NORFOLK BEIER PLLC
ATTORNEYS AT LAW

November 5, 2026

Via Email Only
David Greenwood
Hearing Officer
NYS Department of Environmental Conservation
Office of Hearing and Mediation Services
625 Broadway, First Floor
Albany, NY 12233-1550
david.greenwood@dec.ny.gov

Re: APA Project 2021-0276
Sponsor/Applicant: Michael Hopmeier/Unconventional Concepts, Inc.

Dear Judge Greenwood:

We have reviewed Agency Staff's summary of the "certified record" of pre-hearing proceedings you have compiled that was submitted by Ms. Grace Sullivan, Adirondack Park Agency Senior Attorney, in connection with the above-referenced matter. On behalf of the Sponsor, Michael Hopmeier, and the applicant, Unconventional Concepts, Inc., we hereby object to the contents of the record and Agency Staff's summary. Below are the objections set forth in detail.

Objections

1. 9 N.Y.C.R.R. §580.14(g) sets forth what shall be included in the "Record of the *hearing*." (Emphasis added.) Here, however, no hearing has been conducted. The record you have compiled to be presented to the Agency Board, and which Agency Staff has summarized, consists wholly of *pre-hearing* filings. It is devoid of information and documentation from a hearing such as admitted evidence, including sworn testimony. Accordingly, the record you propose to be presented to the Agency Board does not comply with §580.14(g) and there is no authority in the Adirondack Park Agency Act or the Agency rules and regulations promulgated thereunder to permit you to include much of the pre-hearing information and documentation in the record that you have.

2. 9 N.Y.C.R.R. §580.18(a) governs Agency Staff's summarization of "the record of any *hearing*." (Emphasis added.) Generally, §580.18 establishes procedures for Agency Board determinations and orders *following hearings*, including record summarization, deliberation processes, decision requirements, timing, and service. Here, again, no hearing has been conducted. The record you have compiled, and Agency Staff has summarized, consists wholly of *pre-hearing* filings, including but not limited to discovery, correspondence exchanged amongst

you and the attorneys for the parties, and pre-hearing rulings. Accordingly, the proposed record you have compiled, and Agency Staff summarized, does not comply with §580.18(a). The proposed record is of pre-hearing proceedings only. It is not the record of "any hearing."

3. The record you have compiled, and Agency Staff summarized, contains information and documentation that some parties may consider to be proof, but which have not been formally admitted into evidence in accordance with 9 N.Y.C.R.R. §580.15. The proof offered at the hearing that the Agency Board may receive and consider in rendering a final determination on the application must be strictly limited to evidence formally admitted into the hearing record. Should the Agency Board consider or rely upon items of purported proof that were not formally admitted into evidence at the hearing, any resulting determination, irrespective of its outcome, would be procedurally defective and subject to annulment. Undoubtedly, it will materially prejudice Mr. Hopmeier and Unconventional Concepts, Inc., and, perhaps, the other parties.

4. The record you compiled, and Agency Staff summarized, consists of immaterial, irrelevant and unduly repetitious information and documentation, which you, as the hearing officer, are mandated to preclude from the hearing pursuant to 9 N.Y.C.R.R. §580.15. For example, as you certainly must recall, in your email sent to the attorneys of record at 12:39 pm, on July, 10, 2026, you concluded, "**It would be beneficial to this process to have a site visit, but there is no legal requirement for one to be conducted as part of the hearing process that I am aware of**." This communication is not material or relevant and undeniably serves no probative purpose to assist the Agency Board in rendering a determination on the application.

Based upon the foregoing objections, the record as compiled by you and summarized by Agency Staff should not be presented to the Agency Board for its consideration. Accordingly, on behalf of the Sponsor, Michael Hopmeier, and the applicant, Unconventional Concepts, Inc., we hereby formally object to the submission of said record and demand that it not be presented to, received by, or considered by the Agency Board in connection with its determination of this matter.

Sincerely,

Norfolk Beier PLLC

By: 
Matthew D. Norfolk, Esq.

cc: Attorneys of Record