

SENECA NATION OF INDIANS  
PEACEMAKERS' COURT: CATTARAUGUS TERRITORY

**RECEIVED**  
AUG 18 2015

BY: K. Wisniewski  
SENECA NATION PEACEMAKERS COURT

SENECA NATION OF INDIANS,

Plaintiff,

- against -

**VERIFIED COMPLAINT**

NATIONAL FUEL GAS COMPANY,  
NATIONAL FUEL GAS DISTRIBUTION  
CORPORATION, and NATIONAL FUEL GAS  
SUPPLY CORPORATION,

Defendants.

Civil Action Index No.:

Date Filed:

0818-15-2

8-18-15

Plaintiff Seneca Nation of Indians ("Nation" or "SNI"), by and through its attorneys,  
Whiteman Osterman & Hanna LLP, for its Verified Complaint herein states as follows:

**PRELIMINARY STATEMENT**

1. The Nation brings this action against Defendants National Fuel Gas Company, National Fuel Gas Distribution Corporation, and National Fuel Gas Supply Corporation (collectively, "NFG" or "Defendants") pursuant to the laws of the Nation, including Article 2 of the Seneca Nation of Indians Peacemakers' Court and Surrogate's Court Civil Procedure Rules ("CPR").

2. This action concerns the Nation's production of natural gas owned by the Nation underlying the Nation's Cattaraugus and Allegany Territories (collectively, the "Territory"), and NFG's illegal taking of such gas without compensating the Nation therefor, despite the Nation's repeated demands for such compensation.

3. This action also concerns a settlement agreement entered into between the Nation and NFG on or about August 1, 1988 (the "Settlement Agreement"), which resolved two pending civil actions concerning NFG's purported rights to maintain and operate natural gas production wells and distribution/transmission pipelines on Territory.

4. The Settlement Agreement purports to prohibit the Nation from producing gas owned by the Nation underlying certain portions of the Medina formation.

5. The Settlement Agreement also purports to prohibit the Nation from storing and/or allowing the storage of natural gas on the Cattaraugus Territory.

6. Section 81 of Title 25 of the United States Code, however, prohibits such grants by an Indian Nation without federal approval.

7. Section 177 of Title 25 of the United States Code further prohibits such grants by an Indian Nation without federal approval.

8. The Nation therefore herein seeks an order pursuant to CPR section 2-102 declaring the Settlement Agreement to be void as an invalid grant of an interest in or claim to real property without federal approval in violation of Sections 81 and 177 of Title 25 of the United States Code.

9. Under the Settlement Agreement, NFG agreed to release to the Nation all of its purported ownership interest in natural gas production wells and related facilities (including meters) on Territory, and agreed to accept gas produced by the Nation's wells into NFG's pipeline system on Territory and to deliver gas free of any and all charges through its system on Territory.

10. The Nation would produce natural gas from certain of those released wells for its own use, including providing gas to on-Territory users, and excess gas, if any, would be sold to NFG.

11. NFG also agreed to accurately measure (1) the volume of gas produced by the Nation, and (2) the volume of Nation gas consumed on Territory.

12. NFG agreed to maintain and furnish to the Nation a “monthly accounting” of the volume of gas produced by the Nation and the volume of Nation gas consumed on Territory (the “imbalance statements”).

13. In the event that the Nation’s production did not meet consumption on Territory, NFG agreed to supply make-up gas to meet such consumption needs, and to bill the Nation for the cost to purchase that gas on a yearly basis.

14. Conversely, in the event that the Nation’s production exceeded consumption on Territory, NFG agreed to purchase that excess gas the “Excess Gas”) and pay the Nation therefor on a yearly basis.

15. All gas is to be delivered on Territory free of any and all charges.

16. NFG has, upon information and belief, refused and/or failed (1) to accurately measure the volume of gas produced by the Nation, (2) to accurately measure the volume of Nation gas consumed on Territory, (3) to credit the Nation for the gas produced by the Nation, and (4) to pay the Nation for the Nation’s gas that NFG has taken from the Nation and converted to its own use without compensation therefor.

17. NFG has charged certain fees for the delivery of gas on Territory, and continues to do so to date, in violation of its obligation to deliver gas free of any and all charges on Territory.

18. Accordingly, the Nation herein seeks a judgment (1) declaring, pursuant to CPR section 2-102, that the Settlement Agreement is void, (2) awarding the Nation damages, including pre-judgment interest, for NFG’s conversion of the Nation’s gas, in an amount to be determined at trial, (3) in the event the Settlement Agreement is not void, declaring, pursuant to CPR section

2-102, that the Settlement Agreement obligates NFG to accurately measure and credit the Nation for all gas produced by the Nation, to deliver gas free of any and all charges on Territory, to accurately measure the volume of Nation gas consumed on Territory, to report those measurements to the Nation, and to pay the Nation for any and all of the Nation's gas that NFG takes from the Nation and converts to its own use, (4) in the event the Settlement Agreement is not void, awarding the Nation damages, including pre-judgment interest, for NFG's breach of contract in failing to comply with its obligations to accurately measure the Nation's production and the volume of Nation gas consumed on Territory and pay the Nation for any and all of the Nation's gas that NFG has taken from the Nation and converted to its own use without compensation therefor, in an amount to be determined at trial, and (5) in the event the Settlement Agreement is not void, awarding the Nation damages, including pre-judgment interest, for NFG's breach of contract in charging for the delivery of gas on Territory, including any and all fees charged by NFG.

### **PARTIES AND VENUE**

19. The Nation is a sovereign nation with its principal administration building for the Cattaraugus Territory located at 12837 Route 438, Cattaraugus Territory, Seneca Nation, Irving, New York 14081 and for the Allegany Territory located at 90 Ohi:yo' Way, Allegany Territory, Seneca Nation, Salamanca, New York 14779.

20. The Nation has original title to all Nation reservation lands, its aboriginal territory that it has inhabited for countless generations.

21. The Nation's title to and sovereign authority over its Allegany, Cattaraugus and Oil Spring Territories is recognized by the United States in the Treaty of November 11, 1794, 7 Stat. 44 the "1794 Treaty").

22. The United States government asserts certain limited authority over the Seneca Nation's lands, including by a restraint on alienation provided in the 1794 Treaty.

23. Upon information and belief, Defendant National Fuel Gas Company is a New Jersey corporation authorized to do business in New York with offices located at 6363 Main Street, Williamsville, New York 14221.

24. Upon information and belief, Defendant National Fuel Gas Distribution Corporation is a New York corporation with offices located at 6363 Main Street, Williamsville, New York 14221.

25. Upon information and belief, Defendant National Fuel Gas Supply Corporation is a Pennsylvania corporation, duly authorized to do business in New York State, with offices located at 6363 Main Street, Williamsville, New York 14221.

26. Upon information and belief, Defendants operate as foreign corporations in the Seneca Nation.

27. Pursuant to CPR sections 2-101, 2-103, 2-106, and 2-108, the Nation brings this action in Peacemakers' Court in the Cattaraugus Territory because, *inter alia*, this action concerns disputes and causes of actions arising within the Nation, directly affects the Nation's sovereign authority, and will affect the title to, or the possession, use or enjoyment of, real property located in the Cattaraugus Territory.

28. Pursuant to CPR section 2-104, the Peacemakers' Court has personal jurisdiction over Defendants because they and their representatives and/or agents are corporate and/or natural persons who transact, conduct, or perform business or activity within the Territory, and the claims set forth in this Verified Complaint arise from such business or activity.

29. In addition, the Peacemakers' Court has personal jurisdiction over Defendants because, upon information and belief, they purport to own, use or possess property within the Nation and the claims set forth in this Verified Complaint arise from such ownership, use, or possession.

### **STATEMENT OF FACTS**

#### **A. The Parties' Relationship and Prior Litigation**

30. The Nation has possessed and occupied the Cattaraugus and Allegany Territories for centuries and holds original title to all lands and waters therein.

31. The Nation exercises sovereign authority over the Cattaraugus and Allegany Territories.

32. In 1970, the Nation commenced an action in New York State Supreme Court against NFG's predecessor-in-interest, Iroquois Gas Company. Seneca Nation of Indians v. Iroquois Gas, Index No. 23117 (N.Y. Supreme Court, Erie County). In June 1982, the Nation commenced an action in the United States District Court against NFG. Seneca Nation of Indians v. National Fuel Gas Company, et al., Civ. No. 82-0609C (W.D.N.Y.). These actions are hereafter collectively referred to as the "prior actions."

33. The prior actions concerned the validity of certain agreements which purported to grant NFG's predecessors-in-interest the right to own and maintain pipelines on the Nation's sovereign Territory. Specifically, the Nation disputed the validity of the following agreements:

- a. An agreement entered into on August 18, 1910 between the Nation and Edward Bolard (the "Bolard Lease"), which purported to convey the right to oil and gas

production on Territory “for as long as oil and gas is found in paying quantities.”

- b. An agreement entered into on June 12, 1956 (the “1956 Storage Agreement”), which purported to grant NFG’s predecessors-in-interest the right to store gas on Territory in exchange for payment to the Nation of \$20,000 per year.
- c. An agreement entered into on June 4, 1958 (the “1958 RM-32 Agreement”), which NFG asserted granted it a 999 year easement for the pipeline located on Territory and commonly referred to as “RM-32.”

B. The Settlement Agreement

34. The parties entered into the Settlement Agreement on or about August 1, 1988, which resolved the pending prior actions.

35. The Settlement Agreement expressly voided certain of NFG’s purported real property interests on Territory.

36. In turn, Section II(A) of the Settlement Agreement granted NFG a lease to maintain and operate RM-32 (the “RM-32 Lease”). The terms of the RM-32 Lease provide that Defendants have the right to “operate, maintain, protect, repair, replace, or remove (but not relocate) one 16-inch gas transmission pipeline, identified as RM-32 . . .” The RM-32 Lease also reserved the Nation’s right to “use the surface and subsurface of the subject lands . . .”

37. In addition to granting NFG the RM-32 Lease, Section II(B)(5) of the Settlement Agreement purports to prohibit the Nation from producing gas owned by the Nation underlying the Cattaraugus Territory within certain portions of the Medina formation.

38. Section II(C)(2) of the Settlement Agreement purports to prohibit the Nation from storing and/or allowing for the storage of natural gas on the Cattaraugus Territory.

39. Pursuant to the Section II(B)(2) of the Settlement Agreement, NFG purported to convey full ownership of certain natural gas production wells and related facilities (including meters) on Territory to the Nation.

40. Section II(B)(4) of the Settlement Agreement obligates NFG to “accept and receive gas produced by the Nation for the purpose of banking and transporting this gas through the pipeline system [NFG] maintains and operates on the Reservation” to deliver Nation-produced gas on Territory.

41. Section II B) 4) further obligates NFG to “deliver said gas by displacement and banking to locations on its system on the Reservation in such quantities and at such times as gas may be needed or is requested.”

42. Such delivery of gas is to be free of any and all charges.

43. Section II(B)(4) further obligates NFG to accurately measure (1) “that gas received by [NFG] from the Nation” *i.e.*, the volume of gas produced by the Nation’s wells), and (2) the volume of Nation consumed on Territory, and to furnish to the Nation a “monthly accounting” thereof.

44. NFG is obligated to measure these volumes using “approved standard measuring devices.”

45. Orifice meters are located at or near the well-heads of the Nation’s production wells, and such meters, upon information and belief, were used by NFG as standard measuring devices and turned over to the Nation.



46. These orifice meters, upon information and belief, constitute approved standard measuring devices under the terms of the Settlement Agreement.

47. In the event that the Nation's production does not meet consumption on Territory, the Settlement Agreement obligates NFG to supply NFG's gas to the extent necessary to meet such needs, and to bill the Nation for that gas on a yearly basis.

48. Conversely, in the event that the Nation's production exceeds consumption on Territory, the Settlement Agreement obligates NFG to purchase such Excess Gas and pay the Nation therefor on a yearly basis.

49. Section II(D)(3) of the Settlement Agreement purports to require arbitration of disputes "arising in the interpretation or performance of this Agreement."

50. Upon information and belief, the arbitration provisions in the Settlement Agreement are not enforceable and/or not applicable to this action because, *inter alia*, the Settlement Agreement is void.

51. Upon information and belief, no portion of the Settlement Agreement was ever approved by the United States Secretary of the Interior the Bureau of Indian Affairs, or by act of Congress.

### C. The Imbalance Dispute

52. NFG's imbalance statements fail to measure all of the Nation's production despite the availability of approved measuring devices.

53. Instead, upon information and belief, NFG purports to determine the Nation's production and consumption on Territory by measuring gas at six exchange meters purportedly located at points where the SNI production system intersects with the NFG delivery system.

54. Upon information and belief, NFG's methodology neither accurately measures the Nation's production nor consumption on Territory.

55. Since shortly after execution of the Settlement Agreement, the Nation has continuously objected to the methodology and gas volume measurements claimed by NFG in its imbalance statements as not accurately measuring the Nation's actual production or consumption on Territory.

56. The Nation has worked in good faith to resolve these disputes.

57. NFG, however, has, upon information and belief, refused and/or failed (1) to accurately measure the volume of gas produced by the Nation, (2) to accurately measure consumption on Territory, (3) to credit the Nation for all gas produced by the Nation, and (4) to pay the Nation for the Nation's gas that NFG has taken from the Nation and converted to its own use.

58. NFG has charged, and continues to charge for the delivery of gas on Territory through its system, including charging tariff and other fees, in violation of its obligation to deliver that gas free of any and all charges.

#### D. The Standstill Agreement

59. On or about October 21, 2013, the parties purported to enter into a standstill agreement the "Standstill Agreement"). The Standstill Agreement purports to require the parties to refrain from taking action to enforce rights and/or obligations under the Settlement Agreement without first providing thirty days' notice of termination thereof.

60. Upon information and belief, termination of the Standstill Agreement is not required prior to commencement of this action, which asserts that the Settlement Agreement is void.

61. Upon information and belief, Defendants have materially breached the Standstill Agreement.

62. In the event termination of the Standstill Agreement is required prior to commencement of this action, this Complaint constitutes sufficient notice of such termination.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(Declaratory Judgment – The Settlement Agreement is Void)**

63. The Nation repeats and realleges all of the preceding allegations as if fully set forth herein.

64. Sections 81 and 177 of Title 25 of the United States Code prohibit the conveyance of interests in real property by an Indian nation unless such conveyance is approved by the United States Secretary of the Interior or other Congressional authorization.

65. Upon information and belief, the Settlement Agreement was not approved by the United States Secretary of the Interior.

66. The Settlement Agreement is not a treaty or convention entered into pursuant to the United States Constitution.

67. Section II(B)(5) of the Settlement Agreement provides that the Nation “agrees not to produce gas from the Medina formation from any wells drilled or from any existing plugged wells or abandoned wells that may be reopened” within certain enumerated areas thereof.

68. The right to produce gas and oil is a critical component of the ownership of real property, especially real property where the Medina formation is located.

69. Section II(B)(5) thereby purports to restrict the Nation's free use and enjoyment of the Medina formation by granting NFG the right to prevent the Nation from producing gas on certain portions of the Medina formation.

70. Section II(B)(5) constitutes an improper grant of an interest or claim to the Nation's real property rights by restricting the right to produce oil and gas from the Medina formation and by restricting the Nation's free use and enjoyment of the Medina formation and its underground natural gas storage caverns without the approval of the United States Secretary of the Interior or other congressional authorization.

71. Section II(B)(5) is not a lease, easement, or right-of-way.

72. The Nation is therefore entitled to a judgment declaring the Settlement Agreement void as an improper conveyance of real property interest without federal approval in violation of Sections 81 and 177 of Title 25 of the United States Code.

**AS AND FOR SECOND CAUSE OF ACTION**  
**(Declaratory Judgment – The Settlement Agreement is Void)**

73. The Nation repeats and realleges all of the preceding allegations as if fully set forth herein.

74. Sections 81 and 177 of Title 25 of the United States Code prohibit the conveyance of interests in real property by an Indian nation unless such conveyance is approved by the United States Secretary of the Interior or other Congressional authorization.

75. Upon information and belief, the Settlement Agreement was not approved by the United States Secretary of the Interior.

76. The Settlement Agreement is not a treaty or convention entered into pursuant to the United States Constitution.

77. Section II(C)(2) of the Settlement Agreement purports to prohibit the Nation from storing and/or allowing storage of natural gas on the Cattaraugus Territory.

78. The right store natural gas is a critical component of the ownership of real property, especially real property on the Cattaraugus Territory.

79. Section II(C)(2) thereby purports to restrict the Nation's free use and enjoyment of the Cattaraugus Territory by granting NFG the right to prevent the Nation from storing and/or allowing the storage of natural gas on the Cattaraugus Territory.

80. Section II C) 2) constitutes an improper grant of an interest or claim to the Nation's real property rights by restricting the right to store natural gas on or underneath the Cattaraugus Territory and by restricting the Nation's free use and enjoyment of the Cattaraugus Territory and its underground natural gas storage caverns without the approval of the United States Secretary of the Interior or other congressional authorization.

81. Section II(C)(2) is not a lease, easement, or right-of-way.

82. The Nation is therefore entitled to a judgment declaring the Settlement Agreement void as an improper conveyance of real property interest without federal approval in violation of Sections 81 and 177 of Title 25 of the United States Code.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**(Conversion)**

83. The Nation repeats and realleges all of the preceding allegations as if fully set forth herein.

84. The Nation has original title to all Nation reservation lands, including the natural resources contained on and underneath these lands, as its aboriginal territory that it has inhabited for countless generations.

85. The Nation holds, and has at all times held (including prior to execution of the Settlement Agreement), rightful title to all of the natural gas production wells and related facilities located on Territory and to all of the natural gas produced thereby.

86. The Nation has delivered natural gas produced by it into NFG's pipelines in reliance on NFG's commitment (1) that such gas would be delivered on Territory free of charge , and (2) that NFG would fully compensate the Nation for any of the Nation's gas taken by NFG and converted to its own use.

87. Upon information and belief, NFG has taken gas produced by the Nation into its pipeline system and converted such gas to its own use without compensating the Nation therefor.

88. Since at least the execution of the Settlement Agreement, the Nation has objected to the methodology and gas volume measurements claimed by NFG in its imbalance statements as not accurately measuring the Nation's actual production and consumption on Territory, and has demanded that it be properly credited based on accurate measurements.

89. Upon information and belief, NFG has refused to fully compensate the Nation for the Nation's gas taken by NFG and converted to NFG's own use.

90. Accordingly, NFG is liable for conversion and the Nation is entitled to a judgment awarding it the value of all Nation gas taken by NFG and converted to NFG's own use without compensation therefor, plus pre-judgment interest, in an amount to be determined at trial.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**(Declaratory Judgment – N G's Imbalance Obligations)**

91. The Nation repeats and realleges all of the preceding allegations as if fully set forth herein.

92. The Nation and Defendants entered into the Settlement Agreement on or about August 1, 1988.

93. The Nation has fully complied with its obligations under the Settlement Agreement at all times.

94. NFG's imbalance statements fail to measure the Nation's production despite the availability of approved standard measuring devices located at or near the Nation's well-heads.

95. Instead, upon information and belief, NFG purports to determine the Nation's production and consumption by measuring gas at six exchange meters purportedly located at points where the SNI production system intersects with the NFG system.

96. Upon information and belief, NFG's methodology does not accurately measure the Nation's production of gas.

97. Upon information and belief, NFG's methodology does not accurately measure consumption on Territory.

98. Upon information and belief, NFG's methodology does not accurately credit the Nation for the Nation's gas that is consumed on Territory.

99. Upon information and belief, NFG's methodology does not accurately credit the Nation for the Nation's Excess Gas.

100. Since execution of the Settlement Agreement, the Nation has objected to the methodology and gas volume measurements claimed by NFG in its imbalance statements as not accurately measuring the Nation's actual production and consumption on Territory.

101. NFG, however, has refused and/or failed to comply with its obligations under the Settlement Agreement.

102. A controversy thus exists between the parties as to the scope of NFG's obligations under Section II(B)(4) of the Settlement Agreement.

103. In the event the Settlement Agreement is not void, the Nation therefore demands a judgment declaring that Section II(B)(4) of the Settlement Agreement imposes the following obligations on NFG:

- a. To accept gas produced by the Nation into the pipeline system NFG maintains and operates on Territory, and to deliver gas on Territory free of any and all charges.
- b. To accurately measure the volume of gas produced by the Nation using the orifice meters located at or near each of the Nation's well-heads, and to credit the Nation for the entirety of that gas.
- c. To accurately measure the volume of Nation gas consumed on Territory.
- d. To prepare and furnish to the Nation, on a monthly basis, an accurate accounting of the volumes of gas produced by the Nation and the volumes of Nation gas consumed on Territory.
- e. To supply make-up gas to the Nation only in the event that the Nation's production does not meet consumption on Territory and only to the extent necessary to meet consumption needs on Territory.
- f. In the event that the Nation's production exceeds the volume of Nation gas consumed on Territory, to purchase that Excess Gas and pay the Nation therefor on a yearly basis under the terms of the Settlement Agreement.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**(Breach of Contract)**

104. The Nation repeats and realleges all of the preceding allegations as if fully set forth herein.



105. The Nation and Defendants entered into the Settlement Agreement on or about August 1, 1988.

106. The Nation has fully complied with its obligations under the Settlement Agreement at all times.

107. Section II(B)(4) of the Settlement Agreement obligates NFG to accept gas produced by the Nation into the pipeline system NFG maintains and operates on Territory, and to deliver gas on Territory free of any and all charges.

108. Section II(B)(4) of the Settlement Agreement further obligates NFG to accurately measure the volume of gas produced by the Nation and to credit the Nation for the entirety of that gas.

109. Section II(B)(4) of the Settlement Agreement further obligates NFG to accurately measure the volume of Nation gas consumed on Territory.

110. Section II(B)(4) obligates NFG to supply make-up gas to the Nation only in the event that the Nation's production does not meet consumption on Territory and only to the extent necessary to meet consumption needs on Territory.

111. In the event that the Nation's production exceeds the volume of Nation gas consumed on Territory, Section II(B)(4) obligates NFG to purchase the entirety of that Excess Gas and pay the Nation therefor on a yearly basis.

112. Upon information and belief, NFG has breached its obligations under Section II(B)(4) of the Settlement Agreement by failing to accurately measure the volume of gas produced by the Nation and failing to credit the Nation for that gas and by failing to pay the Nation for the Nation's gas it has taken from the Nation and converted to its own use.

113. Accordingly, in the event the Settlement Agreement is not void, the Nation demands a monetary judgment against Defendants, including pre-judgment interest, in an amount to be determined at trial.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**(Breach of Contract)**

114. The Nation repeats and realleges all of the preceding allegations as if fully set forth herein.

115. The Nation and Defendants entered into the Settlement Agreement on or about August 1, 1988.

116. The Nation has fully complied with its obligations under the Settlement Agreement at all times.

117. Section II(B)(4) of the Settlement Agreement obligates NFG to “accept and receive gas produced by the Nation for the purpose of banking and transporting this gas through the pipeline system [NFG] maintains and operates on the Reservation” to deliver Nation-produced gas on Territory.

118. Section II B) 4) further obligates NFG to “deliver said gas by displacement and banking to locations on its system on the Reservation in such quantities and at such times as gas may be needed or is requested.”

119. Such delivery of Nation-produced gas through NFG’s system is to be free of any and all charges.

120. Upon information and belief, NFG has breached its obligations under Section II(B)(4) of the Settlement Agreement by charging for the delivery of gas on Territory, including tariff and other related fees.

121. Accordingly, in the event the Settlement Agreement is not void, the Nation demands a monetary judgment against Defendants, including pre-judgment interest, in an amount to be determined at trial.

**WHEREFORE**, Plaintiff Seneca Nation of respectfully requests that the Court issue a judgment (1) declaring, pursuant to CPR section 2-102, the Settlement Agreement to be void as an invalid conveyance of land without federal approval in violation of Sections 81 and 177 of Title 25 of the United States Code; (2) awarding the Nation damages, including pre-judgment interest, for NFG's conversion of the Nation's gas, in an amount to be determined at trial; (3) in the event the Settlement Agreement is not void, declaring, pursuant to CPR section 2-102, that the Settlement Agreement obligates NFG to measure and credit the Nation for all gas produced by the Nation, to deliver gas free of any and all charges on Territory, to measure the volume of Nation gas consumed on Territory, to accurately report those measurements to the Nation, and to pay the Nation for any and all of the Nation's gas taken by NFG and converted to its own use; (4) in the event the Settlement Agreement is not void, awarding the Nation damages, including pre-judgment interest, for NFG's breach of contract in failing to comply with its obligations to accurately measure the Nation's production and the volume of Nation gas consumed on Territory and pay the Nation for the Nation's gas taken by NFG and converted to its own use, in an amount to be determined at trial; (5) in the event the Settlement Agreement is not void, awarding the Nation damages, including pre-judgment interest, for NFG's breach of contract in charging for the delivery of gas on Territory, including tariff and other related fees; and (6) awarding such further and other relief as the Court shall deem just, proper or equitable.

Dated: Albany, New York  
August 17, 2015

WHITEMAN OSTERMAN & HANNA LLP

By:



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Christopher E. Buckey, Esq.  
Attorneys for Plaintiff  
One Commerce Plaza  
Albany, New York 12260  
(518) 487-7600

VERIFICATION

SENECA NATION OF INDIANS )  
: ss.:  
CATTARAUGUS TERRITORY )

MAURICE A. JOHN, being duly sworn, deposes and says as follows:

1. I am the President of the Seneca Nation of Indians, Plaintiff in this matter.
2. I have read the foregoing Verified Complaint and the same is true to my own knowledge, except as to those matters stated to be upon information and belief, and as to those matters, I believe them to be true.

  
\_\_\_\_\_  
MAURICE A. JOHN, SR.

Sworn to before me this  
10<sup>th</sup> day of August, 2015.

  
Notary Public

**Georgina Lynn Larvie**  
#01LA6226994  
Notary Public, State of New York  
Qualified in Cattaraugus County  
Commission Expires: 9/13/2018