



December 3, 2025

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**(By E-Mail: [david.greenwood@dec.ny.gov](mailto:david.greenwood@dec.ny.gov))**

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55 Barn Road, Suite 201  
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Honorable David Greenwood  
Administrative Law Judge  
NYS Department of Environmental  
Conservation  
Office of Hearing and Mediation Services  
625 Broadway, First Floor  
Albany, NY 12233-1550

Re: APA Project 2021-0276  
Recusal Request

Dear Mr. Norfolk and Judge Greenwood:

I write to address the challenge Mr. Norfolk raised to the appointment of ALJ Greenwood. (Letter from Mr. Norfolk dated November 24, 2025, “Norfolk Request”.) In response, I offered Mr. Norfolk and ALJ Greenwood an opportunity to address the conclusory allegations of bias contained in the Norfolk Request. Mr. Norfolk declined to supplement his initial letter and ALJ Greenwood submitted a response. (Letter from Mr. Norfolk dated November 26, 2025; letter from ALJ Greenwood dated December 1, 2025.) As set out below, I find no reason at this time to disrupt ALJ Greenwood’s selection as hearing officer. This letter, in addition to those referenced above, will be included in the hearing record.

Mr. Norfolk alleged that ALJ Greenwood should “voluntarily recuse” himself, because there is “undoubtedly” an appearance of impropriety based on ALJ Greenwood’s past employment with the Adirondack Council, an organization that submitted comments in opposition to the proposed project. (Norfolk Request at pp. 1-2 and Ex. 1.) Yet, an exhibit Mr. Norfolk attached in support of his request reflects that such employment ended in 2000, 21 years before Mr. Norfolk’s client submitted his proposal to the Agency and 22 years before the Council commented on the proposal. The span of over two decades—which time span Mr. Norfolk does not explicitly mention in his letter—undermines an inference upon which to conclude that ALJ Greenwood was involved in the Council’s public comments.

As explained in my letter dated November 26, 2025, despite the clear procedural mechanisms in place for challenging the selection of a hearing officer, the Norfolk Request instead requested ALJ Greenwood “voluntarily recuse” himself, which circumvents the disqualification procedures under applicable law and rule.<sup>1</sup> In the interest of fairness and to ensure this matter was included in the record, I requested Mr.

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<sup>1</sup> See APA rule 580.8; SAPA section 303.



Norfolk provide facts that might support his allegation that there was “undoubtedly” an appearance of impropriety in ALJ Greenwood’s selection, mindful that employment alone—and which ended over two decades prior to Council’s public comment on the project—would appear insufficient to create an appearance of impropriety or bias. I also offered ALJ Greenwood an opportunity to submit any information he deemed relevant.

Mr. Norfolk declined the request. (Norfolk letter dated November 26, 2025.) ALJ Greenwood submitted a disclosure confirming that: (i) he had “no professional or financial connection” to the parties; (ii) “no current or recent professional or financial connection” that might raise an issue of bias or other disqualification concerning potential parties or intervenors; and (iii) he is confident that he can fulfill his duties impartially and without any bias. (ALJ Greenwood Letter dated December 1, 2025.)

In considering the materials before me, I am unable to find any fact that supports Mr. Norfolk’s allegation of bias or that there is “undoubtedly an appearance of impropriety” in ALJ Greenwood’s selection. Despite being invited to do so, Mr. Norfolk has not identified a specific disqualifying connection or relationship between ALJ Greenwood and the Adirondack Council’s public comments on the proposed project; to the contrary, the only fact Mr. Norfolk included in his submission suggests ALJ Greenwood’s employment ended 21 years prior to Mr. Norfolk’s client project application and 22 years before the Adirondack Council submitted its public comment on the proposed project. This timeline undermines any inference upon which to conclude that ALJ Greenwood was involved in the Council’s submission.<sup>2</sup>

To the extent Mr. Norfolk suggests that my request for additional information conflicts with the provision that “all parties shall be given sufficient opportunity to challenge [the hearing officer’s] designation by filing the affidavit referred to in Section 303 of the State Administrative Procedures Act”, he is wrong. Setting aside the absence of factual material sufficient to raise any issue of bias or impropriety, Mr. Norfolk’s letter circumvented applicable rules governing the process for doing so. In short, I did not, as Mr. Norfolk incorrectly suggests, set a deadline for challenging the designation of the hearing officer; instead, I responded to a facially improper request, ensured it became part of the hearing record, and afforded Mr. Norfolk an opportunity to supplement the conclusory allegations of bias in his letter, which he declined to do.

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<sup>2</sup> Even if such employment overlapped—which in this case it does not—there is still no allegation of fact suggesting a connection, relationship, or other fact to challenge the impartiality of the ALJ. That an organization ALJ Greenwood used to work for—prior to attending law school and 21 years before the project at issue was submitted to the Agency—expressed opposition to the proposed project is by itself an insufficient basis for disqualification.



**Adirondack  
Park Agency**

**KATHY HOCHUL**  
Governor  
**BARBARA RICE**  
Executive Director

Based on the foregoing, I find no reason to disqualify ALJ Greenwood from serving as the hearing officer in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Barbara Rice".

Barbara Rice  
Executive Director

cc: Chief Administrative Law Judge Michele M. Stefanucci (By E-Mail)  
Damion K. L. Stodola, Counsel (By E-Mail)