

Using the Administrative Process: Strategies for Fighting Gas Power Plants



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Scenic Hudson preserves land and farms and creates parks that connect people with the inspirational power of the Hudson River, while fighting threats to the river and natural resources that are the foundation of the valley's prosperity.



Strategies for Fighting Gas Power Plants



- Get the facts into the formal record!
- Force an alternatives analysis that considers clean energy instead
- Bring the weight of public opinion to bear before the decision-maker

NY Public Service Law Article 10

- Applies to major generating facilities 25MW or greater
- In order to grant a Certificate, the Siting Board must determine that:
 - (a) The facility is a **beneficial addition** to the electric generation capacity of the state;
 - (b) Construction & operation of the facility will serve the **public interest**;
 - (c) The adverse environmental effects will be **minimized or avoided** to the maximum extent practicable;
 - (d) If there will be a significant and adverse disproportionate environmental impact in the **community** in which the facility will be located, the applicant will avoid, offset or minimize impacts to the maximum extent practicable; and
 - (e) The facility is designed to operate in compliance with applicable **state and local laws** and regulations.

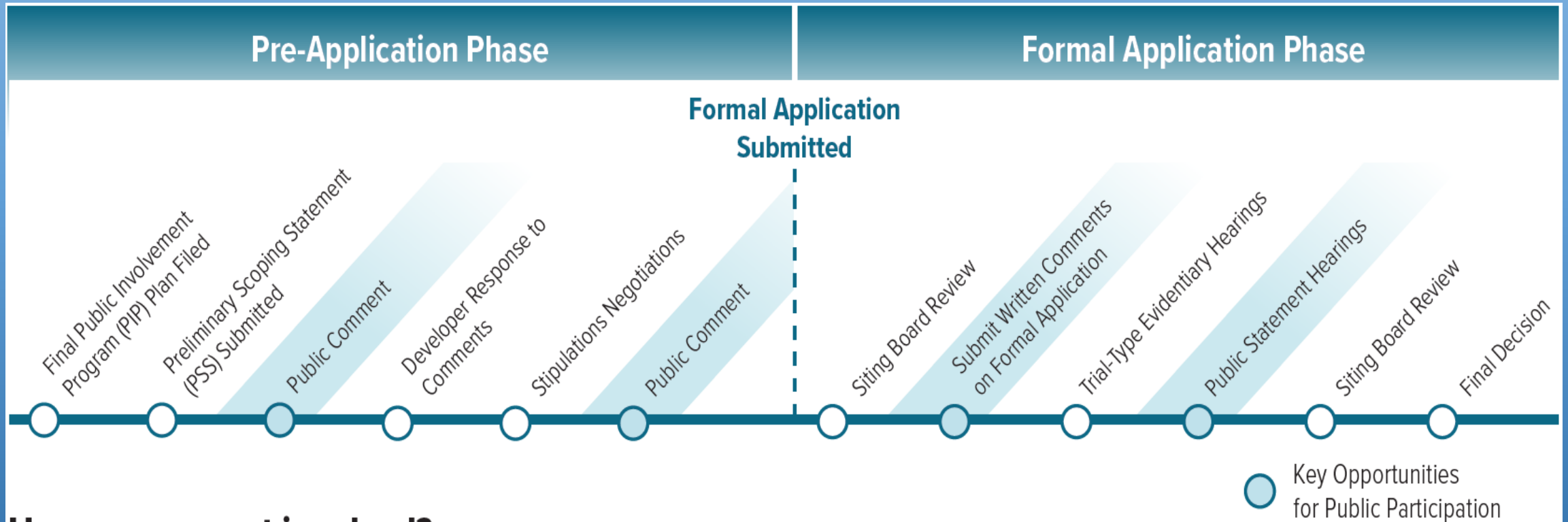


Who Makes the Decision? NYS Board on Electric Generation Siting and the Environment



- The Siting Board consists of five permanent members (heads of five state agencies: NYSPSC; NYSERDA; DEC; DOH; and ESD) and two public members drawn from the host community.
- **Full parties** to the proceeding can file documents on the administrative record of the proceeding, be eligible for intervenor funding, and fully participate in the trial-type evidentiary hearing in the process.
- **Non-party stakeholders** can submit comments and participate in public statement hearings.

Opportunities for non-party public participation in the Article 10 Process



Case Study: Danskammer Repowering Proposal

- Attend developer's Open House; sign up for stakeholder list
- Comment on Preliminary Scoping Statement
- Seek intervenor funds if you wish to hire expert to contribute facts to the record, or desire legal representation to assist your participate in the proceedings
- COMMENT ON PROPOSED STIPULATIONS
- Comment on Application
- Participate in public statement hearings
- Participate in trial-type hearing if you are a full party and have expert witness
- Stay tuned! The process continues....



The State Environmental Quality Review Act (SEQRA)

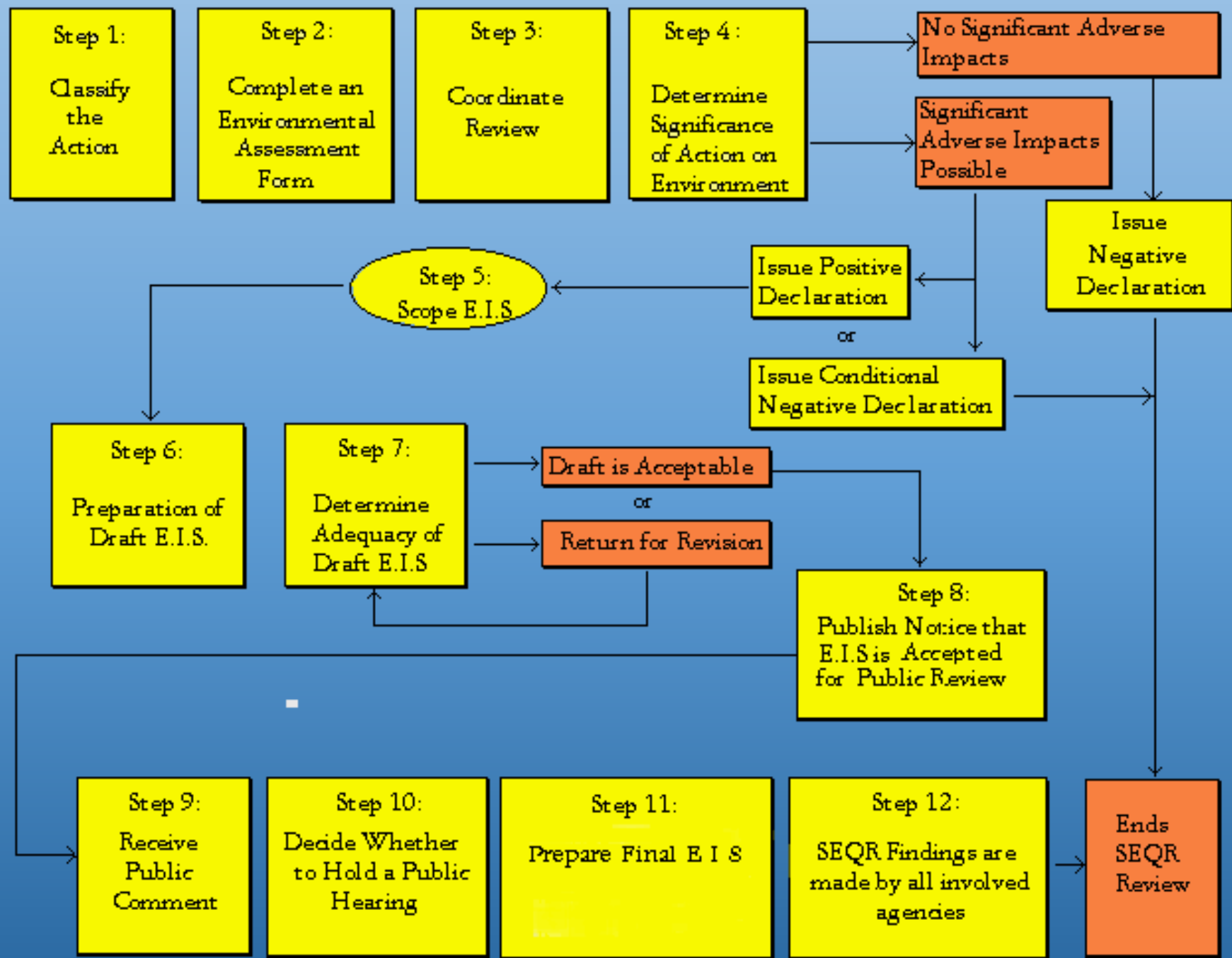
- Will apply to applications for proposals of less than 25MW
- SEQRA's mandate: Agencies must choose **alternatives** which, consistent with **social, economic and other essential considerations**, to the maximum extent practicable, **minimize or avoid adverse environmental effects**, including effects revealed in the environmental impact statement (EIS) process.



What is SEQRA?



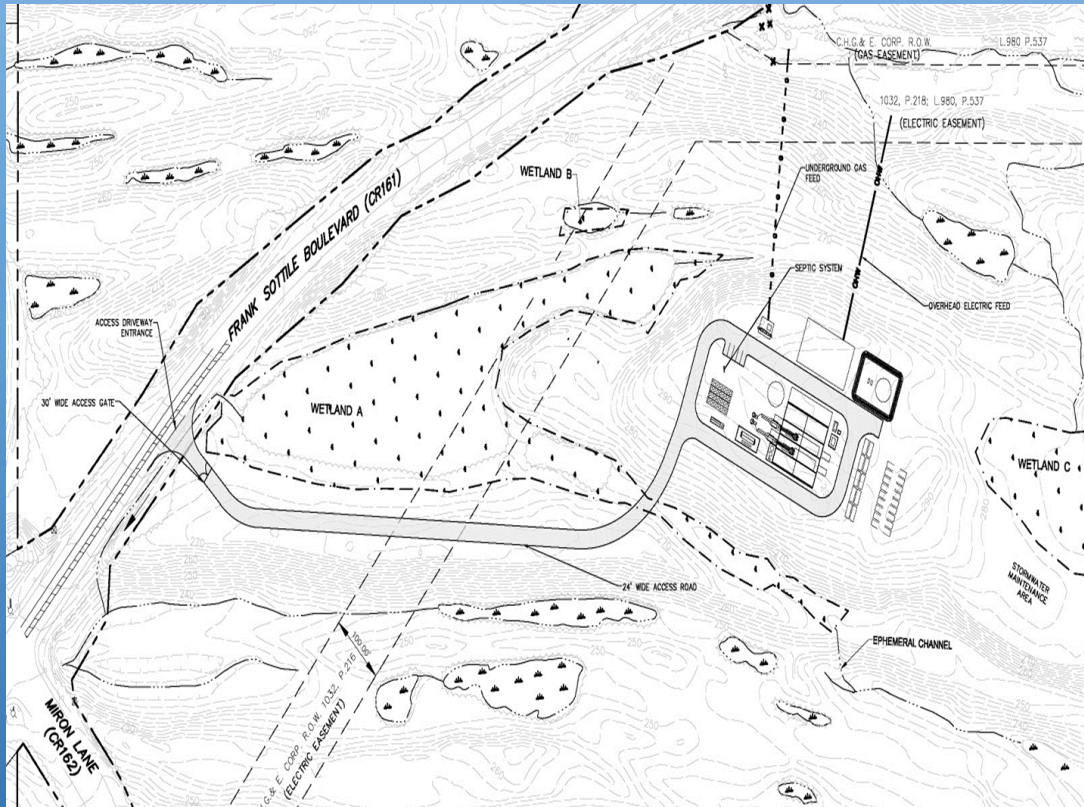
- SEQRA is not the permitting process itself, but is a legal mandate that a reviewing agency must consider the environment before making a decision on the underlying applications for approval.
- SEQRA creates the environmental record on which every permitting agency's decisions must be based.



Opportunities for Public Participation and Impact during the SEQRA Process

- Not legally required, but the lead agency may seek public input prior to making the Determination of Significance
- Scoping: Your chance to identify potential local impacts & community resources that the lead agencies may not be aware of.
 - Identify potential impacts of concern
 - Describe the significance and define the breadth of study necessary to address the impact's significance in terms of time, geography and populations affected.
 - Identify alternative(s) to the project : include different locations, size or technologies and other courses of action.
- DEIS: Comment period is required, and lead agency may hold a public hearing
- FEIS/Findings: no formal comment period, but a “cooling off” period between FEIS and Findings

Case Study: Lincoln Park Grid Support Center



- Hybrid 20 MW gas fired power plant and battery storage facility
- “Peaking” plant located on ~4 acres of a ~120 acre site
- Would operate based on the needs of the electric grid but would be available to the grid 24 hours a day
- Included exhaust stack up to 80 feet tall and 50,000 gallon backup diesel storage tank
- Concerns: climate change and air emissions, and visual, water quality, wetlands, cultural resources, and threatened/endangered species impacts

VICTORY!!!!

“GlidePath has revised the design of the Lincoln Park Grid Support Center, removing all fossil fuel components, making it a battery-only project and relocating the project to the northeast side of Frank Sottile Boulevard, farther from residences.”

“The Lincoln Park Grid Support Center will use a state-of-the-art, utility-scale battery system to support the electrical grid in Ulster County, NY and the surrounding region.”

<https://www.lincolnparkgridsupportcenter.com/>





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Thank you!

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