

# Propane fracking faces long odds

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## *Propane fracking in Barton long on legal backing but short on just about everything else*



(Photo: ANDREW THAYER / Staff Photo)

A heavily promoted plan to work around the state's fracking ban in the Town of Barton is long on legal backing but short on just about everything else needed to make it happen.

Tioga Energy Partners LLC — the entity that intends to jump-start shale gas development in the Southern Tier — lacks a driller, a financial security backer, a track record, and a completed application to state regulators, according to a review by the Press & Sun-Bulletin.

Still, the proposal has provided plenty of fuel to rekindle New York's fracking debate after a group of landowners leased 53 acres to Tioga Energy to develop a well using propane gel rather than water as a base for hydraulic fracturing.

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The plan, announced in a news conference in front of the town hall last month, was pitched as a workaround to the state's ban on high volume hydraulic fracturing — the controversial process that stimulates the flow of gas from shale. The Cuomo administration imposed the ban late last year due to concerns over public health and environmental impacts.

Depending on one's perspective, the Barton workaround could be seen as the embodiment of the entrepreneurial spirit of wildcatters — writ large in oil and gas lore and legend — heroically overcoming doubters and long odds to “prove” a play and strike it rich. Or it could be viewed as a publicity stunt to keep fracking hopes alive in New York.

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At face value, the intention is for landowners to prove the worth of the Utica and Marcellus shale formations underlying Tioga County and showcase new technology to produce them. Beyond that, it's an open challenge to legal and political forces that so far have kept shale gas development out of New York.

Chip Northrup, a former oil and gas driller and investor from Dallas who has a home in Cooperstown, said propane fracks are theoretically less environmentally damaging than water fracks, but they are technically difficult and economically questionable.

“This is a glossy PR stunt,” said Northrup, an outspoken figure in New York's anti-fracking movement. “There is nobody in North America qualified to do this. They (Tioga Energy Partners) expect to be denied, they will be denied, and they will sue the state to keep the drama going in New York.”

Town of Barton Supervisor Leon “Dick” Cary hailed the proposal as a breakthrough to gas production that would bring jobs, prosperity and \$250,000 in annual tax revenues to the Town of Barton and Tioga County. “I think this is the start of something that is going to get bigger,” he said.

### **Information scarce**

Terms of the lease and many of the critical players behind the operation have not been publicly disclosed.

Tioga Energy Partners is listed as an operator in an application submitted in May to drill a test well 9,530 feet into the Utica Shale, according to an online summary of state Department of Environmental Conservation records. There is no listing on the DEC's online database for a driller — the party that would actually carry out the operation; or a financial security provider — the party that would post money as insurance against failure or disaster.

The phone number and address of Tioga Energy Partners listed on the permit application belong to Couch White law firm in Albany. Calls to the number were directed to Tioga Energy's legal counsel Adam Schultz.

Tioga Energy Partners is a limited liability company — a business structure that shields owners from personal liability for business debts. A principal member of the group, according to Schultz, is Phillip M. Mezey. Formerly a petroleum engineer for Texaco, Mezey is CEO of TexStar Midstream Services. He is also listed as co-founder and advisor for Black Brush Oil & Gas LP, a Texas drilling firm that has no connections with the venture in the Town of Barton, according to Schultz.

Mezey was not available for comment.

In addition to the test well into the Utica Shale, the firm has filed a second application to develop a production leg extending laterally into the Marcellus Shale well above the Utica, according to Schultz. The DEC has asked for more information before the applications are considered complete. Schultz said names of the financial security provider and driller will be added before a permit is issued.

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**A portion of land in the Town of Barton, near Tyler Hollow Road, sits near the site of the proposed natural gas well. The gas collection will take place beneath a 53-acre plot owned by Ernest Snyder. Proponents say only 3.5 surface acres will be disrupted while the well is drilled. But propane fracking in Tioga County faces long odds. (Photo: KELLY GAMPEL / Staff Photo)**

Though drilling applications are public documents, Schultz declined to provide a copy of Tioga Energy's paperwork due to what he characterized as "respect for the process." A request by this newspaper for access to the permit applications and related correspondence through the state's Freedom of Information Law is being processed by the DEC, with a response expected in late August.

If and how a propane frack fits under the state's ban on high volume hydraulic fracturing is yet to be determined. Shultz said the wording of current policy —outlined in a document called the Supplemental Generic Environmental Impact Statement (SGEIS) — doesn't apply to propane fracks.

While the plan has drawn heavy criticism from anti-fracking groups, some agree that the state's definition of high volume fracturing — 300,000 gallons of water or more — provides a "huge loophole," in the words of Walter Hang, for fracking with other agents, including propane. Hang, an anti-fracking community organizer and head of Toxic Targeting in Ithaca, is mounting a campaign to push state regulators to explicitly prohibit all types of fracking for shale formations.

#### **Tried before**

One of the biggest hurdles the project faces, apart from navigating regulatory roadblocks and proving the geology, is making the business of gas extraction financially viable in New York. That task is compounded by a market glut from Pennsylvania that has lowered prices. Moreover, the "Home Rule" decision by the state Court of Appeals in 2014 now subjects drilling plans to local land use laws, effectively taking many acres off the table and reducing the economies of scale necessary to effectively develop a play.

Even under the best circumstances, oil and gas exploration is a highly speculative business. During the gas rush of 2008 — when prices and corresponding returns on investments were much higher than now and before the home rule decision changed the regulatory landscape — major companies such as Hess Corp. and XTO Energy offered Southern Tier landowners proposals worth hundreds of millions of dollars covering tens of thousands of acres. Still, not a single well came of it due to the state's moratorium and eventual ban.

The Barton propane frack faces even longer odds, but it's enough to keep the hopes alive for the five landowners who are leasing 53 acres of fields and woodlots in the Town of Barton, and by proxy, everybody in favor of shale gas development in New York. The well site is marked with a wooden stake with a blue flag in a hayfield on top of a hill owned by Bucky Snyder.

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**Bucky Snyder, 71, stands on the plot of his land in Lockwood where propane fracking has been proposed. "If I thought for a minute that the company would destroy my land they wouldn't be out here." (Photo: ANDREW THAYER / Staff Photo)**

Snyder, a former cable-splicer with a New Jersey phone company who bought the farm in retirement, takes care to make sure the stake doesn't get caught in his equipment when he cuts hay. He is equally cautious in describing his expectations for the venture. "I believe something good will come of this," he said. "This land is more than I ever thought I would have," he added "and I would never want to do anything to ruin it."

The boundaries of the well will extend under neighboring land, including that of Kevin "Cub" Frisbie, president of the Tioga County Farm Bureau and a spokesman for the Snyder Landowners Group. Frisbie believes the entrepreneurial spirit will prevail in upstate New York even if the large oil and gas companies were unsuccessful.

"The whole idea is to get a well in New York State," he said. "We're taking baby steps to appease the fear of the governor and show that it can be done safely."

The promise is familiar one to many living in Tioga County. In early 2012, GasFrac Energy Services, of Canada, reached an agreement with a Tioga County landowner group to use propane to frack wells in an attempt to work around what was then a moratorium on shale gas development prior to the ban.

The Gasfrac deal gave landowners a working interest in the development and production of wells rather than traditional lease payments. Rich in complexity and lacking capital, that deal never advanced beyond paperwork, and Gasfrac eventually went bankrupt.

Elmira attorney Chris Denton, a major figure in the 2012 deal with Gasfrac, also represents landowners in the current proposal. He was unavailable for comment.

Those close to the current deal characterized the terms as modest.

"We're all giving a little bit to make this happen," Frisbie said. "Nobody is going to get rich off this."

The project faces the problem of marshaling capital for a venture that can cost hundreds of thousands of dollars, if not millions. And it carries its own set of environmental risks. While a propane frack eliminates the need of high volumes of chemically-laced water, it uses highly explosive propane injected under pressure miles into the ground. The resulting shale well produces brine, heavy metals, and naturally occurring radioactive materials that are exempt from hazardous waste handling laws.

Even if the state determines that propane fracking does fall outside the state's ban, the Town of Barton venture may require a "site specific" review or Environmental Impact Statement (EIS) under the State Environmental Quality Review (SEQR). That is a time-consuming and costly process with requirements for public input that would make it a prime target for activists opposed to shale gas development.

DEC spokesman Tom Mailey said there is no firm deadline for a decision. If the seven years of history of the shale gas controversy in New York tell us anything, it's that the state has been in no hurry to make policy decisions about fracking.

**What's next**

When the application is complete, the DEC will assess whether the project falls under the fracking ban, needs a separate review or is allowable under current regulations.

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