



ARTICLE 10 PROJECTS IN UPSTATE NY

MEET THE PANELISTS

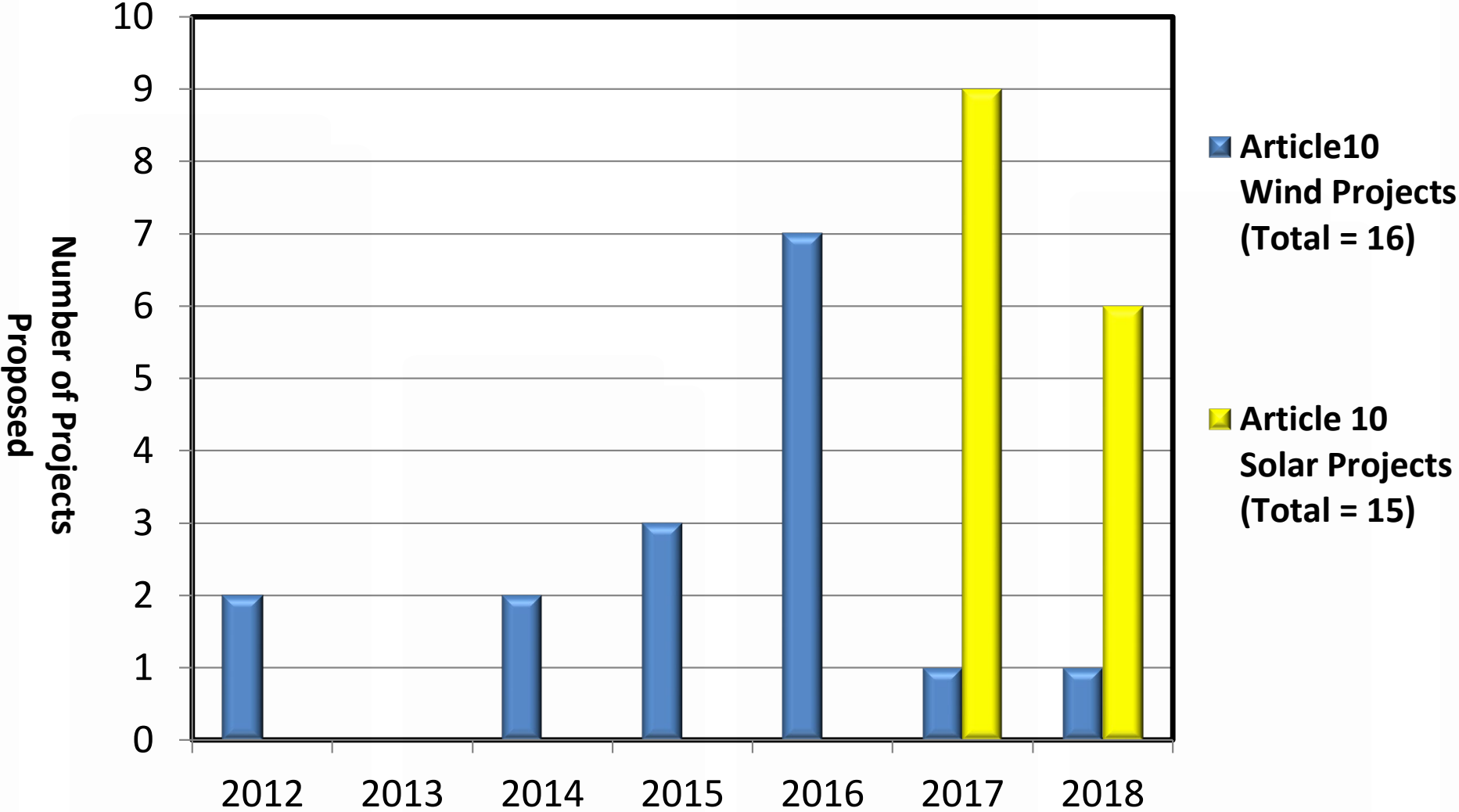
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RECENT INCREASE IN ARTICLE 10
SOLAR PROJECTS IS NOTABLE





LARGE SCALE SOLAR

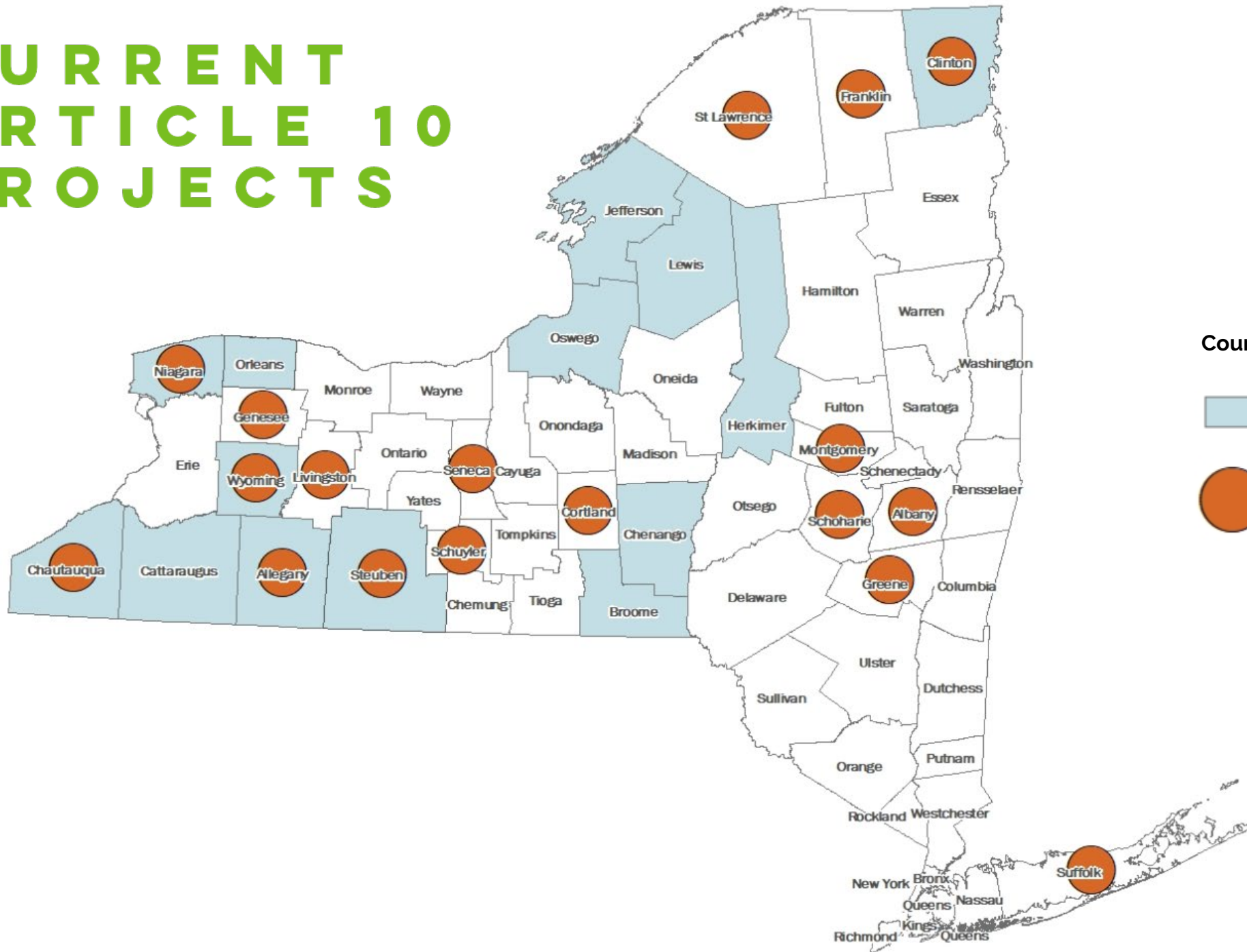


SMALL SCALE SOLAR



**SMALL WIND
VS.
BIG WIND**

CURRENT ARTICLE 10 PROJECTS





SEQR < 25MW < ARTICLE 10



Solar Capacity threshold of 25MW determines who is responsible for the Environmental Impact Analysis.

SEQR VS. ARTICLE 10

Under SEQR

Lead Agency controls the evaluation process

Under Article 10

NYS Public Service Commission oversees the evaluation process



ISSUES OF CONCERN





Major Electric Generating Facility Siting Law
N.Y. Public Service Law Article 10

Alan Knauf, Esq.
Dwight Kanyuck, Esq.

History of Power Plant Siting Statutes

- 1972: Enacted Article VIII of Public Service Law for Electric Plant siting
 - “One-Stop” permitting process with State Siting Board for plants >50 MW
 - Authorized override of local laws and limited judicial review
- 1988: Article VIII expired. Power plants subject to SEQRA
- 1992: Article X of PSL enacted
 - Reestablished State siting board, but expanded environmental review and public participation
 - Plants >80 MW eligible
- 2003: Article X expires. Power Plants against subject to SEQRA
- 2011: Article 10 enacted to reauthorize and modernize Article X



Article 10 Legislative Objectives

- Intended to be “a simplified regulatory process to site new power plants”
 - Reduced threshold for process from 80 MW to 25 MW to “benefit a greater number of applicants, including developers of wind projects”
 - Addressed issues of multiple levels of government and multiple agencies
 - Prescribed timeframes for decision making
 - Accelerated judicial review
- Also intended to “provide for enhanced community input in siting decisions”
 - Expanded required studies including environmental justice studies
 - Expanded as of right participation
 - Funding source for participation by local groups
- Supported strongly by Alliance for Clean Energy, City of New York, Unshackle Upstate
- Opposed by several Upstate Towns and wind industry opponents



Key Provisions

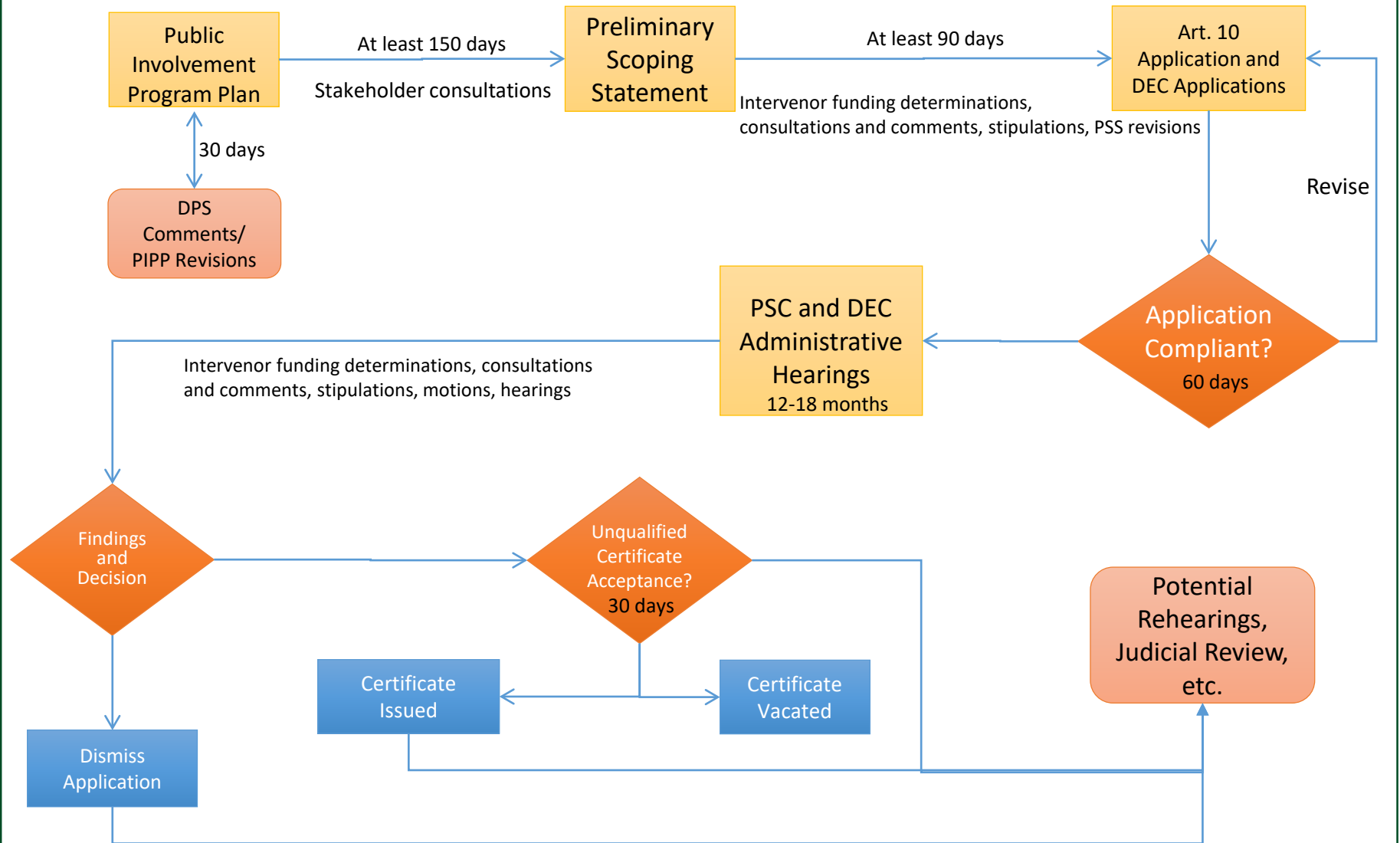
- Decision made by Siting Board
 - Members include Chairs/Commissioners of PSC, DOH, DEC, ESD, NYSERDA, and 2 local ad hoc members
- Adjudicatory hearing process overseen by PSC and DEC Administrative Law Judges
- Preempts local and other state agency approvals
 - DEC delegated federal permitting not preempted (CWA, CAA, RCRA), but review coordinated
 - Supersedes SEQRA
- Provides intervenor funding for local groups to inform the application
 - \$350/MW at pre-application phase (up to \$200K) and \$1,000/MW in application phase (up to \$400K) plus \$500/MW (up to \$50K) if fuel waste byproduct disposal or storage
 - 50% (min.) to local municipalities



Key Provisions

- Certificate issued if demonstrated facility will
 - Beneficially add or substitute capacity in the State
 - Serve the public interest
 - Minimize or avoid adverse environmental impacts
 - Avoid, offset, or minimize adverse disproportionate impacts on the host community; and
 - Comply with all state and local laws and regulations unless “unreasonably burdensome”
- “Unreasonably Burdensome” standard
 - “unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality.”
 - Municipality provided an opportunity to present evidence in support of its law

Article 10 Process





Article 10 Projects—Status to Date

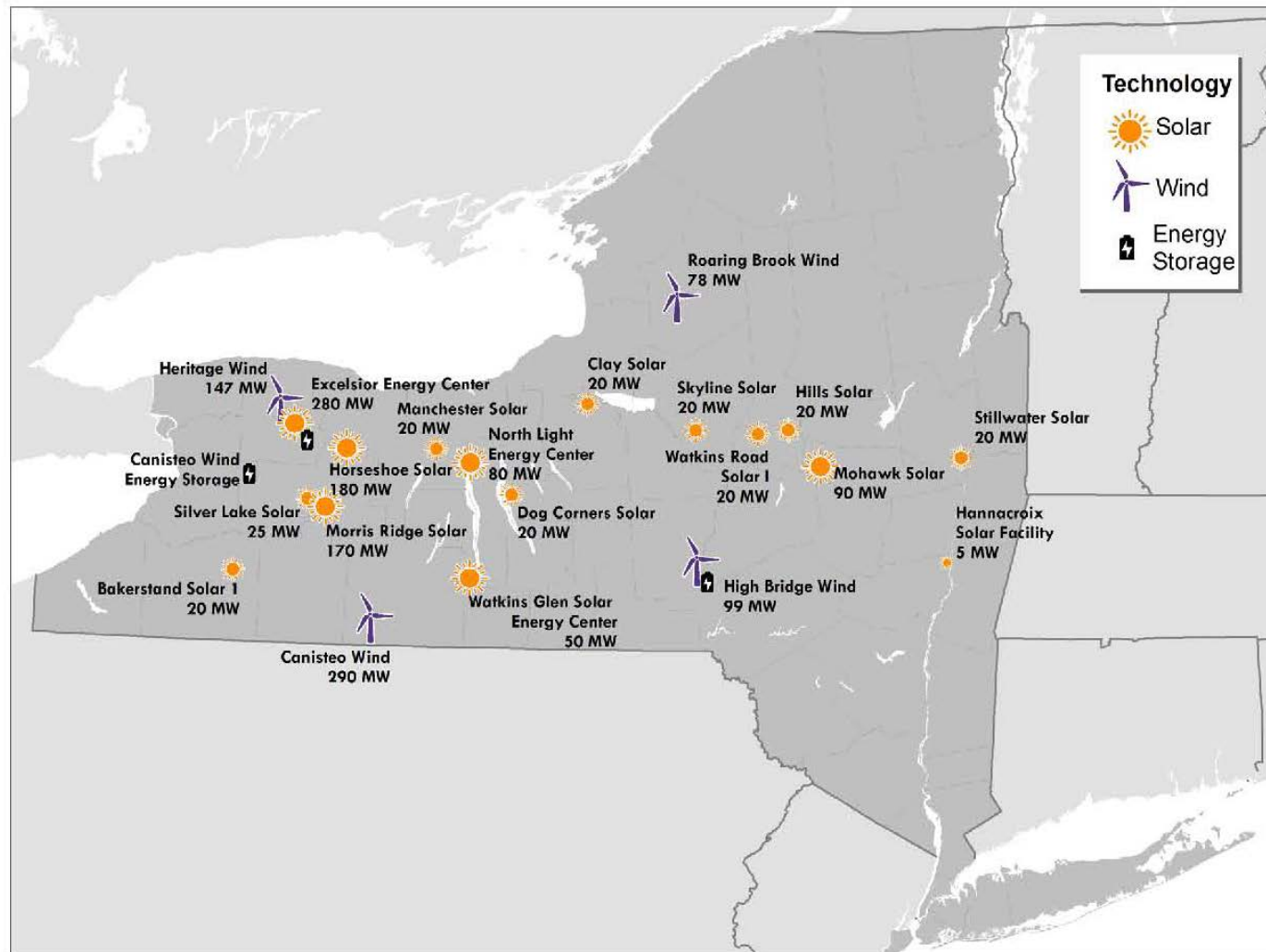
- Status of projects since regulations promulgated in 2012:
 - Certified Projects: 1 (amendment to Art. X certificate for gas plant)
 - Approved applications: 1 (wind)
 - Project applications deemed compliant: 4 (wind)
 - Applications submitted but not deemed compliant: 3 (wind)
 - Preliminary Scoping Statements Submitted: 17 (6 wind, 9 solar, 2 gas repowering)
 - Public Involvement Plans submitted: 15 (5 wind, 7 solar, 1 waste to energy, 2 gas repowering)
 - Project withdrawn: 3 (wind)



Other Issues

- Outside of the Process?
 - PILOT Agreements
 - Host Community Agreements
 - Amendment to Local Laws
 - Subject to SEQRA?
- Conflicts of Interest
- Article 78 Review
- Special Amendments to Article 10 to “Spot Zone”?
 - Bill to Exclude Romulus Waste-to-Energy Project

Future Projects?-2018 NYSERDA RES Awards



Source: NYSEDA 2018 RES Solicitation Fact Sheet

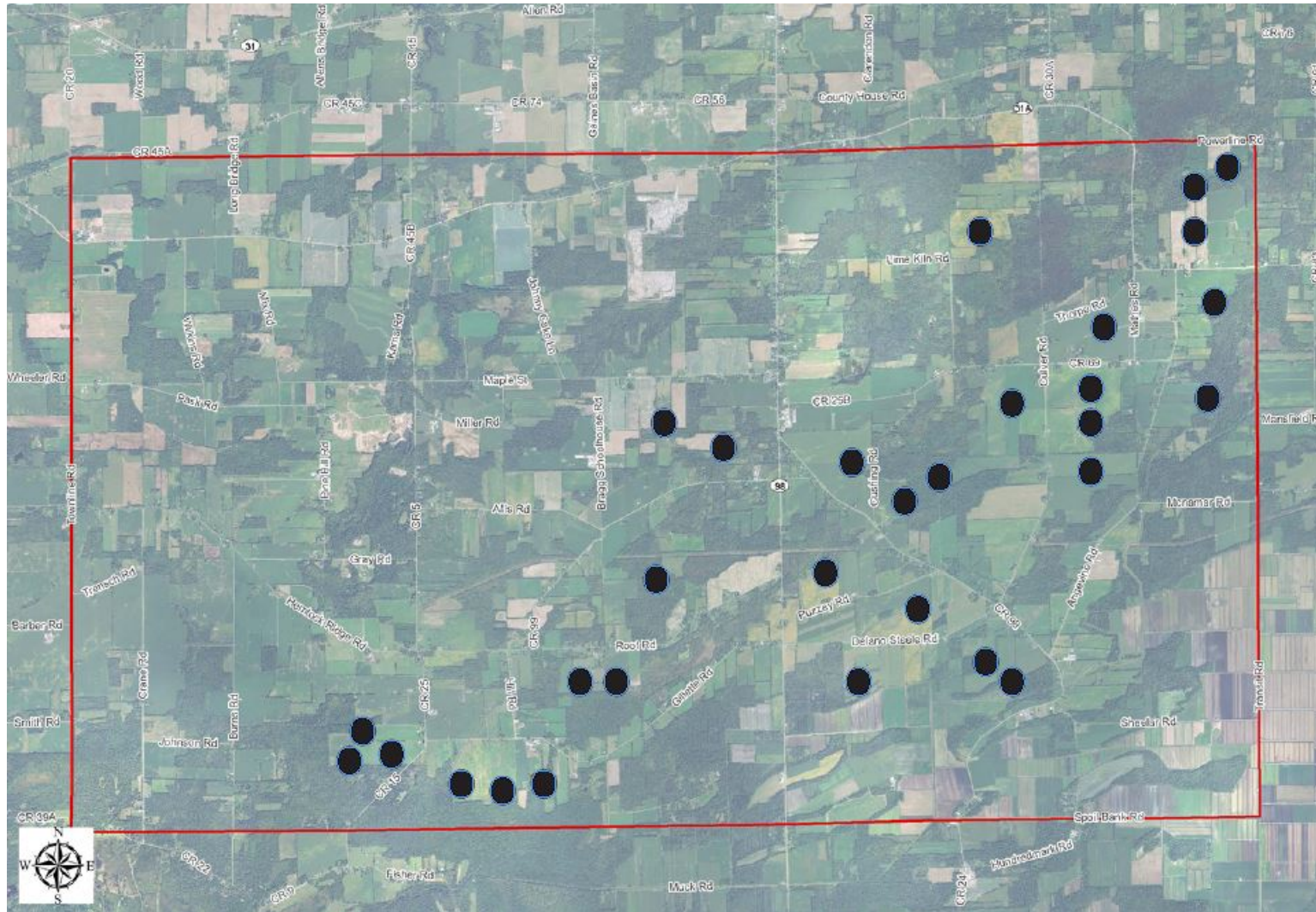


Article 10 Projects in Upstate NY Town of Barre, NY

Town of Barre, NY



Preliminary Facility Layout



* Map provided by developer's consultant

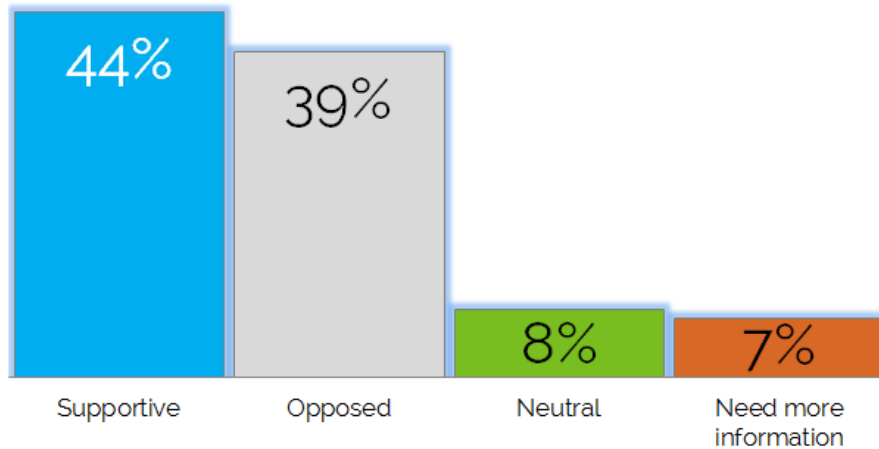
Current Turbine Heights in NYS



Photo credit: Clinton County IDA

Community Survey Results

Currently, support & opposition for the project are evenly split overall.



Wildlife, property values, and roads emerged as the most cited resources of value to the community.

Geese Source Loss BIG Farmland Safety Town
Gillette Rd Land Underground Gas Vein Roads
Beautiful Wild Life Benefit Turbines
Wear and Tear Property Values
Underground Water Streams Traffic Historic Buildings
Oak Orchard Lost Access Project Heavy

Town of Barre Bicentennial



QUESTIONS

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