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BY: *K. Wisniewski*
SENECA NATION PEACEMAKERS COURT

SENECA NATION OF INDIANS
PEACEMAKERS' COURT: CATTARAUGUS TERRITORY

SENECA NATION OF INDIANS,

Plaintiff,

- against -

VERIFIED COMPLAINT

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

Civil Action Index No.:
Date Filed:

Defendants.

0818-15-3
8-18-15

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

PRELIMINARY STATEMENT

1. This action is brought pursuant to the laws of the Nation. Although Nation law applies, citations to New York State and United States law are offered as persuasive authority to inform this honorable Court's consideration.

2. This action is brought pursuant to Article 2 of the Nation Civil Procedure Rules ("CPR"). This action includes the following claims against Defendants National Fuel Gas Company, National Fuel Gas Distribution Corporation, and National Fuel Gas Supply Corporation (collectively, "National Fuel" or "NFG" or "Defendants"): (a) claims pursuant to CPR sections 2-102 and 2-107 for trespass, nuisance, negligence and breach of contract relating to the abject refusal by Defendants to completely repair substantial gas leaks from North Sector Pipeline R-31;

and related claims pursuant to CPR § 14-101 for temporary, preliminary and permanent injunctive relief requiring immediate repair of these substantial leaks; (b) a contract claim seeking specific performance of NFG's agreement with the Nation to provide gas service to the Nation's Early Childhood Learning Center pursuant to a written right-of-way agreement; (c) a claim pursuant to CPR sections 2-102, 2-106, and 2-108 for a declaration that NFG must submit documents and studies required for review of activities proposed in connection with its RM-32 pipeline replacement project and obtain all necessary approvals from SNI prior to commencing construction on the RM-32 pipeline replacement project and related claims for injunctive relief; (d) a claim pursuant to CPR sections 2-102 and 2-108 for a declaration that NFG must comply with the Notice Protocol and Notice Policy established by the Council of Seneca Nation of Indians ("Council") before NFG and any of its contractors or subcontractors may enter onto any territory of the Nation to perform work on any pipeline or other property, and related claims for injunctive relief; and (e) a claim pursuant to CPR sections 2-101 and 2-106 to quiet title and determine ownership of property as to all purported rights, on or under which NFG claims it has the right to operate, maintain and/or repair natural gas pipelines, similar to a claim under Article 15 of the New York Real Property Actions and Proceedings Law "RPAPL") and New York Civil Practice Law and Rules 3001 to compel a determination of the Nation's claim to a portion of real property, and related trespass and injunctive relief claims for all pipelines for which the Court determines NFG has not produced valid, enforceable written agreements.

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

4. 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").¹

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

6. In 1950, the United States adopted the Seneca Leasing Act of August 14, 1950, (64 Stat. 442, as amended by the Act of September 14, 1961, 75 Stat 499). Section 5 of the Act recognized the Nation's authority to enter into leases outside of the congressional villages² without additional federal approval. The Seneca Leasing Act was amended in 1961 to recognize the Nation's authority to grant rights-of-way and easements outside of the congressional villages without federal approval.

7. In the absence of proper federal approval, leases for natural gas pipelines outside the congressional villages prior to the effective date of the 1950 Act are null and void. Similarly, in the absence of proper federal approval, easements and rights-of-way for natural gas pipelines outside the congressional villages prior to the effective date of the 1961 Act are null and void.

8. NFG operates natural gas pipeline R-31 in the North Sector of the Nation's Cattaraugus Territory. This pipeline is ruptured in several locations, resulting in natural gas bubbling up from the ground unabated on a continuing and consistent basis. This leaking gas has placed the Nation, its members and its natural resources in danger and constitutes a continuing

¹ "A Treaty Between the United States of America, and the Tribes of Indians called the Six Nations," signed Nov. 11, 1794, Proclamation Jan. 21, 1795, 7 Stat. 44 "1794 Treaty").

² In 1875 and 1890, the congressional villages were defined as Carrollton, Great Valley (or Killbuck), Red House, Salamanca, West Salamanca, and Vandalia (18 Stat. 330 [Feb. 19, 1875] and 26 Stat. 558 [Sept. 30, 1890]). The congressional villages were redefined in the Seneca Nation Settlement Act of 1990 to include only Carrollton, Great Valley, and Vandalia, with the City of Salamanca treated separately (Pub. L. 101-503, Nov. 3, 1990 [104 Stat. 1292], *codified at* 25 USC § 1774, *et seq.*). The Village of Red House was dissolved during the Kinsua Dam negotiations.

trespass, and public and private nuisances. In addition, NFG's unabashed refusal to repair this leak, at a minimum, breaches its duty of care to the Nation to prevent harm to the Nation's lands and waters. NFG's ongoing breaches have caused and continue to cause acute environmental damages to the Nation and danger to public health. Finally, to the extent there is a valid agreement for pipeline R-31, NFG's refusal to repair this leak violates its contractual duties to keep the pipeline in good repair and to indemnify the Nation for all damages and claims resulting from the existence of pipeline R-31 and/or National Fuel's failure to repair or maintain it. Therefore, the Nation seeks damages for this continuing trespass, nuisance, negligence, and breach of contract, and also seeks to have this honorable Court grant injunctive relief requiring immediate repair of these leaks.

9. The Nation entered into a contract with NFG on June 30, 2015 to provide gas service to the Nation's new Early Childhood Learning Center, a project of great importance to the Nation and its youth, scheduled to open in the fall of 2015. In exchange for consideration of \$64,068.30, NFG agreed to execute a valid agreement and install and provide gas service. Although the Nation has performed its obligations under the contract by sending NFG a check for \$64,068.30 and signing and delivering a right-of-way agreement, NFG has refused to execute this agreement or perform any of its obligations under the contract. The object of this contract is in part real property, and in addition, the contract has special value for which monetary compensation will not furnish adequate relief. Therefore, the Nation is entitled to specific performance of its contract with NFG for gas service, including without limitation construction and connection of the gas line to the Early Childhood Learning Center building.

10. NFG operates pipeline RM-32 in the Cattaraugus Territory and is currently proposing to replace the pipeline.

11. The Nation has regulatory jurisdiction over all lands and waters on its Territory as defined in CPR section 2-103, pursuant to its sovereign authority and right to exclude, as honored by the customs and traditions of the Nation, as recognized in United States law, and as recognized by numerous United States Supreme Court precedents. In connection with NFG's RM-32 pipeline replacement project, the Nation has required submission of certain documents and project details by NFG so the Nation can assess the impacts of the proposed project, both originally and as recently revised. NFG has flatly refused to supply these documents or submit to the approvals process. Therefore, the Nation seeks a declaration from this honorable Court that NFG must submit documents and studies required for the Nation's review of NFG's RM-32 pipeline replacement project and obtain all necessary Nation approvals before commencing construction on this project.

12. The Nation has repeatedly and consistently informed NFG that it must provide notice to the Nation before entering onto Nation lands, and the Council has duly enacted a resolution setting forth the Notice Protocol to be followed. NFG has objected to this Notice Protocol, indicated an unwillingness to comply with its requirements, and upon information and belief, has caused or allowed its employees and contractors to enter the Nation's territory in violation of the Notice Protocol. As a result, the Nation seeks to have this honorable Court declare that NFG must comply with the Council's Notice Protocol and Notice Policy and that NFG must provide notice in the manner specified by the Nation.

13. NFG operates pipelines over the sovereign lands of the Nation under color of certain purported agreements. Upon information and belief, however, some or all of these agreements are void, voidable, cancelled, unenforceable, and/or ineffective to confer rights-of-way or other rights to NFG. As a result, the Nation seeks to have NFG produce valid documents

demonstrating valid rights-of-way, easements, and/or leases and any other claimed rights, if any, and respectfully requests that this honorable Court determine the ownership status of this disputed property. Any pipelines or other rights claimed for which NFG does not have a valid, written and enforceable rights are trespasses on the Nation's Territory, and the Nation is entitled to damages and injunctive relief arising from the use thereof.

PARTIES AND VENUE

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

15. 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.

16. 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.

17. 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.

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

19. Upon information and belief, Defendants are not infants, mentally retarded, mentally ill or alcohol abusers.

20. Upon information and belief, the judgment in this action will not affect any person or persons not in being or ascertained at the commencement of this action.

21. Upon information and belief, all persons with any interest – whether vested or contingent – in the Nation’s Territory and any purported NFG rights have been joined as defendants in this action.

22. Pursuant to CPR sections 2-101, 2-103, 2-106, and 2-108, the Nation has brought 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 Nation.

23. 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 Reservation, and causes of action arise from their business or activity and/or prohibitions of a civil ordinance of the Nation. In addition, the Peacemakers’ Court has personal jurisdiction over Defendants because they purport to own, use or possess property within the Nation and there are causes of actions arising from their ownership, use, or possession. In addition, the Peacemakers’ Court has personal jurisdiction over Defendants because they and/or their representatives and agents have committed one or more tortious acts and/or engaged in tortious conduct within the Nation and causes of action arise from such conduct.

STATEMENT OF FACTS

A. The 1988 Settlement Agreement

24. The 1794 Treaty recognized that “the United States acknowledge [sic] all the land within the [Nation’s] boundaries, to be the property of the Seneka [sic] nation; and the United States will never claim the same, nor disturb the Seneka nation . . . in the free use and enjoyment thereof . . .”

25. In 1950, the United States government recognized the authority of the Nation to enter into leases outside of the congressional villages without additional federal approval. In 1961, the United States government recognized the authority of the Nation to grant easements and rights-of-way outside the congressional villages without additional federal approval.

26. In 1988, the Nation and the National Fuel Gas Company entered into a Settlement Agreement (the “Settlement Agreement”) containing the terms on which the Nation and National Fuel would resolve pending actions and declare null and void certain purported agreements granting NFG rights in Nation lands.

27. The Settlement Agreement, in part, included terms of a lease for pipeline RM-32 (the “RM-32 Lease”).

28. The terms of the RM-32 Lease provided, *inter alia*, 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 . . .”

B. The Substantial, Ongoing Leaks in NFG's Pipeline R-31

29. Defendant NFG operates the North Sector Pipeline (R-31) pursuant to a purported agreement number 23117A, dated October 14, 1964.

30. This agreement requires NFG to, *inter alia*, maintain and repair the pipeline.

31. To the extent this agreement is valid, Article 4 thereof provides that NFG (as successor to Iroquois Gas Corporation) will “indemnify and save harmless the Nation from and against any and all claims, demands, actions, suits and judgments that the said Nation . . . may incur solely . . . arising out of the sole negligence of the Corporation, its agents or servants, in the construction, operation or maintenance of said pipe lines.”

32. NFG has admitted its knowledge of major leaks coming out of ruptures in its North Sector Pipeline, R-31.

33. On May 5, 2015, the Nation demanded that NFG immediately repair the major leaks in the North Sector R-31 pipeline.

34. Almost two weeks later, rather than repair the major leaks, NFG stated it would evaluate the potential to replace or repair the line but did not commit to do so.

35. On June 19, 2015, NFG again admitted its knowledge of the ruptured line, promising that it would “correct leaks in its system on SNI’s territory.”

36. Upon information and belief, despite its repeated promises, NFG has not repaired all of the leaks in its system, including the ruptured lines in the North Sector on Pipeline R-31, and gas continues to spew out of the ground in dangerous and harmful amounts.

C. The Early Childhood Learning Center

37. In September 2014, the Nation began construction of an Early Childhood Learning Center “ECLC”), a state-of-the-art education complex to educate and provide cognitive, language, physical and social skills to the Nation’s youth.

38. In the spring of 2015, NFG and the Nation agreed that NFG would provide gas service to the ECLC and would execute a written agreement for the gas line that would cross the Nation’s land to provide this service.

39. As consideration for this line, the Nation agreed to provide an agreement for NFG’s service line and pay \$64,068.30.

40. On or about April 10, 2015, NFG sent the Nation a request for the line agreement.

41. On or about April 21, 2015, NFG sent the Nation an invoice for the amount due under the contract.

42. Thereafter, the parties’ negotiated terms and on May 18, 2015, the Nation agreed to amend the agreement to address NFG’s “one concern;” however, after that date, the Nation has not received a response on this matter from NFG.

43. On or about June 30, 2015, the Nation accepted NFG’s offer to provide gas service by tendering a check to NFG for \$64,068.30, the full amount due under the parties’ agreement.

44. Although NFG received the \$64,068.30 payment, NFG never replied to the Nation’s May 18 communication, never returned the executed agreement, and has not provided gas service.

45. On or about July 29, 2015, the Nation sent a letter and two copies of the agreement containing the agreed upon terms with original Nation signatures and requested NFG’s execution.

46. NFG has not replied to the Nation's letter, and upon information and belief has not signed the agreement, but NFG has kept the Nation's \$64,068.30 check.

47. To date, NFG has accepted the Nation's payment, but upon information and belief has refused to execute the agreement or carry out its contractual duties to construct the gas line or otherwise provide gas service to the ECLC.

48. The object of the contract is real property because it requires the Nation to provide an agreement for the gas service line route to NFG.

49. The provision of gas service pursuant to a valid agreement has special value to the Nation because it will allow the Nation to use its own natural gas resources while clearly protecting the Nation's rights to the underlying territory by limiting NFG's service line to a specified area.

50. If NFG does not provide the gas service pursuant to a valid, written agreement, the Nation will be unable to obtain gas service from another source, and thus will be unable to use the building to meet the needs of the Nation's children.

51. NFG's refusal to perform its obligations under the parties' agreement is jeopardizing completion and operation of the ECLC.

D. The RM-32 Construction Project

52. In 1987, the Seneca Nation of Indians Tribal Council adopted Ordinance No. 87-100 the "Utilities Ordinance").

53. The Utilities Ordinance, inter alia, required all persons or entities providing utility service on Reservation lands on or before December 31, 1987 to provide the Nation with

information showing the location and legal authorization of any rights-of-way or other authorization to provide such utility service.

54. The Utilities Ordinance further declared that all authorizations for utility purposes within the Reservation where the holder of the authorization has not submitted the information required by the ordinance by December 31, 1987, and where the Council had not consented to the facility, would be void as of January 1, 1988.

55. The Utilities Ordinance further set forth requirements and an application for utilities proposing to install or expand facilities, and provided criteria that any applicant would be required to meet.

56. Upon information and belief, NFG received notice of the Utilities Ordinance.

57. In November 2012, NFG sent a letter to the clerk of the Nation briefly mentioning NFG's plans to replace three sections of RM-32 on the Cattaraugus Territory. The letter noted the approximate sections NFG sought to replace, the expected start date of September 2013, and NFG's intention to field survey the identified locations.

58. NFG did not submit the application required by the Utilities Ordinance; nor did it demonstrate its RM-32 project's compliance with the criteria identified in the Utilities Ordinance.

59. Upon information and belief, over the course of 2013, NFG studied the replacement project and began discussions with the Nation's Environmental Department regarding potential brush clearing along certain sections of RM-32. At that time, NFG provided no indication of the scale of brush clearing.

60. The Nation notified NFG that the pipeline construction project would be subject to approval by various Nation departments.

61. Over the course of 2013, 2014, and 2015, the Nation continued to require information from NFG relating to the RM-32 construction project.

62. During this time, NFG provided no documentation or approvals from any Nation departments.

63. In connection with the RM-32 construction project, NFG has already destroyed, by its own count, approximately 1,300 trees.

64. In April 2015, NFG changed its project by removing the proposal to relocate the new pipeline 15 feet from the existing pipeline.

65. In response, the Nation confirmed that NFG was no longer proposing to relocate the RM-32 Pipeline and reminded NFG that “[t]he modified project is subject to review and approval by the various Nation agencies. No construction is authorized to commence until such reviews are completed and approvals issued.”

66. On May 14, 2015, the Nation informed NFG of the materials that NFG must provide and that the Nation’s Natural Resources Committee would coordinate distribution to and review by various Nation departments. These materials included detailed mapping and inventory of the project study area, a project construction schedule and sequencing details, assessment of various resources including cultural, archeological, wildlife, trees, plants, surface and groundwater, flood plains, soil erosion and sedimentation plans, restoration plans, assessment of impacts on cultural and archeological resources, and proposed mitigation measures.

67. NFG responded by stating that it intended to commence construction on June 1, 2015 regardless of the approval process.

68. On May 28, 2015, the Nation notified NFG that because it had not received any of the required submittal materials for the approvals process, NFG was not authorized to commence

construction on June 1, 2015, and construction would not be authorized “until such time as the Nation approves the work.”

69. On May 28, 2015, NFG notified the Nation that it had already voluntarily postponed the construction start date and had retained outside counsel.

70. That same day, NFG, through newly retained outside counsel Nixon Peabody, refused to provide the required submittal materials for the Nation to review for the proposed replacement project, thereby ignoring the Nation’s sovereign authority.

71. To date, NFG has not submitted any documents for the Nation’s consideration of its proposed project and has asserted that it will provide those documents which **it** determines (rather than the Nation requires) are reasonably necessary for the Nation to consider.

72. NFG has refused to recognize the Nation’s sovereign authority to review, approve and regulate construction projects on its Territory.

E. NFG’s Refusal to Provide Notice of Entry onto Nation Territory

73. The Nation has inherent sovereignty over its Territory, including the right to exclude and the right to regulate entry onto its lands.

74. It is a custom and tradition of the Nation to require that all non-Seneca-owned businesses provide notice to the Nation before entering its Territory to conduct business.

75. The Nation has repeatedly informed NFG that such notice is required.

76. In April 2015, NFG agreed to provide such notice for each entry.

77. On May 22, 2015, the Nation informed NFG that, despite the Nation’s clear directives regarding advanced notice prior to entry on the Nation Territory and NFG’s agreement

to same, NFG had entered on Nation Territory numerous times over the past several months performing unknown work on various pipelines that would or could affect the Nation's rights and interests.

78. The Nation outlined specific notice protocols to be followed by NFG each time it entered upon Nation Territory relating to its pipeline network. The required notice included written or electronic notice to the Nation, ten business days in advance, or in the event ten days' notice were not practicable, verbal notice followed by written notice, including the purpose of the entrance onto Nation Territory, as soon thereafter as possible. The Nation reserved the right to accompany NFG representatives and/or monitor such activities. Collectively, the outlined notice protocols hereinafter are referred to as the "Notice Protocol."

79. In response, NFG refused to comply with the Notice Protocol, stating "it does not agree to the request," and stated that it had "never performed work on SNI territory without SNI's knowledge and consent."

80. In fact, NFG brazenly challenged the Nation's sovereign authority, claiming that NFG has no obligation to provide such notice to the Nation and that the outlined notice protocol requirements were "unacceptable."

81. On July 11, 2015, the Council of the Nation of Indians met in regular session and passed a resolution "To Approve Establishing a Policy Governing Access to Nation Territory by Utility Companies" "Notice Policy").

82. The Notice Policy is substantially the same as the Notice Protocol.

83. Upon information and belief, to date, NFG has not complied with the Notice Protocol or the Notice Policy.

84. The Nation has reason to believe that, sometime after April 23, 2015, NFG personnel have entered onto the Nation's Territory in violation of the Notice Protocol and/or the Notice Policy.

F. Void, Cancelled, and Unenforceable Pipeline-related Agreements

85. NFG operates natural gas pipelines within the sovereign territory of the Nation.

86. To operate these pipelines, NFG must have valid, written agreements for each such pipeline.

87. The Nation holds original title to Reservation lands, subject only to a restraint on alienation held by the United States as recognized in the 1794 Treaty.

88. From 1790 through 1834, the United States adopted statutes prohibiting any grant, lease, purchase or other conveyance of lands from any Indian Nation absent treaty or convention entered pursuant to the United States Constitution (*see* 25 USC § 177).

89. In 1950, the United States adopted "An Act to regulate the collection and disbursement of moneys realized from leases made by the Nation of Indians of New York, and for other purposes" 64 Stat. 442 [Aug. 14, 1950]), known as the "Seneca Leasing Act." This Act confirmed the Nation's sovereign authority over its territory and its right to enter into leases within the reservations outside of the congressional villages without requiring additional federal approval. The 1950 Seneca Leasing Act was amended in 1961 to confirm the Nation's authority to "grant easements or rights-of-way on" Nation Territory outside the congressional villages without additional federal approval (75 Stat. 499 [Sept. 14, 1961]).

90. The United States has only recognized the sovereign authority of the Nation to enter into leases outside the congressional villages without additional federal approval since 1950 and to grant rights-of-way and easements outside the congressional villages without additional federal approval since 1961.

91. In the absence of proper federal approval, any such purported lease for a natural gas pipeline outside the congressional villages prior to 1950 without federal approval is null and void.

92. Similarly, in the absence of proper federal approval, any purported grant of an easement or right-of-way for a natural gas pipeline outside of the congressional villages prior to 1961 is null and void.

93. Upon information and belief, Defendants operate one or more natural gas pipelines outside of the congressional villages under color of purported leases dated prior to 1950 and/or, easements or right-of-way agreements dated before 1961.

94. In February 2015, the Nation notified NFG that it would only recognize those agreements for pipelines which NFG provided “written documentation acceptable to SNI locating and otherwise demonstrating a valid interest.”

95. The Nation specifically identified the following known NFG pipelines: PY-2, R-30, R-31, CM-2, STHY-5, and Line K.

96. NFG initially ignored the Nation’s February 2015 request.

97. On April 2, 2015, NFG provided limited, incomplete information about agreements it purported to have with the Nation, but did not include agreements for PY-2, R-30, R-31, CM-2, STHY-5, or Line K, the pipelines that the Nation had specifically requested.

98. On May 6, 2015, the Nation again requested that NFG provide acceptable documentation of purported agreements to operate pipelines on Nation Territory.

99. The Nation emphasized that it was not aware of the location of all NFG pipelines, and that all NFG owned and/or operated pipelines must be subject to valid, Nation-approved written agreements.

100. On May 14, 2015, NFG provided more, but still limited, incomplete, and incomprehensible, information related to purported agreements with the Nation.

101. Less than a week later, the Nation requested clarifying information as to which documents purported to be the agreements for which pipelines.

102. The Nation also requested a map showing all abandoned pipelines and a schedule for their prompt removal.

103. On June 19, 2015, NFG purported to provide certain right-of-way agreements that had been “updated” in an unspecified manner.

104. Upon information and belief, the purported agreements relating to all pipelines, including PY-2, R-30, R-31, CM-2, STHY-5 and Line K are void, cancelled, or otherwise unenforceable, and therefore, NFG has no valid agreements for its pipelines on Nation Territory.

AS AND FOR A FIRST CAUSE OF ACTION
(Trespass)

105. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

106. As set forth above, the Nation has possessed and occupied the Cattaraugus and Allegany Territories for centuries and holds original title to the lands and waters of these territories.

107. The Nation exercises sovereign authority over these territories.

108. Defendants operate pipelines over the sovereign territory of the Nation on land within the boundaries of the Nation's Cattaraugus Reservation, including the North Sector Pipeline, R-31.

109. As set forth above, NFG has admitted substantial leaks from ruptures in its North Sector R-31 Pipeline.

110. By means of their admittedly leaking gas pipelines, Defendants have intentionally and wrongfully entered onto the sovereign territory of the Nation without the Nation's permission.

111. Each day that gas continues to leak from Defendants' pipelines constitutes a continuing trespass.

112. Defendants have failed to repair the substantial gas leaks to the North Sector Pipeline, despite assurances that they would perform such repairs.

113. Based on the foregoing, the Nation is entitled a monetary judgment against Defendants in an amount to be determined at trial.

AS AND FOR A SECOND CAUSE OF ACTION
(Public Nuisance)

114. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

115. As set forth above, the Nation has possessed and occupied the Cattaraugus and Allegany Territories for centuries and holds original title to the lands and waters of these territories.

116. The Nation exercises sovereign authority over these territories.

117. Defendants operate pipelines over the sovereign territory of the Nation on land within the boundaries of the Nation's Cattaraugus reservation, including the North Sector Pipeline, R-31.

118. As set forth above, NFG has admitted substantial leaks from ruptures in its North Sector R-31 Pipeline.

119. By means of their admittedly leaking gas pipelines, Defendants have wrongfully and unreasonably interfered with a right or rights common to the general public.

124. Defendants' ruptured gas pipeline and refusal to repair these substantial leaks is a significant interference with the public health, safety, peace, comfort, and convenience.

125. Upon information and belief, Defendants' ruptured gas pipeline and refusal to repair these substantial leaks violates pipeline standards prescribed by the New York State Public Service Commission and the Federal Energy Regulatory Commission for natural gas pipelines.

126. Defendants' ruptured gas pipeline and refusal to repair these substantial leaks is a continuing public nuisance, and Defendants know or have reason to know that these leaks have a significant effect upon the public's rights.

127. Defendants have failed to repair the substantial gas leaks to the North Sector R-31 Pipeline, despite repeated assurances that they would perform such repairs.

128. Based on the foregoing, the Nation is entitled a monetary judgment against Defendants in an amount to be determined at trial.

AS AND FOR A THIRD CAUSE OF ACTION
(Private Nuisance)

129. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

130. As set forth above, NFG has admitted substantial leaks from ruptures in its North Sector R-31 Pipeline.

131. Despite knowledge of substantial natural gas leaks over many months, Defendants have abjectly refused to address, much less repair, all of the substantial gas leaks coming from the ruptured North Sector R-31 Pipeline, despite assurances that they would perform such repairs.

132. Defendants' refusal to repair the substantial leaks to the North Sector R-31 Pipeline is an intentional interference with the rights of the Nation to use and enjoy its sovereign territory.

133. In the alternative, Defendants' refusal to repair the substantial leaks to the North Sector R-31 Pipeline is a reckless interference with the rights of the Nation to use and enjoy its sovereign territory.

134. In the alternative, Defendants' refusal to repair these substantial natural gas leaks has breached their duty to exercise the degree of care that a reasonably prudent person or entity would have used under the same circumstances causing substantial injury and damages to the Nation, and is thus a negligent interference with the rights of the Nation to use and enjoy its sovereign territory.

135. By means of their ruptured gas pipelines, Defendants have intentionally, negligently, and/or recklessly caused an unreasonable and substantial interference with the Nation's right to use and enjoy its sovereign territorial lands.

136. Defendants' ruptured gas pipeline and refusal to repair these substantial leaks is a continuing private nuisance, and Defendants know or have reason to know that these leaks have a significant effect upon the Nation's rights.

137. Based on the foregoing, the Nation is entitled a monetary judgment against Defendants in an amount to be determined at trial.

AS AND FOR A FOURTH CAUSE OF ACTION
(Negligence)

138. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

139. As set forth above, NFG has admitted substantial leaks from ruptures in its North Sector R-31 Pipeline.

140. Despite knowledge of substantial natural gas leaks over many months, Defendants have refused to address, much less repair, the substantial gas leaks in the ruptured North Sector R-31 Pipeline, despite repeated assurances that they would perform such repairs.

141. Defendants' refusal to repair these substantial natural gas leaks is a breach of their duty to exercise the degree of care that a reasonably prudent person or entity would have used under the same circumstances, and thus constitutes negligence.

142. Defendants' negligence has proximately caused substantial damages to the lands, waters, people and sovereign interests of the Nation.

143. Based on the foregoing, the Nation is entitled a monetary judgment against Defendants, including for environmental damages, in an amount to be determined at trial.

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

144. The Nation entered into an agreement with Defendant NFG Gas (by its predecessor-in-interest) on October 10, 1961 for a right-of-way for the North Sector R-31 Pipeline, requiring Defendant to repair and maintain the pipeline and to "indemnify and save harmless the Nation from and against any and all claims, demands, actions, suits and judgments that the said Nation

may be subjected to or may incur solely . . . arising out of the sole negligence of the Corporation, its agents or servants, in the construction, operation or maintenance of said pipe lines.”

145. As a result of Defendant’s sole negligence in refusing to repair substantial leaks in the ruptured North Sector R-31 Pipeline, the Nation has incurred substantial claims for damages to its property.

146. In the event the North Sector R-31 Pipeline Agreement is valid and enforceable, by refusing to repair and maintain North Sector R-31 Pipeline, Defendant has breached a material term of it.

147. As a result, in the event the North Sector R-31 Pipeline Agreement is valid and enforceable, Defendant has breached that agreement by failing to maintain and repair the North Sector R-31 Pipeline or, in the alternative, by failing to indemnify the Nation for its claims for damages.

148. Based on the foregoing, the Nation is entitled a monetary judgment against Defendants in an amount to be determined at trial.

AS AND FOR A SIXTH CAUSE OF ACTION
(Temporary, Preliminary, and Permanent Injunctive Relief)

149. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

150. By causing and/or allowing gas to leak from its ruptured R-31 Pipeline, Defendants are intentionally and wrongfully entering onto the Nation’s territory in derogation of the Nation’s interests on the Nation’s Territory, including its ownership of property on which the North Sector R-31 Pipeline is leaking.

151. Defendants are causing both public and private nuisances by allowing gas to leak from the ruptured North Sector R-31 Pipeline and refusing to repair these substantial leaks.

152. Defendants have committed and are committing negligence by breaching their duty of care in operation of a gas pipeline thereby proximately causing damages to the sovereign interests, lands, waters, and people of the Nation.

153. Defendants have breached and continue to breach any valid and enforceable right-of-way agreement for the North Sector R-31 Pipeline, by failing to repair and maintain the North Sector R-31 Pipeline and/or by failing to indemnify the Nation from claims for damages resulting from operation of the North Sector R-31 Pipeline.

154. Unless restrained and enjoined during the pendency of this action, Defendants will continue to take action that will irreparably harm and injure the Nation, including without limitation, the Nation's sovereign rights and authority.

155. The Nation is likely to succeed on the merits of its claims in this action.

156. The Nation lacks an adequate remedy at law.

157. The equities in this matter weigh in favor of restraining Defendants from taking any action in derogation of the Nation's interests in its sovereign Territory, including its rights to use and enjoy this territory and rights common to the public harmed by this ongoing public and private nuisances, negligence, trespass, and breaches of contract.

158. Based on the foregoing, the Nation is entitled to an order granting temporary, preliminary and permanent injunctive relief from public and private nuisances, trespass, negligence, and breaches of contract, requiring that Defendants immediately repair the substantial leaks in their ruptured North Sector R-31 Pipeline.

AS AND FOR A SEVENTH CAUSE OF ACTION
(Specific Performance)

159. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

160. The Nation entered into an agreement with Defendant NFG Gas (by its predecessor-in-interest) on October 10, 1961 for a right-of-way for the North Sector R-31 Pipeline, requiring Defendant to repair and maintain the pipeline.

161. In the event the North Sector R-31 Pipeline Agreement is valid and enforceable, by refusing to repair and maintain North Sector R-31 Pipeline, Defendant has breached a material term of it.

162. As a result, in the event the North Sector R-31 Pipeline Agreement is valid and enforceable, Defendant has breached that agreement by failing to maintain and repair the North Sector R-31 Pipeline.

163. The Nation has performed under the contract by permitting Defendant to operate the R-31 pipeline on Nation Territory since 1961.

164. The Nation remains ready, willing, and able to perform under the parties' agreement.

165. Although Defendant has accepted the Nation's performance, it has failed to perform its repair obligations.

166. As a result of Defendant's failure to perform its obligations, Defendant has breached a material term of the parties' agreement.

167. Defendant is able but unwilling to perform its contractual duties.

168. Specific performance will not cause Defendant undue hardship.

169. This object of this contract is real property because it requires the Nation to provide a right-of-way to NFG in exchange for certain valuable consideration, including NFG's maintenance and repair of the R-31 pipeline.

170. In the alternative, ongoing maintenance and repair of the pipeline pursuant to the agreement has special value to the Nation.

171. In the alternative, compensation in damages for NFG's breaches would not furnish a complete and adequate remedy to the Nation.

172. Accordingly, the Nation has no adequate remedy at law.

173. Based on the foregoing, the Nation is entitled to specific performance of Defendant's obligations under its agreement to maintain and repair the R-31 pipeline.

AS AND FOR AN EIGHTH CAUSE OF ACTION
(Specific Performance)

174. The Nation entered into an agreement with Defendant NFG Gas Distribution Corporation on June 30, 2015 for gas service to the Nation's Early Childhood Learning Center ("ECLC"). This agreement required Defendant to install and operate a natural gas service line to the ECLC over a route pursuant to an agreement to be executed by the parties in exchange for a payment from the Nation of \$64,068.30.

175. The Nation has performed under the contract by sending an agreement signed by the Nation for Defendant's execution on May 18, 2015 and tendering a check for \$64,068.30 on June 30, 2015.

176. The Nation remains ready, willing, and able to perform under the parties' agreement.

177. However, although Defendant accepted the payment, it has refused to execute the agreement and it has refused to construct the gas service line or provided the agreed upon service.

178. As a result of Defendant's failure to perform its obligations, Defendant has breached a material term of the parties' agreement.

179. Defendant is able but unwilling to perform its contractual duties.

180. Specific performance will not cause Defendants undue hardship.

181. This object of this contract is real property because the Nation will provide an agreement for the pipeline route to NFG.

182. In the alternative, the provision of gas service to the ECLC pursuant to a valid, written agreement has special value to the Nation.

183. In the alternative, compensation in damages would not furnish a complete and adequate remedy to the Nation.

184. Accordingly, the Nation has no adequate remedy at law.

185. Based on the foregoing, the Nation is entitled to specific performance of Defendant's obligations under its agreement to provide gas service to the Early Childhood Learning Center by executing the agreement and installing the service line.

AS AND FOR A NINTH CAUSE OF ACTION
(Declaratory Judgment)

186. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

187. The Nation seeks a declaration that, in accordance with the Nation's authority under its inherent sovereignty as exercised in the Notice Protocol and Notice Policy, NFG, its

subsidiaries, contractors, and agents, must provide notice before entering Nation Territory for any purpose, including without limitation to conduct routine maintenance activities.

188. As set forth above, the Nation is a Sovereign Nation, with inherent sovereignty and regulatory authority over all activities on Nation Territory, including any activities affecting natural resources, lands, and waters.

189. Pursuant to the Nation's sovereign authority, any activities on Nation Territory, including activities conducted pursuant to agreements with the Nation, are nonetheless subject to the laws, rules, and regulations of the Nation.

190. As set forth above, NFG has claimed it is not subject to or will not otherwise comply with the Nation's Notice Protocol or Notice Policy.

191. As set forth above, the Nation has notified NFG of the notice requirements, but NFG has abjectly refused to comply with it.

192. The demand for a declaration of rights is proper because the parties have a direct interest in determining their rights with respect to the notice requirements.

193. There is no other action pending in which these issues could be efficiently and effectively resolved.

194. The interests of the Nation and Defendants are adverse because Defendants have failed and/or refused to recognize the Nation's inherent sovereignty and regulatory authority, and because Defendants threaten to engage in, and upon information and belief, have engaged in, construction and other activities in derogation of the Nation's interests and authority with respect to Nation Territory.

195. The Nation has no adequate remedy at law.

196. Based on the foregoing, the Nation is entitled to a judgment, pursuant to CPR § 2-102, declaring that, NFG, its subsidiaries, contractors, and agents, must comply with the Notice Policy and must provide notice before entering Nation Territory for any purpose, including without limitation to conduct routine maintenance activities.

AS AND FOR A TENTH CAUSE OF ACTION
(Temporary, Preliminary, and Permanent Injunctive Relief)

197. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

198. Defendants are threatening to take action in derogation of the Nation's interests on the Nation's Territory.

199. Defendants have stated that they will not comply with the Notice Protocol

200. Unless restrained and enjoined, Defendants will continue to take action during the pendency of this action that will irreparably harm the Nation's interests.

201. The Nation is likely to succeed on the merits in this action.

202. The Nation lacks an adequate remedy at law.

203. The equities in this matter weigh in favor of restraining Defendants from taking any action in derogation of the Nation's interest in its sovereign territory.

204. Based on the foregoing, the Nation is entitled to an order granting temporary, preliminary and permanent injunctive relief, preventing Defendants from taking any action in derogation of the Nation's interest in its territory, including without limitation: entering onto the Nation's Territory without complying with the Notice Protocol, and conducting construction or

related activities on any portion of the Cattaraugus or Allegany Territories without complying with the Notice Protocol.

AS AND FOR A ELEVENTH CAUSE OF ACTION
(Declaratory Judgment)

205. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

206. The Nation seeks a declaration that it has authority under its inherent sovereignty as an exercise of regulatory authority to require submission of documents requested relating to NFG's proposed RM-32 construction project and that NFG must obtain all necessary approvals prior to commencing construction on that project.

207. As set forth above, the Nation is a Sovereign Nation, with inherent sovereign and regulatory authority over all activities on Nation Territory, including any activities affecting natural resources, lands, and waters.

208. As set forth above, the Nation has notified Defendant NFG of required submissions and approvals for the RM-32 replacement project, including review by the Nation's Natural Resources Committee.

209. As set forth above, NFG has refused to submit the required documents for review and approval in the manner required by the Nation.

210. NFG has refused to recognize the Nation's inherent sovereign and regulatory authority over all activities on Nation Territory.

211. The demand for a declaration of rights is proper because the parties have a direct interest in determining their rights with respect to project submission and approval requirements.

212. There is no other action pending in which these issues could be efficiently and effectively resolved.

213. The interests of the Nation and Defendants are adverse because Defendants have failed and/or refused to recognize the Nation's inherent sovereignty and regulatory authority, and because Defendants threaten to engage in construction and other activities in derogation of the Nation's rights, interests and authority with respect to Nation Territory.

214. The Nation has no adequate remedy at law.

215. Based on the foregoing, the Nation is entitled to a judgment, pursuant to CPR § 2-102, declaring that: (A) NFG must submit the documents as specified in the letter from the Nation to NFG dated May 14, 2015; (B) NFG must obtain all necessary approvals prior to commencing construction on the RM-32 replacement project; and (C) any such rights that NFG may have pursuant to any agreement on Nation lands are subject to the right of the Nation to exercise its regulatory authority over projects affecting the land, water, and/or natural resources of the Nation.

AS AND FOR A TWELFTH CAUSE OF ACTION
(Temporary, Preliminary, and Permanent Injunctive Relief)

216. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

217. Defendants are threatening to take action in derogation of the Nation's interests on the Nation's Territory.

218. Defendants have stated that they will not provide materials required for review of the RM-32 construction project or obtain the necessary approvals as set forth in the letter from the Nation to Defendants on May 15, 2015.

219. Unless restrained and enjoined, Defendants will continue to take action during the pendency that will irreparably injure and harm the Nation, including construction or other activities related to the RM-32 construction project without proper assessment of impacts to the Nation's resources and defying the Nation's rights as sovereign.

220. The Nation is likely to succeed on the merits in this action.

221. The Nation lacks an adequate remedy at law.

222. The equities in this matter weigh in favor of restraining Defendants from taking any action in derogation of the Nation's interest in its sovereign territory.

223. Based on the foregoing, the Nation is entitled to an order granting temporary, preliminary and permanent injunctive relief, preventing Defendants from taking any action in derogation of the Nation's interest in its territory, including without limitation: conducting construction or activities related to replacement of the RM-32 Pipeline on the Nation's Territory without complying with the approval process specified in the Nation's letter dated May 14, 2015.

AS AND FOR A THIRTEENTH CAUSE OF ACTION
(Compelling Determination of a Claim to Real Property)

224. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

225. The Nation has possessed and occupied the Cattaraugus and Allegany Territories for centuries and hold original title to the lands and waters of these territories.

226. The Nation exercises sovereign authority over these territories.

227. Defendants purportedly own and operate pipelines over the sovereign territory of the Nation within the boundaries of the Cattaraugus and Allegany Reservations.

228. The Nation has repeatedly requested that Defendants provide written documentation showing valid agreements for all pipelines that Defendant has on Nation Territory.

229. Defendant has failed to provide the documentation requested or show valid agreements for the pipelines it operates.

230. Upon information and belief, one or more of the purported agreements NFG has provided to the Nation, including without limitation, the purported agreement for the PY-2 Pipeline, are void, cancelled, unenforceable, non-existent or otherwise insufficient to confer any property rights upon NFG.

231. Upon information and belief NFG does not have valid and/or enforceable written agreements for one or more of its pipelines, including without limitation the PY-2 Pipeline.

232. By reason of the foregoing, the Nation is entitled to a judgment, pursuant to CPR § 2-106, similar to the manner specified in Article 15 of the New York Real Property Actions and Proceedings Law “RPAPL”), declaring the Nation the owner in fee title, as restricted by applicable treaties with the United States government, to the pipelines and property for which this Court determines Defendants have not produced a valid, enforceable written agreement, and declaring that Defendants and every person claiming under them be barred from all claim to an estate or interest in the property, including any purported rights-of-way, leases or easements.

AS AND FOR A FOURTEENTH CAUSE OF ACTION
(Declaratory Judgment)

233. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

234. The Nation seeks a declaration that it has title to all property containing NFG's pipelines for which valid, enforceable and written agreements have not been produced by Defendant.

235. The Nation has possessed and occupied the Cattaraugus and Allegany Territories for centuries and hold original title to the lands and waters of these territories.

236. The Nation exercises sovereign authority over these territories.

237. Defendants operate pipelines over the sovereign territory of the Nation contained within the boundaries of the Cattaraugus and Allegany Reservations.

238. The Nation has repeatedly asked Defendants to provide written documentation showing valid agreements for all pipelines that Defendant has on Nation Territory.

239. Defendant has failed to provide the documentation requested.

240. The demand for a declaration of rights is proper because the parties have a direct interest in determining their rights with respect to the ownership and use of the property or properties where the pipelines are located.

241. There is no other action pending in which these issues could be efficiently and effectively resolved.

242. The interests of the Nation and Defendants are adverse because Defendants have failed and/or refused to provide the documentation requested or indicate which agreements correspond to the pipelines, and Defendants threaten to engage in construction and other activities in derogation of the Nation's interests in the property.

243. The Nation has no adequate remedy at law.

244. The Nation is entitled to a judgment, pursuant to CPR § 2-102, declaring the Nation the owner in fee title, as restricted by applicable treaties with the United States government, to the

pipelines and property for which this Court determines Defendants have not produced valid, enforceable written agreements, and declaring that Defendants and every person claiming under them be barred from all claim to an estate or interest in the property, including all purported rights-of-way, leases, or easements.

AS AND FOR A FIFTEENTH CAUSE OF ACTION
(Trespass)

245. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

246. As set forth above, the Nation has possessed and occupied the Cattaraugus and Allegany Territories for centuries and holds original title to the lands and waters of these territories.

247. The Nation exercises sovereign authority over these territories.

248. Defendants operate pipelines over the sovereign territory of the Nation on land within the boundaries of the Nation's Cattaraugus and Allegany territories.

249. To the extent Defendants operate these pipelines without valid, enforceable and written agreements, whether non-existent, void, cancelled, or otherwise unenforceable, Defendants have intentionally and wrongfully entered onto the sovereign territory of the Nation without the Nation's permission.

250. Defendants' use of pipelines without valid written agreements is a continuing trespass.

251. Based on the foregoing, the Nation is entitled a monetary judgment against Defendants in an amount to be determined at trial.

AS AND FOR A SIXTEENTH CAUSE OF ACTION
(Temporary, Preliminary, and Permanent Injunctive Relief)

252. The Nation repeats and realleges, as if fully set forth herein, each of the preceding paragraphs.

253. By operating pipelines without valid, enforceable and written agreements, whether void, cancelled, or otherwise unenforceable, Defendants have intentionally and wrongfully entered onto the sovereign territory of the Nation without the Nation's permission.

254. Unless restrained and enjoined during the pendency of this action, Defendants will continue to trespass on the Territory of the Nation, cause irreparable harm and injury to the Nation.

255. The Nation is likely to succeed on the merits of its claims in this action.

256. The Nation lacks an adequate remedy at law.

257. The equities in this matter weigh in favor of restraining Defendants from continuing trespass on the Nation.

258. Based on the foregoing, the Nation is entitled to an order granting temporary, preliminary and permanent injunctive relief from trespass, requiring Defendants to immediately cease operation of any and all pipelines operating on Nation Territory without valid, enforceable and written agreements.

WHEREFORE, the Nation demands judgment as follows:

1. Awarding the Nation a monetary judgment against Defendants in an amount to be determined at trial, for trespass based on the gas leaks from the R-31 Pipeline;
2. Awarding the Nation a monetary judgment against Defendants in an amount to be determined at trial, for public nuisance based on the gas leaks from the R-31 Pipeline;

3. Awarding the Nation a monetary judgment against Defendants in an amount to be determined at trial, for private nuisance based on the gas leaks from the R-31 Pipeline;

4. Awarding the Nation a monetary judgment, including environmental damages, against Defendants in an amount to be determined at trial, for negligence based on the gas leaks from the R-31 Pipeline;

5. Awarding the Nation a monetary judgment against Defendants in an amount to be determined at trial, for breach of the purported right-of-way agreement for the R-31 Pipeline;

6. Granting the Nation an order pursuant to CPR § 14-101 granting temporary, preliminary and permanent injunctive relief from trespass, public nuisance, private nuisance, negligence, and breach of contract by requiring that Defendants immediately repair substantial leaks in their ruptured R-31 Pipeline;

7. Granting the Nation specific performance of its agreement with NFG for the R-31 pipeline, requiring NFG to repair the substantial leaks from ruptures in the pipeline;

8. Granting the Nation specific performance of its contract with NFG for natural gas service to the Early Childhood Learning Center pursuant to a valid, executed agreement.

9. Declaring, pursuant to CPR § 2-102, that NFG, its subsidiaries, contractors and agents, must provide notice as specified by the Nation including without limitation, in the manner provided in the Notice Protocol and/or Notice Policy before entering Nation Territory for any purpose, including without limitation to conduct routine maintenance activities;

10. Granting the Nation an order granting temporary, preliminary and permanent injunctive relief, preventing Defendants from taking any action in derogation of the Nation's interest in its territory, including without limitation: entering onto the Nation's Territory without

complying with the Notice Policy, and conducting construction or related activities on any portion of the Cattaraugus or Allegany Territories without complying with the Notice Policy;

11. Declaring, pursuant to CPR § 2-102, that: (A) NFG must submit the documents as specified in the letter from the Nation to NFG dated May 14, 2015; (B) NFG must obtain all necessary approvals prior to commencing construction on the RM-32 replacement project; and (C) any such rights that NFG may have pursuant to any agreement for rights-of-way on Nation lands are subject to the right of the Nation to exercise its regulatory authority over projects affecting the land, water, and/or natural resources of the Nation;

12. Granting the Nation an order granting temporary, preliminary and permanent injunctive relief, preventing Defendants from taking any action in derogation of the Nation's interest in its territory, including without limitation: conducting construction or activities related to replacement of the RM-32 Pipeline without complying with the approval process specified in the Nation's letter dated May 14, 2015;

13. Entering judgment, pursuant to CPR § 2-106, similar to the manner specified in Article 15 of the New York Real Property Actions and Proceedings Law "RPAPL"), declaring the Nation the owner in fee title, as restricted by applicable treaties with the United States government, to the property and pipelines for which this Court determines Defendants have not produced valid, enforceable written agreements, and declaring that Defendants and every person claiming under them be barred from all claim to an estate or interest in the property, including any purported rights-of-way, leases or easements;

14. Declaring, pursuant to CPR § 2-102, that the Nation is the owner in fee title, as restricted by applicable treaties with the United States government, to the property and pipelines for which this Court determines Defendants have not produced valid, enforceable written

agreements for pipelines, and declaring that Defendants and every person claiming under them be barred from all claim to an estate or interest in the property, including any purported rights-of-way, leases, or easements;

15. Awarding the Nation a monetary judgment against Defendants in an amount to be determined at trial, for trespass based on operation of pipelines without valid written agreements on Nation Territory;

16. Granting the Nation an order pursuant to CPR § 14-101 granting temporary, preliminary and permanent injunctive relief from trespass by enjoining Defendants from operating any pipelines for which it does not have valid written agreements;

17. Awarding the Nation the costs, disbursements and attorneys' fees incurred in this action; and

18. Awarding the Nation such other relief as this Court shall deem just, proper or equitable.

Dated: Albany, New York
August 17, 2015

WHITEMAN OSTERMAN & HANNA LLP

By: 

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)

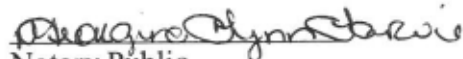
MAURICE A. JOHN, being duly sworn, deposes and says as follows:

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
18th 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