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How Propane Could Completely Undermine One State's Ban On Fracking

BY SAMANTHA PAGE JUL 28, 2015 3:20PM

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Activists in New York rallied in 2012 for a fracking ban, but oil and gas technology may be one step ahead of them.

A group in New York may have found a way to get around the state's so-called ban on fracking.

Tioga Energy Partners, LLC, applied earlier this month to conduct propane fracking — a process similar to hydraulic fracturing, but that injects propane gas, not water, into shale formations to loosen the deposits of oil and natural gas underground. The state Department of Environmental Conservation (DEC) will review the application and determine whether a full environmental impact statement (EIS) is necessary.

"It's not a loophole. That ban does not apply to us," Adam Schultz, a lawyer for the company, told ThinkProgress. Schultz said the permit application is going through the permitting process.

New York environmentalists rejoiced when a state moratorium on fracking became an out-and-out ban earlier this year, but the law applies only to high-volume hydraulic fracturing — defined as extraction that uses 300,000 gallons or more of water per well, Schultz said. Propane fracking uses no water. It also injects a lower volume of fluid into the shale.

It was not immediately clear who makes up Tioga Energy Partners, LLC — the company does not appear to have a website or previous projects — but Schultz said the group had "a great amount of experience and expertise with waterless fracking technology."

The application seeks to develop oil and gas on land owned by a group of farmers in Tioga County, in

central New York, over part of the Marcellus Shale — the largest natural gas field in the United States.

“This application has the support of the community and has the official support of the town of Barton,” Schultz said.

Last summer, before the hydraulic fracturing ban was finalized, the New York State Court of Appeals ruled that municipalities had the right to use local zoning laws to prohibit oil and gas development.

Deborah Goldberg, a lawyer for Earthjustice who represented the towns in that case, said she thinks it is unlikely that the permit will result in oil and gas development. For one, she said, it would be “fantastically expensive.” She also thinks the DEC would likely require an EIS.

“The legal standard is if there is a possibility of a significant environmental impact, they have to do an environmental impact statement,” Goldberg told ThinkProgress.

On Monday, Earthjustice, as well as the Natural Resources Defense Council and Frack Action, sent a letter to the DEC, asking officials to consider expanding the ban to include propane fracking.

“LPG fracturing returns polluting products to the surface that must be properly handled and disposed, in this case, flammable gases that would have to be collected in pressurized tanks or flared — a step generating air emissions and leaks that can harm public health and safety,” they wrote.

Proponents of propane fracking say it wastes less water (it doesn't use any) and is safer than hydraulic fracturing, but the process is still not widespread in the United States. In propane fracking, the propane returns to the surface and is recaptured as gas.

“As required by law, we will review the permit,” Tom Mailey, a DEC spokesman, said in a statement provided to ThinkProgress. “DEC will follow the mandates in the State Environmental Quality Review Act (SEQRA), which could include requiring an Environmental Impact Statement (EIS).”

Whether or not this application goes through, it's unclear whether New York would become a hotbed of oil and gas development, despite its significant resources. In its earlier review of hydraulic fracturing, the DEC found that the economic benefits would be “clearly lower than initially forecast.”

Already, more than 150 New York cities and towns have implemented local bans on fracking. Those bans and moratoria apply to propane fracking, as well, since they are generally constructed as zoning regulations that prohibit any kind of oil and gas development.

“Any place that doesn't want the risk of propane fracking could pass a ban,” Goldberg said.