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## Gas company attempts to extend leases

Norse Energy has agreements in eastern Broome

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A natural gas company with a leasehold in eastern Broome and Steuben counties and parts of central New York told landowners this week their leases would be extended because of New York's moratorium on a type of hydraulic fracturing.

Norse Energy Corp., a Norwegian company whose U.S. operations are based in Buffalo, sent a letter Monday to affected landowners, citing an Executive Order from former Gov. David A. Paterson that prevents high-volume hydrofracking in New York until at least July as a reason to claim "force majeure."

A legal clause found in most oil and gas leases, force majeure allows a contract to be extended if an unforeseen event, such as a natural disaster or a new regulation, prevents the terms from being followed by either party.

The company holds gas rights on roughly 180,000 acres in New York state and has a stake in a number of current drilling operations in the central portion of the state, mainly the Herkimer formation beneath Chenango County.

"This notice is designed to preserve our substantial investment in the future shale potential of New York state," Norse CEO Mark Dice said in a statement. "In the interim, Norse is fortunate to the extent that we may have other options, such as the Herkimer Sandstone, which do not require high-volume hydraulic fracturing."

Paterson's order was issued Dec. 13 and was seen as a compromise after he vetoed a bill that would have banned new permits for all forms of hydrofracking until May 15. The order, which Gov. Andrew Cuomo extended, requires the state Department of Environmental Conservation to come out with a new draft of its permitting regulations "on or about June 1" with at least a 30-day comment period to follow.

High-volume fracking, a much-debated gas stimulation technique that Norse and others hope to use to tap into the Marcellus Shale formation, is banned in New York until then as part of Paterson's order. Hydrofracking involves the use of a high-pressure mix of chemical-laced water deep underground to fracture shale formations and release gas.

The Norse claim to force majeure is the first to cite the Executive Order. Other companies, including Chesapeake Energy, have attempted to claim Paterson's initial July 2008 decision to initiate the DEC's guideline review as a force majeure event.

The state Attorney General's Office intervened in 2009 when Fortuna Energy (now Talisman) tried to extend leases that did not contain a force majeure clause.

The Belden & Blake Corp. was sued last year by Colesville-area landowners in federal court in Binghamton when the company tried to extend a number of decade-old leases that were set to expire. That suit is ongoing.

Brian Conover, president of the CNY Landowner's Coalition, said he doesn't know if Norse's claim will hold up.

"I'm sure there will be some (landowners) who will take some action, especially those whose leases are about to expire," Conover said. "From a business standpoint, I understand why (Norse is) doing it, but I don't know if they'll be successful in accomplishing what they want to do."

Conover said any anger caused by Norse's claim is better directed at the state.

"As much as people may become frustrated with Norse about this force majeure attempt, our real frustration is with the state of New York and their failure to follow through in a reasonable amount of time to complete this study by the DEC," Conover said.

Norse had warned landowners in August that the company was planning to claim force majeure if the moratorium bill was signed into law.

"While the Governor vetoed the moratorium bill, the Executive Order still bars Norse from exercising the right for which we contracted with you and compensated you," the company wrote this week in its letter.

"By preventing us from obtaining the required permits, the Executive Order still bars Norse from exercising the right for which we contracted with you and compensated you. By preventing us from obtaining the required permits, the Executive Order has caused an event of force majeure for as long as the DEC is barred from issuing those permits."

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