. on Monday August 10, 2026. Discovery, if any, regarding the APA staff's pre-filed testimony shall be served on or before 5:00 p.m. on Thursday August 20, 2026 and responses thereto shall be served no later than twenty (20) days after service.

The intervenors shall file and serve pre-filed direct testimony and related exhibits with respect to the potential impacts and benefits of the project on or before 5:00 p.m. on Tuesday, September 1, 2026. Discovery, if any, regarding the intervenors' pre-filed testimony shall be served on or before 5:00 p.m. on Friday September 11, 2026 and the intervenors' responses thereto shall be served no later than twenty (20) days after service.

IV. Order of Proceedings

~~on or before 5:00 p.m. on~~ The parties shall meet and confer with the Hearing Officer on Wednesday October 7, 2026-14, 2026 to discuss (i) the order of proceedings; (ii) scheduling of witnesses; and (iii) proposed schedule and locations for hearing dates.

At the hearing, the sponsoring party will ask the witness to attest to the pre-filed testimony. The parties will have the opportunity to cross-examine each witness unless the parties stipulate otherwise. If a party intends to introduce any exhibits during cross-examination, copies of the exhibits must be provided to each party and the hearing officer at that time. The sponsoring party may ask its witness questions on re-direct, followed by recross-examination.

The hearing will continue, as needed, until each party has presented their direct case, and the other parties have exercised their right to cross-examine the witnesses.

At the conclusion of the first phase of the hearing the parties shall meet and confer with the hearing officer to set a date for the second phase of the hearing along with a schedule for the submission of pre-filed testimony and exhibits, following the procedure for the first phase of the hearing.

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In re: The Application of Unconventional Concepts, Inc. and Michael Hopmeier
Third Revised Scheduling Order

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.

SO ORDERED:

ALJ Greenwood

DATED:

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