NEW YORK STATE | Adirondack Park Agency

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APA Project Order
Dismissing Project Hearing

P2021-0276

Date Issued: 11/20/2026

In the Matter of the application of:

Unconventional Concepts, Inc., and
Michael Hopmeier

subject to section 809 of the Adirondack Park Agency Act, and 9 NYCRR Parts 573 and 574

BACKGROUND AND AUTHORIZATION

This document constitutes the Order of the Adirondack Park Agency (APA or Agency) dismissing project hearing P2021-0276, ordered by the Agency on November 14, 2025, more fully described in the record and in the Agency's November 14, 2025 Project Order.

The permit application proposes to undertake a Class B Regional Project, in the Town of Lewis, Essex County and requires a permit pursuant to Sections 809 and 810 of the Executive Law, Article 27 (APA Act) and Agency Regulations (Title 9, New York Codes, Rules and Regulations), at Parts 573 and 574.

On November 14, 2025, the Agency ordered Project Application P2021-0276 to public hearing before the Agency renders its decision to approve or disapprove the project. The Agency reserved the exclusive right to make its own findings of fact and conclusions of law concerning the Project Application.

During the public hearing, the designated Administrative Law Judge ordered several scheduling orders, the most recent applicable Order being the Third Revised Scheduling Order (Scheduling Order). As is relevant here, the Scheduling Order

required the Applicants to file and serve pre-filed testimony and related exhibits on or before 5:00 p.m. on August 12, 2026, and established procedures for requests for adjournments or extensions.

On August 11, 2026, the Applicants requested a 21-day extension to submit their pre-filed testimony and exhibits. On August 12, 2026, the Administrative Law Judge denied that request because it was not made in compliance with the Scheduling Order, specifically at least ten days before the established due date, after the parties had conferred or that good cause existed, or that Agency hearing staff nor the other parties had consented to the extension.

On August 12, 2026, in addition to denying the extension request, the Administrative Law Judge stated that the hearing must proceed and proposed a conference to develop a fourth revised scheduling order.

On August 17, 2026, Adirondack Council, Adirondack Wild: Friends of the Forest Preserve, Protect the Adirondacks!, and Sierra Club, Atlantic Chapter (Intervenors) jointly moved to dismiss the hearing and refer the matter to the Agency for final action, alleging that the failure to provide pre-filed testimony and the Applicant's refusal to allow them the ability to participate in a site visit resulted in prejudice to prepare their witnesses and evidence for the hearing because they relied upon the Third Revised Scheduling Order to prepare their case and engage their experts.

On August 19, 2026, the Administrative Law Judge held a scheduling conference with the Agency hearing staff and parties, including the attorney for Applicants to set response deadlines to the Joint Motion to Dismiss by the Intervenors. During this conference, Applicants did not provide any cause for the need for an extension, nor provided the required pre-filed testimony.

On August 28, 2026, the Applicants opposed the motion and cross-moved to bar the Intervenors from participating in pre-hearing proceedings and failed to include the pre-filed testimony discussed in the August 19, 2026 conference. The Applicants' opposition to motion and cross-motion did not provide any justification for the default, but instead alleged new arguments related to the scope of the project site, that the administrative proceeding violated the Federal Supremacy Clause due to the possibility of a federal contract, and that Intervenors had no right to participate in the proceedings thus far.

On September 14, 2026, the Administrative Law Judge denied the Applicants' cross-motion, granted the motion to dismiss in part by referring the matter to the Agency, and recommended that the Agency dismiss the proceeding for lack of prosecution and deny

the Project Application. The Administrative Law Judge concluded that the Applicants violated the Scheduling Order, did not proceed with the hearing in good faith, failed to present evidence or address the hearing issues identified by the Agency Board, and therefore failed to meet their burden. The Administrative Law Judge further determined that the parties' disagreement concerning whether Lot 29, located at 87 Hale Hill Lane, is part of the proposed project provided an independent basis for referral to the Agency Board.

On October 8, 2026, the Administrative Law Judge certified the record, which contains no testimony or exhibits in evidence from the Applicants because none were offered. Therefore, the Agency is unable to make findings of facts based on evidence supporting the concerning the matters alleged in the application and whether compliance with applicable statutory and regulatory criteria is met.

Agency hearing staff reviewed the certified record, supplemented as required by Agency Regulations, prepared a summary, and permitted the parties to comment on the completeness of that summary

As of the date of this Order, the Applicants have not filed or served any pre-filed testimony or exhibits.

CONCLUSIONS OF LAW

HAVING DULY considered, reviewed and familiarized itself with the record in this matter, including the motion papers, the Administrative Law Judge's rulings and recommendation, the certified record, the Agency Hearing Staff's summary, and the permitted comments concerning the completeness of that summary, the Agency makes the following Conclusions of Law:

(1) The New York State Administrative Procedure Act, Article 3, APA Act section 809, and Agency Regulations Parts 573, 574 and 580, establish that the burden is on the project sponsor or applicants to present testimony concerning the matters alleged in the application and to demonstrate compliance with applicable statutory and regulatory requirements. The Applicants have failed to meet this burden by failing to comply with the deadline for submitting pre-filed testimony and exhibits, nor provided a reason for the failure, nor provided any recommendation to cure the prejudice caused. Therefore, the Applicants did not present evidence addressing the hearing issues identified by the

Agency in order to allow the Agency to make its determination that the Project Application meets the relevant statutory and regulatory criteria.

(2) Pursuant to Agency Regulations section 580.14(a)(5), the Agency has reserved to itself the exclusive right to make its own findings of fact and conclusions of law as part of its final determination and order pursuant to Agency Regulations section 580.18. Therefore, any recommendation made by the Administrative Law is non-binding, and the Agency may accept, modify or reject any recommendation.

(3) Pursuant to APA Act section 809(3), the Agency has provided the Applicants with a full and fair opportunity to participate in the project hearing before making a determination on the permit application.

(4) Pursuant to APA Act section 809(10), the Agency is unable to make the necessary determination that the Project meets the relevant statutory and regulatory criteria, and, therefore is prohibited from approving the permit.

(5) Pursuant to APA Act 809(6)(c), at any time during the review of a permit application, the failure of the project sponsor to provide information requested by the Agency with regard to any matter contained in the application when such additional information is necessary for the agency to make any findings or determinations required by law may be grounds for denial by the agency of the application. The Applicants did not, in good faith, provide the information requested by the Agency in its November 14, 2025 Project Order, and therefore the Agency may deny the project application, without a determination made on whether the Project Application meets the relevant statutory and regulatory criteria.

ORDER

NOW, THEREFORE, upon all of the foregoing and under authority of the Agency's action, due deliberation having been had upon all of the foregoing, and upon a majority vote of Agency members on November 20, 2026, duly had and recorded;

THE AGENCY HEREBY ORDERS that the Administrative Law Judge's recommendation to dismiss the proceeding and deny the Project Application is accepted and adopted and

FURTHER ORDERED, a determination concerning whether the project site includes Lot 29, located at 87 Hale Hill Lane, is rendered moot; and

ORDERED, that the project hearing concerning Project Application P2021-0276 is dismissed and Project Application P2021-0276 is DENIED for failure to provide Agency requested information, and without a determination that can be made on the project approval criteria.

ORDER issued this 20TH day
of November 2026.

E N T E R

ADIRONDACK PARK AGENCY

BY: Mark Hall
Mark Hall
Chairperson