

SUPREME COURT: COUNTY OF ERIE
National Fuel Gas Distribution Corporation
6363 Main Street
Williamsville, New York 14221

Claimant,

NOTICE OF CLAIM

-vs-

Index No.

Erie County Water Authority
295 Main Street, Room 350
Buffalo, New York 14203

Defendant.

TO THE ABOVE NAMED DEFENDANT:

SIR:

PLEASE TAKE NOTICE that the Claimant herein hereby makes claim and demand against the Erie County Water Authority as follows:

1. The name and post-office address of the Claimant is: National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221. The name and post office address of Claimant's attorney is: Kenneth M. Gossel, Esq., National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221.

2. The nature of the claim is an action for the recovery of property damage to Claimant's underground facilities, for gas loss, and for the cost of the repair of said underground facilities caused solely by the negligence of Defendant and Defendant's violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 1926.1, et. seq., due to Defendant's water main break in the in the Town of Cheektowaga, County of Erie and State of New York.

3. The time when, the place where and the manner in which the incidents underlying the claim arose are as follows:


- (i) Damage to Claimant's underground facilities occurred on January 1, 2021, at approximately 10:25 a.m., at or near 1520 Lovejoy St., Town of Cheektowaga, County of Erie and State of New York, when the Defendant's water main broke, Defendant negligently and in violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 926.1, et. seq., caused damage to Claimant's natural gas line and the loss of gas.

4. The items of damage are property damage to Claimant's underground facilities, detailed above, and the cost of repairing said damage. That said claim and demand is hereby presented for adjustment and payment. PLEASE TAKE FURTHER NOTICE that by reason of the foregoing, and upon the default of the Erie County Water Authority, to pay Claimant the full amount of the damages suffered by reason of the foregoing, within the time limited for compliance with this demand by the said Erie County Water Authority, by the statutes in such cases made and provided, Claimant will institute an action against the Erie County Water Authority, to recover the full amount of Claimant's damages, with interest and costs.

DATED: Williamsville, New York
 February 22nd, 2021

Respectfully yours,
National Fuel Gas Distribution Corporation

By:



Patrick F. Fellner
Assistant General Manager of the Risk
Department of National Fuel Gas Distribution
Corporation

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE
National Fuel Gas Distribution Corporation
6363 Main Street
Williamsville, New York 14221,

Claimant,

-vs-

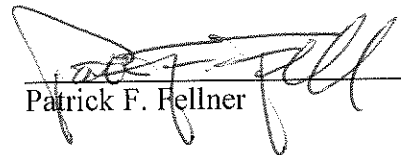
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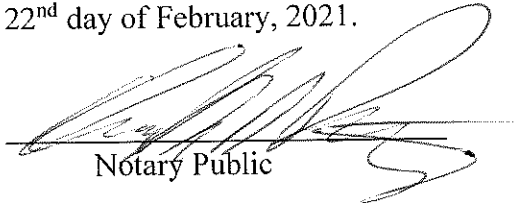
Defendant

STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

Patrick F. Fellner, being duly sworn, deposes and says that I am an employee in the Risk Management Department for National Fuel Gas Distribution Corporation; that I have read the forgoing Notice of Claim; that the same is true to my knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true based upon information supplied to me; and the reason the verification is made by me because National Fuel Gas Distribution Corporation is a corporation.


Patrick F. Fellner

Sworn to before me this
22nd day of February, 2021.


Notary Public

**NATIONAL FUEL
DAMAGE TO COMPANY PROPERTY REPORT**

INVESTIGATION DATA (To be completed by first responder - charge all time and material to 70 #.)

DAMAGE # 70-101488 LEAK # NA C.S.O. # 60023623

Time and Date of Damage: 10:25 AM 1-1-21 Camcorder Photographs Hit Kit Utilized
(Time) (Date) (Video/photos must be taken on every line hit.)

Damage Occurred: Below Grade Complete All Sections Above Grade Sections A, D, E Gas quality issue Sections A, C, E

SECTION A: DAMAGE LOCATION AND DESCRIPTION: COMPLETE FOR ALL DAMAGES / INCIDENTS

Address / Exact Location: 1520 Larjoy ST

Between Intersections of: Griffith ST + Bell ST

City / Town: Cheektowaga County: Erie

Right of Way where event occurred: (Select One)

- Public: City St State Hwy Interstate Hwy County Rd Other Federal Land
Private: Land Owner Private Business Railroad Pipeline Private Easement
 Dedicated Public Utility Easement Power / Transmission Line Unknown / Other

Damaged by: Contractor County Developer Farmer Municipality
(Select One) Occupant Other / Unknown Railroad State Utility

* If a Contractor, who are they working for: _____

Company: Erie County water Authority Owner/Contact Name: _____

Address: 3030 Union Rd

Address: _____

City / Town: Cheektowaga State: NY Zip Code: 14227

Phone #: 716 684-0900 Equipment Operator's Name: NA

- Type of Excavation Equipment: (Select One) Auger Backhoe/Track Hoe Boring Drilling
 Directional Drill Explosives Grader/Scraper Hand Tools/Shovel Vacuum Equip
 Probing Device Trencher Farm Equip Milling Equip Unknown/Other

Vehicle License Plate # and State Jurisdiction: _____

Description of Incident (Select One Type of work being performed.):

- Agriculture Cable Television Bldg. Construction Curb/Sidewalk Bldg. Demolition Drainage
 Driveway Electric Engineering/Survey Fencing Natural Gas Irrigation
 Landscaping Grading Pole Public Transit Auth. Railroad Maint. Road Work
 Sewer(Sanitary/Storm) Site Development Steam Storm Drain/Culvert Street Light
 Telecommunications Traffic Signal Traffic Sign Water Waterway Improvement
 Liquid Pipeline Milling Unknown/Other

SECTION B: LOCATE INFORMATION: COMPLETE FOR BELOW GRADE DAMAGES

Was the One-Call Center notified? Yes No If yes, please provide the One Call ticket number: _____

Ticket Response Code: _____

Type of Locator: Utility Owner Contract Locator Unknown/Other

Facility Marked? Y N Marks Visible in Excavation Area: Y N

Marked Accurately: Y N

Remarks: water main broke causing water to get into gas main

Investigated by: Bryan Fremont Employee #: 60666

SECTION C: REPAIR DATA - COMPLETE FOR BELOW GRADE DAMAGES AND GAS QUALITY ISSUES (To be completed by repair personnel.)

What type of facility was affected?

(Select One)

- Distribution Main
- Distribution Service
- Gathering
- Transmission
- Unknown/Other (Explain Below)

Size: 0 4 5
(Inches) (Codes)

A - 1/8	E - 5/8
B - 1/4	F - 3/4
C - 3/8	G - 7/8
D - 1/2	S - 0
	X - Out Dia.

- Type: 1 Bare Steel
- 2 Coated Steel
 - 3 Cast Iron
 - 4 Wrought Iron
 - 5 Plastic
 - 9 Other

Explanation: water main broke + Blew water into Gas main on E side of Griffith

Was the facility part of a joint trench? Unknown / Y / N Gas blowing: Y / N Main or Svc Shutdown? Y / N

No. of Service Interruptions: 24 Duration of Interruption: 23 (hours)

DRO No(s): _____

Number of people injured: 0 Number of fatalities: 0

Additional Explanation: water main leak @ NE corner of Lovejoy + Griffith, Once water company turned off water main the water in Gas main Drained out + stopped Filling.

A Completion report is required if the main size, material, or dimension changed. Use "70" number. Update SVL info for serv. change.

Repaired by: Bloom Employee # 15306

SECTION D: GAS LOSS CALCULATION DATA - COMPLETE FOR BELOW AND ABOVE GRADE DAMAGES WITH GAS BLOWING

Line Pressure (psig): 0 5
(lbs.) (oz.)

Time Leak Stopped: _____ 5" w.c. = 3 oz.
7" w.c. = 4 oz.
Time Blowing (min.): _____ 8.5" w.c. = 5 oz.
10" w.c. = 6 oz.
(Time Blowing = Time Leak Stopped - Time of Damage) 12" w.c. = 7 oz.
Hole Size (in.): _____ (length) _____ (width)

Choose the Type of Break

- Incomplete Break (Complete hole size)
- Complete Break: 2-way feed
- Complete Break: 1-way feed

SECTION E: CHECKLIST FOR PROCESSING AND SUPERVISOR APPROVAL - COMPLETE FOR ALL DAMAGES

SEND BILL - Y N

(Mis-Mark Review Required if Unlocatable, Locator Error or Incorrect records/maps.)

If "YES" - Choose Reason

(Select One)

If "NO" - Choose Reason and Explain Below

(Contract Locator may be billed if Contractor Locator error.)

- No notification made to the one call center
- Notification to one-call center made, but not sufficient
- Wrong information provided to one call center
- Excavation practices not sufficient/Excavator Error
- Failure to maintain clearance
- Failure to maintain marks
- Failure to support exposed facilities
- Failure to use hand tools where required
- Failure to verify location by test-hole (pot-holing)
- Improper backfilling practices
- Other-99

- One call center error
- Facility could not be found or located (Unlocatable)
- Facility marking or location not sufficient (Locator Error)
- Facility was not located or marked (Locator Error)
- Incorrect facility records/maps
- Abandoned facility
- Deteriorated facility
- Previous damage

If Billing Locate Contractor:

- Facility marking or location not sufficient by locate contractor (Contractor Locator Error)
- Facility was not located or marked by locate contractor (Contractor Locator Error)

Explanation: _____

Supervisor Approval: Bryon A
District Mgr. Approval: R. Stewart

Employee #: 60666 Date: 1-6-21

Send a completed copy to: MethaneChall@natfuel.com