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**MEMORANDUM IN OPPOSITION AS WRITTEN TO
S.8088 (Hinchey)/No Same As**

**In relation to the construction, installation and operation of dual-use solar energy projects on
certain land which receives an agricultural assessment**

February 2022

The Alliance for Clean Energy New York (ACE NY) **opposes S.8088 as written**, in the belief that it will have unintended consequences. This bill, by amending the agriculture and markets law, would create a pilot program for dual-use solar projects under 10 megawatts (MW) to receive an agricultural assessment with approval from the Department of Agriculture and Markets (DAM).

Dual use solar projects co-locate solar panels and agricultural activities. ACE NY strongly supports the promotion of dual-use solar and believes these projects should remain eligible for farmland assessment **IF** they meet the current rules for farmland assessment. This is currently a local assessor decision, and it should remain so.

Regrettably, this legislation would limit local assessors' ability to define agriculture. Now, local assessors can choose to maintain an agricultural assessment for a solar project if it contains an agricultural operation that generates a certain threshold of revenue. This bill would still allow assessors to continue an agricultural assessment for projects that meet the definition of co-location but not for projects that fall under the "dual-use" category. *We note that land hosting solar that does not also co-locate farm activities loses its agricultural assessment and we are not questioning that policy.*

ACE NY is concerned that the bill, as written, would have the unintended consequence of driving farmers away from dual-use projects, since it makes it more challenging to maintain an agricultural assessment and requires more State review. Additionally, the bill would not allow dual-use projects greater than 10 megawatts to receive an agricultural assessment. Further, wording in bill suggests that if a site goes from row crop production to grazing, then it would not be considered an eligible activity. This is wrong.

The bill would also establish a new permitting process for projects that are below 10 MW and seeking the dual-use designation. It would task the Office of Renewable Energy Siting (ORES) to work on the new permitting process, posing a challenge to an already strained staff. Currently, ORES only reviews projects 20 MW and larger, by law, while smaller projects are reviewed at the local level.

Finally, it is not readily clear what approval authority is being given to DAM by this bill. DAM should not need to review every project pursuing agriculture co-location. That would create an administrative bottleneck and further discourage projects from pursuing an innovative dual-use project.

The New York agricultural sector is vital to our economy. Solar is vital to meeting our climate goals. Agriculture and renewable energy working together can advance both objectives. As written, this bill will discourage farms that host solar from trying co-location of solar and agricultural activities.

For the above reasons, the Alliance for Clean Energy New York opposes this legislation. For more information contact Deb Peck Kelleher, Director of Policy Analysis & Operations, at (c) 518-698-3211. All of ACE NY's memos on legislation are available at <https://www.aceny.org/legislative-updates>.