

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

803

OP 23-00427

PRESENT: WHALEN, P.J., CURRAN, MONTOUR, OGDEN, AND NOWAK, JJ.

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TOWN OF RUSH, PETITIONER,

V

ORDER

NEW YORK STATE OFFICE OF RENEWABLE ENERGY  
SITING, NEW YORK STATE, AND HORSESHOE SOLAR  
ENERGY LLC, RESPONDENTS.

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WISNIEWSKI LAW PLLC, WEBSTER (BENJAMIN E. WISNIEWSKI OF COUNSEL), FOR  
PETITIONER.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (JOSHUA M. TALLENT OF  
COUNSEL), FOR RESPONDENTS NEW YORK STATE OFFICE OF RENEWABLE ENERGY  
SITING, AND NEW YORK STATE.

HODGSON RUSS LLP, ALBANY (JOHN W. DAX OF COUNSEL), FOR RESPONDENT  
HORSESHOE SOLAR ENERGY LLC.

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Proceeding pursuant to CPLR article 78 (initiated in the  
Appellate Division of the Supreme Court in the Fourth Judicial  
Department pursuant to Executive Law § 94-c [5] [g]) to annul and  
vacate determinations of respondent New York State Office of Renewable  
Energy Siting.

Now, upon reading and filing the stipulation of discontinuance  
signed by the attorneys for the parties on August 16, 2023,

It is hereby ORDERED that said appeal is unanimously dismissed  
without costs upon stipulation.

Entered: November 17, 2023

Ann Dillon Flynn  
Clerk of the Court