

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., while the Defendant was excavating in the Town of West Seneca, 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 29, 2021, at approximately 2:08 a.m., at or near 2900 Transit Rd., Town of West Seneca, County of Erie and State of New York, when the Defendant was excavating, 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
 March 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,

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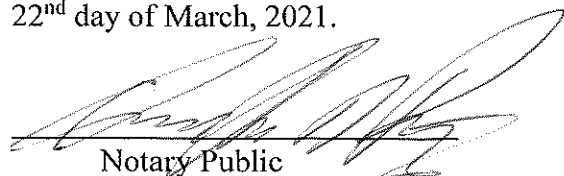
Defendant

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 March, 2021.


Notary Public

CHRISTOPHER D. KINSLEY
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
MY COMMISSION EXPIRES
NOVEMBER 27, 2022

**NATIONAL FUEL
DAMAGE TO COMPANY PROPERTY REPORT**

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

DAMAGE # 70-101892 LEAK # D112700 100FF91 C.S.O. # 10135151

Time and Date of Damage: 2:00 1/29/21 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: 2900 TRANSIT RD

Between Intersections of: SCHULTZ RD AND HILLCREST HEIGHTS

City / Town: WEST SENECA 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: STEVE PALUCH

Address: 3030 UNION RD

Address: _____

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

Phone #: 716-868-2454 Equipment Operator's Name: CHARLES SANLEY

- 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: A41838 NEW YORK

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: 01281-000-392

Ticket Response Code: 3

Type of Locator: Utility Owner Contract Locator Unknown/Other

Facility Marked? Y N Marks Visible in Excavation Area: Y N Unknown/Other

Marked Accurately: Y N

Remarks: _____

Investigated by: JEFF GUTOWSKI

Employee #: 60041

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? **Size:** 2 5 **Type:** 1 Bare Steel
 (Select One) (Inches) (Codes) 2 Coated Steel
 Distribution Main 3 Cast Iron
 Distribution Service 4 Wrought Iron
 Gathering 5 Plastic
 Transmission 9 Other
 Unknown/Other (Explain Below)

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.

Explanation: _____
 Was the facility part of a joint trench? **Unknown / Y / N** Gas blowing: Y / N Main or Service Shutdown: Y / N
 No. of Service Interruptions: 1 Duration of Interruption: 11.5 hrs (hours)
 Number of people injured: 0 Number of fatalities: 0
 Additional Explanation: Water Authority digging to make repair operators hit 2" MP PLT not accurately marked
 A Completion report is required if the main size, material, or dimension changed. Use "70" number. Update SVL info for serv. change.
 Repaired by: C. Smith Employee # 20524

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

Line Pressure (psig): Case 42 (lbs.) (oz.) 5" w.c.= 3 oz.
 Time Leak Stopped: 7:12 AM 7" w.c.= 4 oz.
 Time Blowing (min.): 310 min 8.5" w.c.= 5 oz.
 (Time Blowing = Time Leak Stopped - Time of Damage) 10" w.c.= 6 oz.
 Hole Size (in.): 1" 1" 12" w.c.= 7 oz.
 (length) (width)

Main Hit Only
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.)

<p>If "YES" - Choose Reason (Select One)</p> <p><input type="checkbox"/> No notification made to the one call center <input type="checkbox"/> Notification to one-call center made, but not sufficient <input type="checkbox"/> Wrong information provided to one call center <input checked="" type="checkbox"/> Excavation practices not sufficient/Excavator Error <input checked="" type="checkbox"/> Failure to maintain clearance <input type="checkbox"/> Failure to maintain marks <input type="checkbox"/> Failure to support exposed facilities <input checked="" type="checkbox"/> Failure to use hand tools where required <input type="checkbox"/> Failure to verify location by test-hole (pot-holing) <input type="checkbox"/> Improper backfilling practices <input type="checkbox"/> Other-99</p> <p>If Billing Locate Contractor:</p> <p><input type="checkbox"/> Facility marking or location not sufficient by locate contractor (Contractor Locator Error) <input type="checkbox"/> Facility was not located or marked by locate contractor (Contractor Locator Error)</p> <p>Explanation: _____</p>	<p>If "NO" - Choose Reason and Explain Below (Contract Locator may be billed if Contractor Locator error.)</p> <p><input type="checkbox"/> One call center error <input type="checkbox"/> Facility could not be found or located (Unlocatable) <input type="checkbox"/> Facility marking or location not sufficient (Locator Error) <input type="checkbox"/> Facility was not located or marked (Locator Error) <input type="checkbox"/> Incorrect facility records/maps <input type="checkbox"/> Abandoned facility <input type="checkbox"/> Deteriorated facility <input type="checkbox"/> Previous damage</p>
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Supervisor Approval: [Signature] Employee #: 20533 Date: 1-27-2021
 District Mgr. Approval: [Signature] Send completed copy to: MethaneChallia@nattfuel.com