

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 Defendant was excavating in the Town of Evans, County of Erie and State of New York.

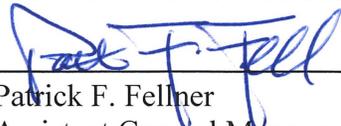
3. The time when, the place where and the manner in which the incidents underlying the claim arose are as follows:

- (i) Damage to Claimant's underground facilities occurred on December 6, 2018, at approximately 3:33 p.m., at or near 7786 Erie Road, Town of Evans, 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
 January 10, 2019

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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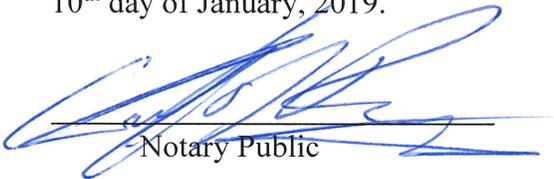
Defendant

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
10th day of January, 2019.


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 056021 LEAK # D491143 C.S.O.# 10074399
 Time and Date of Damage: 15:33 12-6-18 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: 7786 Erie Rd
 Between Intersections of: MEIER RD and STUYVEN POINT RD
 City / Town: Evans County: Erie

Right of Way where event occurred: (Select One)

Public: City St-1 State Hwy-2 Interstate Hwy-7 County Rd-8 Other-9 Federal Land-12
 Private: Land Owner-3 Private Business-4 Railroad-5 Pipeline-6 Private Easement-10
 Dedicated Public Utility Easement-11 Power / Transmission Line-13 Unknown / Other-99

Damaged by: Contractor*-1 County-2 Farmer-3 Municipality-4 Occupant-5
 (Select One) Railroad-6 State-7 Utility-8 Developer -9 Unknown/Other-99

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

Company: Erie County Water Owner/Contact Name: _____
 Address: _____
 Address: _____
 City / Town: _____ State: _____ Zip Code: _____
 Phone #: (716) 863 8622 Equipment Operator's Name: Dwan

Type of Excavation Equipment: (Select One) Auger-1 Backhoe/Track Hoe-2 Boring-3 Drilling-4
 Directional Drill-5 Explosives-6 Grader/Scrapper-7 Hand Tools/Shovel-8 Vacuum Equip-9
 Probing Device-10 Trencher-11 Farm Equip-12 Milling Equip-13 Unknown/Other-99

Vehicle License Plate # and State Jurisdiction: _____

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

Agriculture -1 Cable Television-3 Bldg. Construction-4 Curb/Sidewalk-5 Bldg. Demolition-6 Drainage-7
 Driveway-8 Electric-9 Engineering/Survey-10 Fencing-11 Natural Gas-12 Irrigation-13
 Landscaping-1 Grading-15 Pole-16 Public Transit Auth-17 Railroad Maint-18 Road Work-19
 Sewer(Sanitary/Storm)-20 Site Development-21 Steam-22 Storm Drain/Culvert-23 Street Light-24
 Telecommunications-25 Traffic Signal-26 Traffic Sign-27 Water-29 Waterway Improvement-30
 Liquid Pipeline-31 Milling-32 Unknown/Other-99

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: 12068-134-027

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: Excavator pulled on saddle that was for cut off service

Investigated by: J Newkirk Employee #: 60602



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:

(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:

Was the facility part of a joint trench? Unknown Y N

Gas blowing: Y N

No. of Service Interruptions: 0

Duration of Interruption: _____ (hours)

Estimated cost of damage/repair/restoration: Less than \$5,000 or \$ _____

DRO No(s): _____

Number of people injured: 0

Number of fatalities: 0

Additional Explanation:

Scraped bucket along top side of main hitting an old saddle.

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

Repaired by: Kyle W. Hrock

Employee # 60808

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

Line Pressure (psig): 43

(lbs.)

(oz.)

5" w.c. = 3 oz.

Time Leak Stopped: 16.45

7" w.c. = 4 oz.

Time Blowing (min.): 72 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"

(length)

(width)

12" w.c. = 7 oz.

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.)

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-7
- Notification to one-call center made, but not sufficient-14
- Wrong information provided to one call center-12
- Excavation practices not sufficient/Excavator Error-15
- Failure to maintain clearance-19
- Failure to maintain marks-20
- Failure to support exposed facilities-21
- Failure to use hand tools where required-22
- Failure to verify location by test-hole (pot-holing)-23
- Improper backfilling practices-24
- Other-99

- One call center error-6
- Facility could not be found or located-9 (Unlocatable)
- Facility marking or location not sufficient-4 (Locator Error)
- Facility was not located or marked-1 (Locator Error)
- Incorrect facility records/maps-11
- Abandoned facility-10
- Deteriorated facility-13
- Previous damage-16

If Billing Locate Contractor:

- Facility marking or location not sufficient by locate contractor-4 (Contractor Locator Error)
- Facility was not located or marked by locate contractor-1 (Contractor Locator Error)

Explanation:

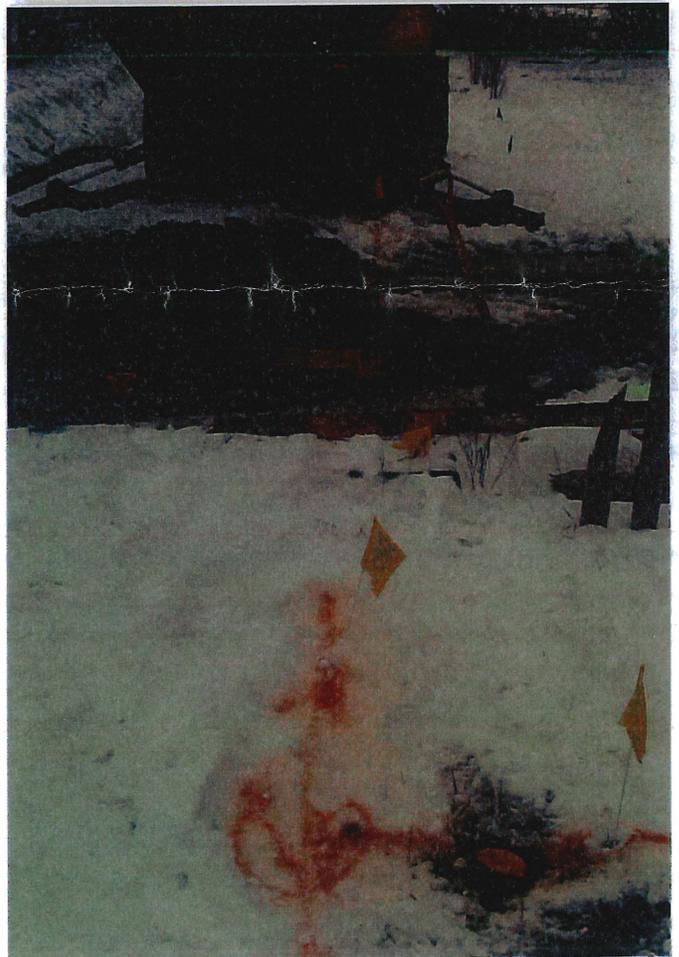
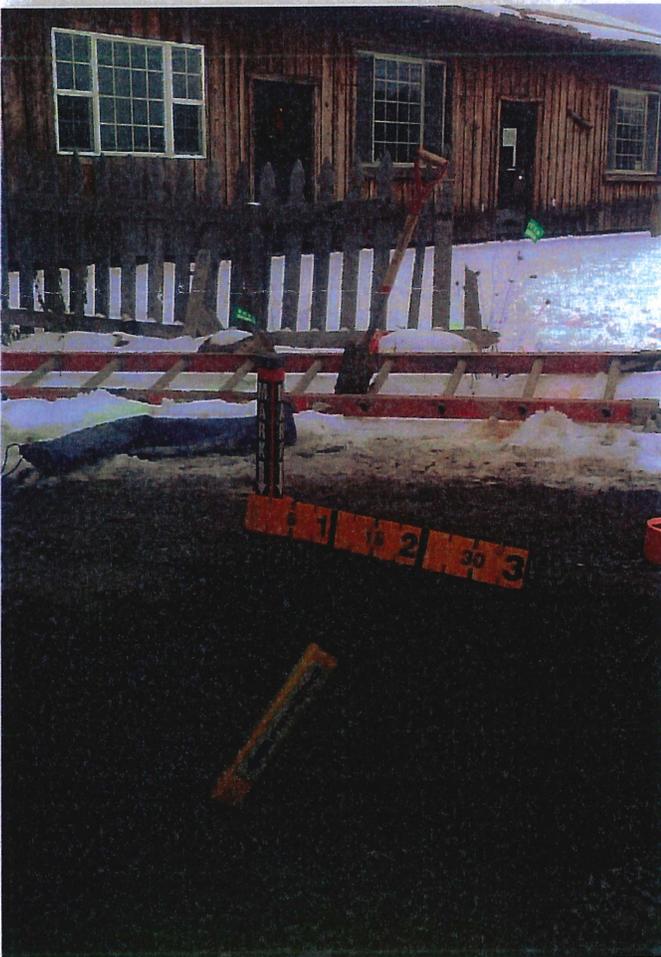
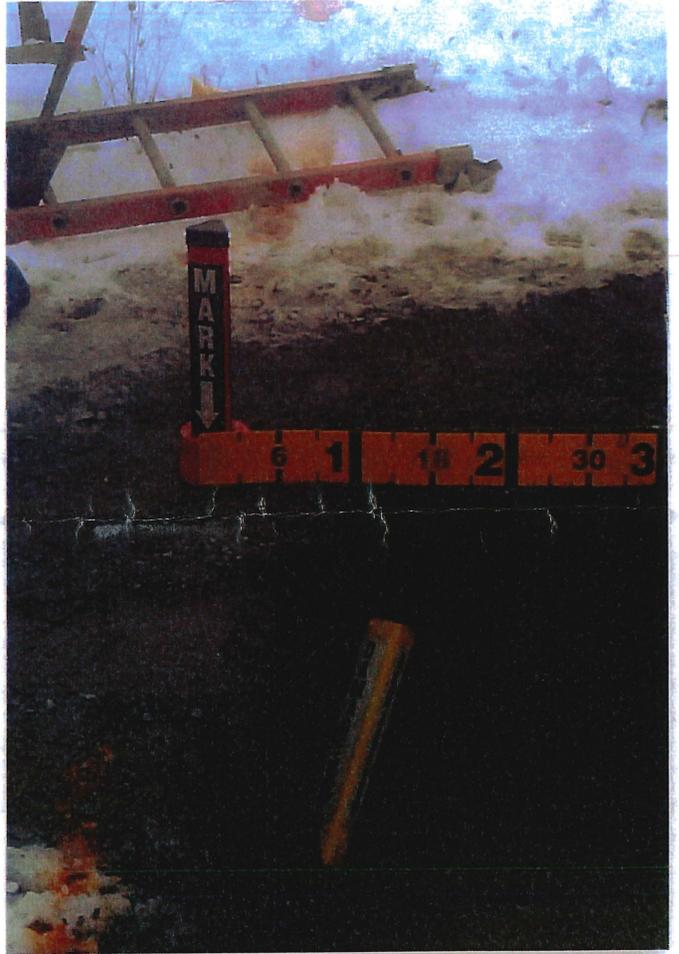
Did not use proper excavation practices. No hand tools with

Supervisor Approval: [Signature]

Employee #: 15457

Date: 12/11/15

District Mgr. Approval: [Signature]





INVOICE

PIPELINE DAMAGE

2019-48337-01

ERIE COUNTY WATER AUTHORITY
295 MAIN STREET, ROOM 350
BUFFALO, NY 14227

Date of Loss : 12/6/2018 4:57:00 PM
Location : 7786 ERIE RD
Pipe Size : 1 1/8 In.
Facility : Service

<u>Labor Employee #</u>	<u>Labor Amount</u>
60602	\$143.01
60808	\$183.01
60885	\$139.45
SUPEX	\$72.34
OVERH	\$119.67

<u>Material Description</u>	<u>Amount Billed</u>
001 MATERIAL-STOCK 5404568 4X1_SADDLE SGL. STRAP STY	\$27.16

<u>Equipment Description</u>	<u>Amount Billed</u>
011 DIR VEH & TOOLS	\$45.40

<u>General Description</u>	<u>Amount Billed</u>

<u>Minutes Blowing</u>	<u>CCF</u>	
72.0	62.81	\$48.99
Total Due =		\$779.03
Total Paid =		\$0.00
Balance Due =		\$779.03

PLEASE REFER TO FILE # : 70056021 ON ALL CORRESPONDENCE

PLEASE DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT

CLAIM # : 2019-48337-01 NFG FILE # : 70056021 AMOUNT: \$779.03

REMIT PAYMENT
WITHIN 30 DAYS
TO:

NATIONAL FUEL
FINANCE DEPARTMENT

Patrick Fellner
6363 Main Street
Williamsville, NY 14221-5887
(716) 857-6920

