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In the Matter of the Application of

APA Project No. 2021-0276

UNCONVENTIONAL CONCEPTS, INC.  
AND MICHAEL HOPMEIER

**APA Hearing Staff  
Responses to Applicant's  
Discovery Demands**

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**1. All Documents supporting any contention that the Project will result in adverse environmental impacts.**

APA hearing staff will provide all responsive documents not exempt from disclosure at least 90 days prior to the start of the evidentiary portion of the hearing, excluding any expert reports which will be provided at least 45 days prior to the evidentiary portion of the hearing.

**All expert reports, opinions, or analyses prepared or relied upon regarding the Project and for presentation of evidence in the Hearing.**

APA hearing staff will provide any such reports, opinions, or analyses not exempt from disclosure at least 45 days prior to the evidentiary portion of the hearing which has not yet been scheduled.

**2. All Communications (including but not limited emails) between You and any third party relating to the Project or this Hearing.**

APA hearing staff object to this request on the grounds that it is overly broad, not reasonably calculated to lead to the discovery of material and relevant evidence, and seeks information protected by applicable privileges, including but not limited to attorney-client privilege and attorney work product.

The request is overly broad in scope and time, encompassing extensive communications over multiple years. Additionally, the request includes communications with the Applicant which need not be reproduced and communications from members of the public which are available for review on the hearing webpage.

To the extent the Applicant seeks communications between APA hearing staff and identified individuals, the APA hearing staff would respond to such requests, so long as the Applicant could demonstrate the materiality and relevance of such communications and such communications were not protected by privilege.

APA hearing staff also object to this request on the grounds that it is not material or relevant to the Applicant's claims. The purpose of the adjudicatory hearing is to determine whether the proposed project meets the Agency's regulatory and statutory approval criteria. It is unclear how communications between the APA hearing staff and "any third party" would support the Applicant's claim that the project "is consistent with the Adirondack Park Land Use and Development Plan"

(Executive Law §809(10)(a)), “is compatible with the character description and purposes, policies and objectives of the [Rural] land use area wherein it is proposed to be located” (§809(10)(b)), and that the project would not have “an 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” (§809(10)(e)). The request as currently framed does not articulate a clear connection to those issues.

Finally, if the Applicant submits a modified request, or the Administrative Law Judge compels disclosure under the current framing, the APA hearing staff reserve the right to withhold all privileged communications which are exempt from disclosure.

**3. All Documents relating to any studies, modeling, or data used to evaluate environmental impacts of the Project.**

The APA hearing staff is reviewing its records and will produce all documents which are responsive and not exempt from disclosure at least 90 days prior to the start of the evidentiary portion of the hearing which has not yet been scheduled.

**4. All Documents supporting any claim that the Project fails to comply with applicable statutes, regulations, or permit criteria.**

APA hearing staff object to this request on the grounds that it is overly broad, unduly burdensome, and duplicative of Applicant’s other requests.

APA hearing staff further object to this request to the extent it seeks materials protected by privilege.

**5. All Documents relating to alternative projects or mitigation measures You contend are preferable.**

No such documents exist.

**6. All Documents You intend to rely upon at the Hearing.**

APA hearing staff will provide pre-filed testimony and accompanying exhibits within the timeframe specified in the Second Revised Scheduling Order, or in any subsequently issued scheduling order.

**7. All Documents reflecting funding sources, sponsorship, or financial support related to Your participation in this proceeding.**

This request directed towards all “parties” as defined in the Applicant’s Demands is not appropriately directed towards the Adirondack Park Agency and is not applicable to APA hearing staff. The Adirondack Park Agency is a New York State Agency that does not receive outside funding, sponsorship, or financial support for participation in this proceeding. As such, no such record exists.

APA hearing staff further object to this request as it is not relevant to the Applicant's claim in these proceedings, the purpose of which is to seek an Agency permit. The intervening parties' funding sources, sponsorship, or financial support is wholly irrelevant to the question of whether the proposed project meets the Agency's permit approval criteria.

APA hearing staff's role in this proceeding is to develop a complete administrative record for the Agency Board to rely upon in reviewing the proposed project. As such, APA hearing staff strongly object to the disclosure of materials which would muddy the record and to the litigation of any claims beyond the scope of the hearing.

**8. All Documents reflecting current and past membership in Your organization, including lists of names of current and past members from 1990 to present.**

APA hearing staff object to this request as the disclosure of such information is not material or relevant to whether the proposed project meets the statutory and regulatory approval criteria. APA hearing staff reiterate their objection to the disclosure of materials and issues which are beyond the scope of this hearing.

Respectfully Submitted,



Grace Sullivan

APA Hearing Staff - Attorney