



***National Fuel***

April 30, 2009

William Ottaway, P. E.  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
Remedial Bureau C, 11<sup>th</sup> Floor  
625 Broadway, Albany, NY 12233-7014

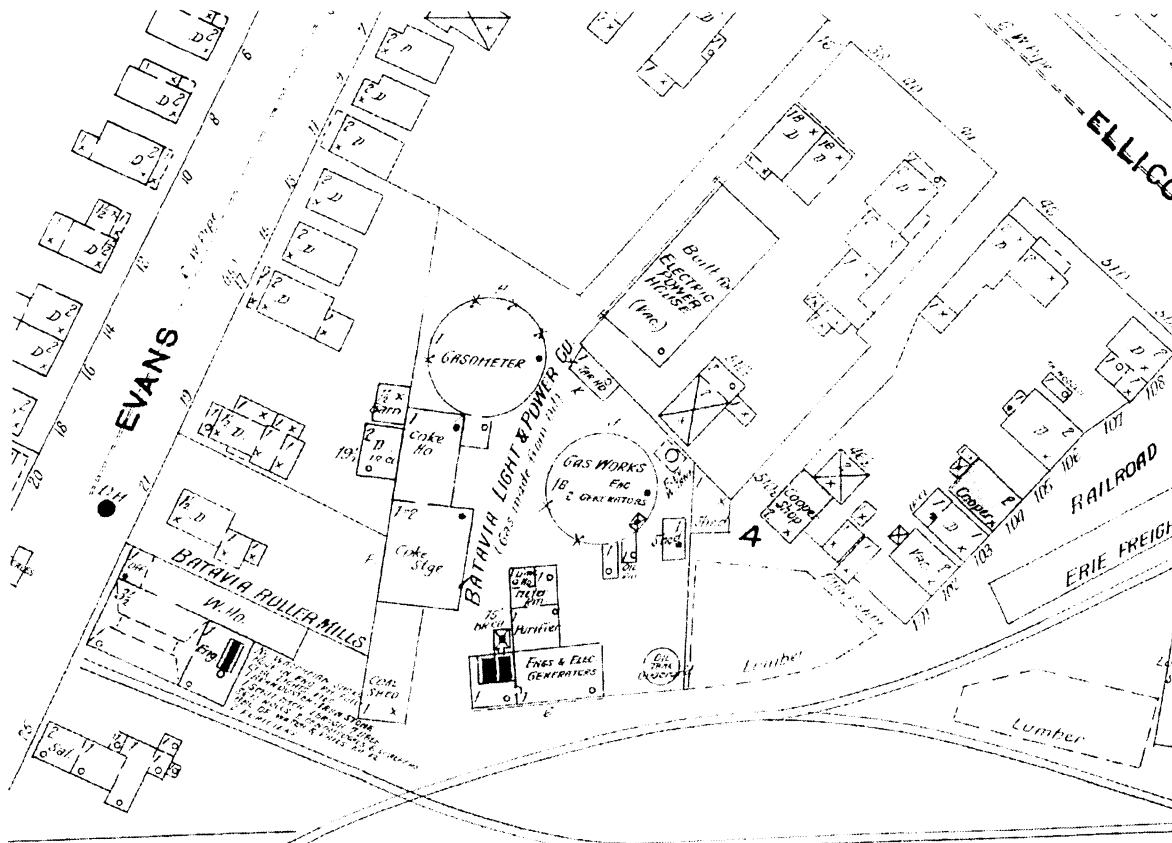
Re: Records Search Reports for Batavia (Site ID 8-19-019)  
and Hornell (Site ID 8-51-032)

Dear Mr. Ottaway:

As requested in NYSDEC's December 2, 2008 letter to National Fuel Gas Distribution Corporation (National Fuel), we are providing to you the following records search reports regarding the Batavia and Hornell former manufactured gas plant sites. Kroll Associates, Inc. (Kroll) assisted National Fuel with the records search for these reports.

#### THE BATAVIA SITE

The Batavia Site is located in a triangle formed by the intersection of Ellicott and Evans Streets, with the Site bordered to the south by railroad tracks that run east-west. There is conflicting information as to whether the Site's address is on Evans Street or Ellicott Street, as it has been referenced as being addressed on both. Property ownership records identify the address as 11 Evans Street (Tax I.D. Number 084.015-1-35), while certain historical directories listed the facility at 27 Ellicott Street. The following represents the Site as it was in 1906, according to the 1906 Sanborn Fire Insurance Map ("Sanborn Map").



### Document Search Process

Kroll's efforts included both computer database research and on-site public records research. In addition, Kroll submitted Freedom of Information Act ("FOIA") and Freedom of Information Law ("FOIL") requests to the relevant agencies seeking documents relating to the Batavia Site and surrounding properties. The following summarizes the sources, agencies and repositories searched by Kroll in connection with its investigation:

#### Historical Reference Documents – Various Repositories

- "Brown's Directory of North American Gas Companies," 1900 to 2002
- "Sanborn Fire Insurance Maps," 1884, 1890, 1896, 1901, 1906, 1912, 1919, 1931, 1948 and 1968
- "United States Geological Service Historical Topographic Maps," 1897, 1904, 1944, 1950, 1951 and 1978

#### Federal Agency Repositories

- Environmental Protection Agency (Region 2)
- United States District Courts

### New York State Repositories

- Department of Environmental Conservation (Region 8)
- New York State Courts
- New York Secretary of State Filings
- New York State Archives
- New York State Museum
- “New York State Public Service Commission Submissions (“NYSPSC”) and Annual Reports,” certain available years

### City of Batavia Repositories

- Batavia Department of Planning
- Batavia History Department (Ruth McEvoy Collection)
- Batavia Fire Department

### Additional Resources

- Online searches for historical directories of Batavia
- “Historical and Statistical Gazetteer of New York State,” 1860 and 1899
- Miscellaneous Business Directories and Criss-cross Directories
- “Our County and its People”
- Rootsweb publications, “Batavia Gas Light Company, Gasholder Houses, Evans & Ellicott Streets, Batavia”
- “Kirwin’s Batavia and Genesee County Directory, 1888-1889”
- Historic American Engineering Record, “The Electrical Engineer: A Weekly Review,” 1984
- “Gazeteer and Biographical Record of Genesee County, NY 1788-1890”
- New York Public Library – Science, Industry and Business Library (searched onsite database for relevant publications and records)
- Manufacturing Directories
- Genesee County Recorder of Deeds
- Miscellaneous Reference Materials and Periodicals
- Historical Aerial Photographs, 1978, 1985, 1995 and 2006

### Records Search Report

The following summarizes the results of Kroll’s Records Search.

1. **Request:** Detail all environmental data and information within Respondent’s possession or control regarding environmental conditions at or emanating from the Site.

**Response:** After a search of the repositories, agencies and resources listed above, Kroll did not identify any information regarding the environmental conditions of the Batavia Site.

2. **Request:** A comprehensive list of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Site and of areas immediately surrounding the

Site which are or might be affected by contamination at the Site, including all available topographic and property surveys, engineering studies, and aerial photographs.

**Response:** The following reports have been identified relevant to the Batavia Site and adjacent properties:

- “Brown’s Directory of North American Gas Companies,” 1900 to 2002
- “Sanborn Fire Insurance Maps,” 1884, 1890, 1896, 1901, 1906, 1912, 1919, 1931, 1948 and 1968
- “United States Geological Service Historical Topographic Maps,” 1897, 1904, 1944, 1950, 1951 and 1978

3. **Request:** Provide a concise summary of information held by Respondent and Respondent’s consultants with respect to:

- i. a history of and description of the Site, including the nature of operations;
- ii. the types, quantities, physical state, locations, methods, and dates of disposal or release of hazardous waste at or emanating from the Site;
- iii. a description of current Site security (i.e. fencing, posting, etc.); and
- iv. the names and addresses of all persons responsible for disposal of hazardous waste, including the dates of such disposal and any proof linking each such person responsible with the hazardous wastes identified.

**Response:**

i. History and Description of the Site

*Property Ownership*

A summary of the property ownership for 11 Evans Street (Tax # 084.015-1-35):

- July 30, 1855 to May 19, 1890: Batavia Gas Light Company
- May 19, 1890 to July 13, 1904: Consolidated Gas and Electric Company
- July 13, 1904 to November 13, 1904: Safford E. North, Referee for Rochester Trust and Safe Deposit Company
- November 15, 1904 to February 15, 1905: Seth W. Warren and Henrietta M. Warren
- February 15, 1905 to February 10, 1910: Batavia Light and Power Company
- February 10, 1910 to February 18, 1910: Seth W. Warren as receiver of Batavia Light and Power Company
- February 18, 1910 to April 28, 1914: William A., John A. and Frank H. Roberts
- April 28, 1914 to November 28, 1924: Roberts Brothers Flour Mills, Inc.

- November 28, 1924 to July 19, 1929: Frank H. Roberts
- July 19, 1929 to October 22, 1930: Howard F. Roberts (Between September 29, 1930 and October 22, 1930, Guy Lown served as the bankruptcy trustee in In Re: Howard F. Roberts.)
- October 22, 1930 to November 3, 1930: Herbert T. Booth
- November 3, 1930 to November 3, 1930: Bank of Batavia
- November 3, 1930 to May 23, 1955: Granger and Company
- May 23, 1955 to July 25, 1983: Granger and Company, Inc. (incorporated as a wholesale grocery company on March 11, 1953)
- July 25, 1983 to May 16, 1985: Henry F. Starowitz and Adeline A. Starowitz (acquired interest in Granger following the company's dissolution)
- May 16, 1985 to January 17, 2001: David and Georgia La Rocco
- January 17, 2001 to present: R&J Enterprises of Batavia LLC

### *Historical Operations*

Records maintained by the New York Secretary of State's office indicate that Batavia Gas Light Company was incorporated in New York on June 11, 1855. "Kirwin's Batavia and Genesee County Directory, 1888-1889" reports that the facility was located at 27 Ellicott Street and eventually became the Batavia Gas and Electric Company. The original gasholder held 13,500 cubic feet. In 1855, the plant served 150 customers and powered twenty street lamps.

In 1878, Batavia Gas and Electric Company built a new gasholder with a capacity of 35,000 cubic feet. The earliest known Sanborn Map, dated 1884, identified the facility as "Gas Works". A coal shed, retort and purifying house are visible in the 1884 Sanborn Map. In 1885, Batavia Gas and Electric Company constructed a new gas works to manufacture gas from crude petroleum.

In 1889, Consumers' Electric Light and Power Company was incorporated in New York. Later, in 1890, Consumers' Electric Light and Power Company purchased the Batavia Gas and Electric Company's plant and the entities were merged into Batavia Gas and Electric Company. Also in that year, Consolidated Gas and Electric Company acquired Batavia Gas and Electric Company.<sup>1</sup> The 1890 Sanborn Map indicates that Batavia Gas Light Company continued to reside on the property. Further outbuildings, including a tar house, are visible on the Sanborn Map.

On December 23, 1904, the Batavia Light and Power Company was organized for the purposes of acquiring all of the assets of Consolidated Gas and Electric Company, which were held by a receiver at the time.<sup>2</sup> Between 1905 and 1909, Batavia Light and Power Company is identified as the owner of the property constituting the Batavia Site, according to

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<sup>1</sup> "The Gazetteer and Biographical Record of Genesee County," New York, June 1890.

<sup>2</sup> Articles of Incorporation of Batavia Light and Power Company.

property records maintained by the Genesee County Recorder of Deeds. The 1906 Sanborn Map identifies Batavia Light and Power Company as the operator. The Sanborn Map of that year also indicates that the plant manufactures gas from oil.

In 1909, Batavia Light and Power Company filed for voluntary dissolution.<sup>3</sup>

At some point in time after 1909, Roberts Brothers Flouring Mills and then Granger and Company took over operation of the buildings and property making up the Batavia Site as reflected in the subsequent Sanborn Maps.

No connection between the Batavia Site and National Fuel, including National Fuel's predecessors-in-interest, was identified.

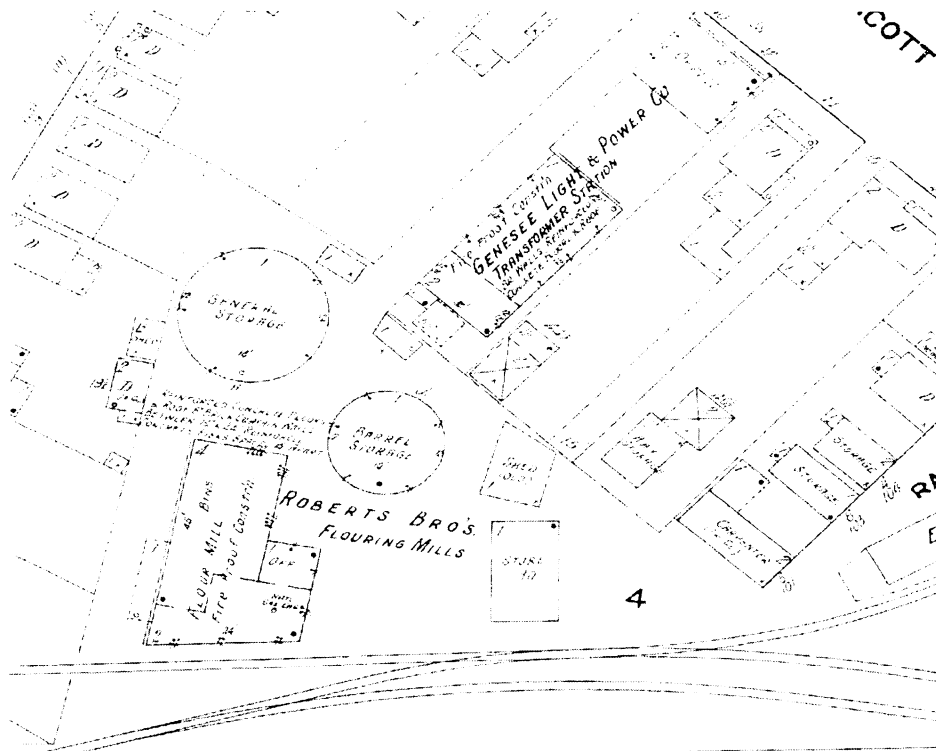
#### *Adjacent Property*

The history of the adjacent property, located on Ellicott Street, indicates that the property was never used to manufacture gas. The earliest corporate entity on the property appears to be Genesee Light and Power Company. The Genesee Light and Power Company was organized in New York State on September 23, 1909. It is registered to do business in Genesee County on September 28, 1909.

The Sanborn Map, below, depicts the Genesee Light and Power Company as it was in April 1912.

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<sup>3</sup> Articles of Dissolution of Batavia Light and Power Company. Note that the New York Secretary of State's corporate index indicates that the company was dissolved by process on December 15, 1932.



On April 26, 1923, Genesee Light and Power Company merged with Western New York Utilities Company Inc. and adopted the name Western New York Utilities Company.

Western New York Utilities Company merged with Niagara Lockport and Ontario Company and became Niagara Lockport and Ontario Company, a division of Niagara Hudson Power Company, on January 3, 1928. The 1931 Sanborn Map shows Niagara Lockport and Ontario Company on the property adjacent to the Batavia Site. The map indicates that the facility is used as an "office, garage and store houses".

No connection between the Adjacent Property and National Fuel, including, its predecessors-in-interest, was identified.

### *Conclusions*

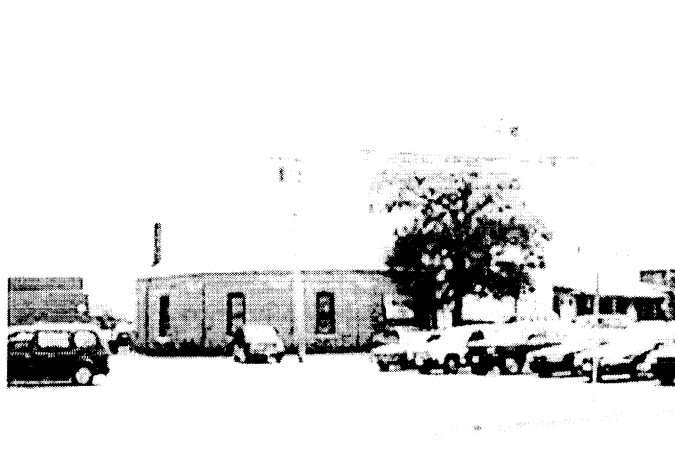
Neither National Fuel nor any of its predecessors-in-interest is affiliated in any way with the Batavia Site or the property adjacent to the Batavia Site, including as past or present owner or operator. As a result, neither National Fuel nor any of its predecessors-in-interest engaged in any operations at the Batavia Site or property adjacent to the Batavia Site that may have resulted in the disposal of hazardous waste at the properties.

### ii. Disposal or Release of Hazardous Waste at or Emanating from the Site

Based on the records review conducted by Kroll, no releases of hazardous substances or disposal of hazardous substances have been identified at or emanating from the Batavia Site.

### iii. A Description of Current Site Security

A visual inspection of the Batavia Site conducted by Kroll did not reveal any physical security measures in place. The Batavia Site is in active use, a doctor's office occupies one of the old gasholders. 17 – 23 Evans Street was designated a historical landmark by the Batavia Historical Society on October 21, 1998. A recent photograph of the Batavia Site, as obtained from an internet-based satellite photograph repository, depicts the Site as it currently stands<sup>4</sup>:



### iv. The Identities of Individuals Responsible for any Releases at the Site

Consistent with the information provided in ii, above, no such individuals have been identified.

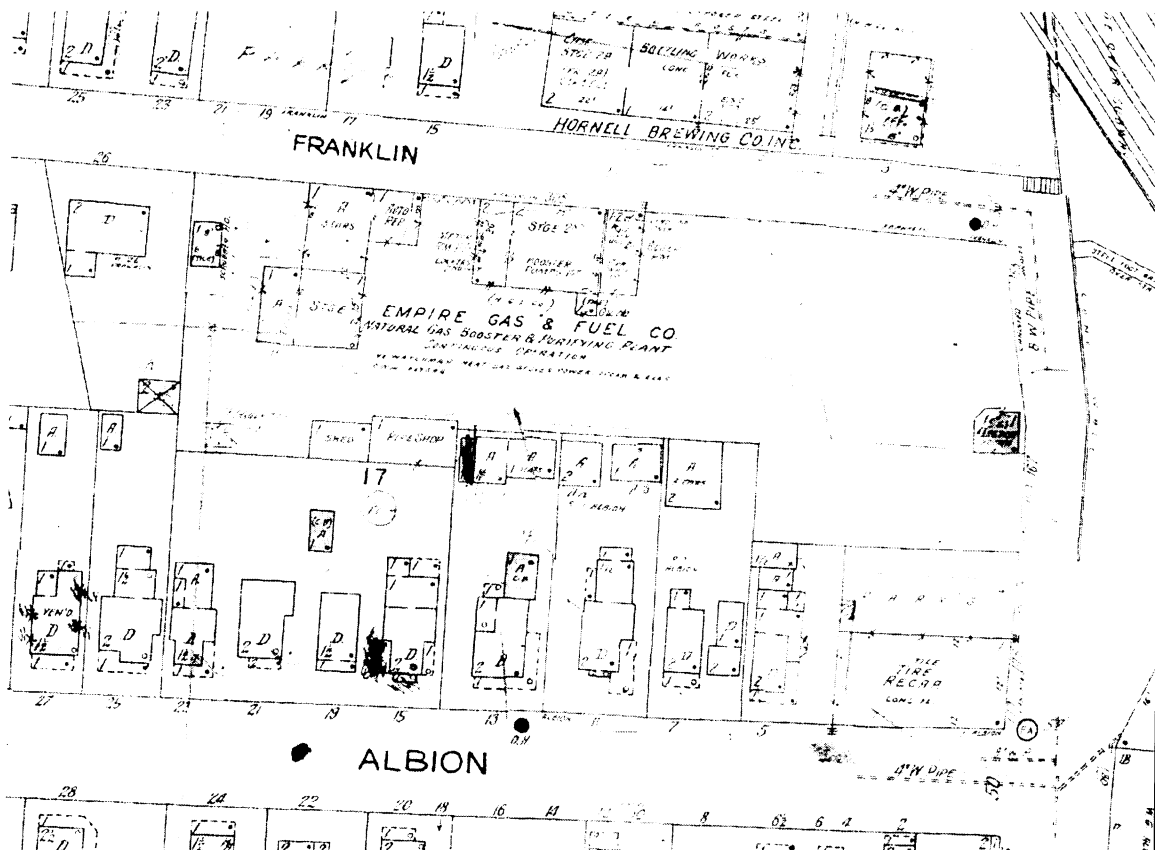
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<sup>4</sup> <http://www.co.genesee.ny.us/dpt/historian/walkingtour.html#Gas>



## THE HORNELL SITE

The Hornell Site consists of multiple parcels of property located on or around Franklin, Canisteo and Albion Streets. The Hornell Site is rectangular, with its long plane running east-west along the south side of Franklin Street. The Hornell Site's eastern-most edge abuts Canisteo Street. There is also an additional smaller rectangular shaped parcel whose orientation is north-south which abuts the south-east portion of the Franklin Street parcels and runs along Canisteo Street, ending at Albion Street. The figure below, taken from a Sanborn Fire Insurance Map ("Sanborn Map"), represents the Hornell Site as it was in 1961.



### Document Search Process

Kroll's efforts included both computer database research and on-site public records research. In addition, Kroll submitted Freedom of Information Act ("FOIA") and Freedom of Information Law ("FOIL") requests to the relevant agencies seeking documents relating to the Hornell Site and surrounding properties. The following summarizes the sources, agencies and repositories searched by Kroll in connection with its investigation:

#### Historical Reference Documents – Various Repositories

- "Brown's Directory of North American Gas Companies," 1900 to 2002

- “Sanborn Fire Insurance Maps,” 1888, 1893, 1898, 1904, 1909, 1915, 1926, 1948, and 1961
- “United States Geological Service Historical Topographic Maps,” 1918, 1967, and 1978

#### Federal Agency Repositories

- Environmental Protection Agency (Region 2)
- United States District Courts

#### New York State Repositories

- Department of Environmental Conservation (Region 8)
- New York State Courts
- New York Secretary of State Filings
- New York State Archives
- New York State Museum
- “New York State Public Service Commission Submissions (“NYSPSC”) and Annual Reports,” certain available years

#### City of Hornell Repositories

- Department of Public Works
- Hornell Community Development
- City of Hornell Tax Assessors Office
- Office of Mayor Sean Hogan
- Hornell Public Library
- Hornell Historical Society
- Hornell Fire Department

#### Additional Resources

- Online searches for historical directories of Hornell
- “Historical and Statistical Gazetteer of New York State,” 1860 and 1899
- “The Manual of Statistics, Stock Exchange Hand Book,” 1912
- “Obsolete American Securities and Corporations, Second Volume,” 1911
- “National Gas and Gasoline Journal,” 1918
- “American Gas Association Monthly,” 1922
- Manufacturing Directories
- Miscellaneous Reference Materials and Periodicals
- Historical Aerial Photographs, 1963, 1985, 1994 and 2006
- Miscellaneous Business Directories and Criss-cross Directories

### **Records Search Report**

The following summarizes the results of Kroll’s Records Search.

1. **Request:** Detail all environmental data and information within Respondent’s possession or control regarding environmental conditions at or emanating from the Hornell Site.

**Response:** Kroll's efforts have identified the following information regarding the Hornell Site and neighboring properties:

- "Phase 1 Environmental Site Investigation", prepared for the City of Hornell Department of Public Works, in approximately November 1989. Although no report has been identified to date, sampling and analysis of part of the Site was undertaken by a contractor for the City of Hornell in connection with a soil excavation project.
  - "Phase II Investigation of Proposed Comfort Inn Site," June 1990. The report, prepared on behalf of the City of Hornell's Department of Public Works, contains the results of two rounds of sampling of four groundwater wells on and around the Hornell Site and the area of the then proposed Comfort Inn location. In addition, the report contains maps, photographs and other information regarding the proposed Comfort Inn site.
  - NYSDEC, Spill Report No. 8907303 docket sheet and underlying documents as maintained by the NYSDEC.
  - Letter dated May 22, 1990 from Peter R. Miller, Assistant Engineering Geologist, Bureau of Spill Prevention Response, NYSDEC to Mr. David Oakes, Superintendent, Hornell Department of Public Works regarding Spill No. 8900703 [sic] indicating that "no further remedial action was required."
  - Notes of meeting with Hornell Mayor Sean Hogan.
2. **Request:** A comprehensive list of all existing relevant reports with titles, authors, and subject matter, as well as a description of the results of all previous investigations of the Site and of areas immediately surrounding the Site which are or might be affected by contamination at the Site, including all available topographic and property surveys, engineering studies, and aerial photographs.

**Response:** The following reports have been identified relevant to the Hornell Site and adjacent properties:

- NYSDEC Spill Report, Spill No. 8907303, October 20, 1989. According to the NYSDEC's *Spill Report Form*, a spill was reported on October 18, 1989. The Spill Report states that "an environmental assessment shows petro contamination in soil borings near groundwater level". The Spill Report resulted in the Phase I and Phase II Environmental Site Investigations undertaken by the City of Hornell and their environmental contractors.
- "Phase 1 Environmental Site Investigation", prepared for the City of Hornell Department of Public Works, in approximately November 1989. Although no report was compiled, data obtained from the environmental contractor, North State Consultants (a former subsidiary of LaBella), 300

State Street, Rochester, New York 14614, and from the NYSDEC, indicate that a number of PID readings were taken from two soil piles that were excavated from a 50' by 60' area between Spruce and Albion Streets along Canisteo Street.

Documents provided by North State Consultants relate that air monitoring was done of the excavated hole and grab samples were taken from the excavated soil piles to the north and south of the excavated hole. Twenty-seven air monitoring readings were taken and all but four showed "background readings". The range of the four photoionization readings that tested positive was between 0.4 ppm and 4.0 ppm. Photoionization readings were taken of approximately twenty grab samples taken from the soil piles in a random grid pattern. All of these readings were negative.

Composite soil samples were taken from the soil samples and assigned sample numbers S-1 and S-2. These samples were analyzed by General Testing Corporation of Rochester, New York. The results of the two samples showed ignitability readings greater than 80 degrees Celsius. The results for petroleum hydrocarbons, using gas chromatography, showed levels of N-dodecane at 2000 ppb.

In addition to the testing described above, seven borings were drilled between October 16, 1989 and October 18, 1989. These borings were labeled B-1 through B-7. According to a map done of the boring, samples B-6 and B-7 were the north-west-most borings made. The map indicates that these two borings would have been to the west and slightly south of the largest gasholder that formerly occupied the Hornell Site. Visual soil characterizations of these two borings, as noted on the boring logs, indicated the presence of petroleum odor, sheen and product in three of the seven borings.

A handwritten note, drafted by an unknown individual, dated November 1, 1989, appears to have reported a conversation between the note's author and NYSDEC's Peter Miller. The note seems to imply that Miller stated "more investigation is required" of the area. In addition, Miller, according to the notes, "would 'like to see' at least one well installed".

- "Phase II Environmental Site Investigation, Comfort Inn, Hornell, New York," prepared for the City of Hornell Department of Public Works, June 1990. The report was prepared by North State Consultants (a former subsidiary of LaBella), 300 State Street, Rochester, New York 14614.

The Phase II investigation commenced on April 10, 1990 with the installation of four groundwater wells labeled GW-1 through GW-4. Groundwater well GW-1 was located to the west of the former 500,000 cubic feet gasholder which was situated at the corner of Franklin and Canisteo Streets. The remaining three wells, GW-2, GW-3 and GW-4, were situated between Albion and Spruce Streets. GW-2 was located closest to GW-1.

According to a map dated April 1990, generated during the course of the investigation, the groundwater flow was generally north-west to south-east or flowing in the approximate compass direction of 120 degrees. A groundwater map dated May 1990, indicates that the groundwater flow turned in a more southerly direction.

Two rounds of groundwater samples were initiated and samples were collected on April 18, 1990 and May 2, 1990. The results of the first round of sampling, according to the final report dated June 1990, found that "all of the samples collected exceeded NYSDEC and New York State Department of Health ("NYSDOH") water quality limits for all analysis detected in each sample." The results of the analyses of the samples collected on April 18, 1990 samples, as reported in the final report , were as follows:

<u>Location</u>	<u>Analysis Type</u>	<u>Results (ppb)</u>
GW-1	Petroleum Hydrocarbons	685.0 - N-dodecane
	HSL Volatiles	95.7 - Acetone
		286.0 - Benzene
		8.06 - Toluene
		64.1 - Ethylbenzene
		8.70 - m-Xylene
		38.7 - O+P-Xylene
GW-2	Petroleum Hydrocarbons	41,200 - Gasoline
	HSL Volatiles	349.0 - Ethylbenzene
		37.6 - Styrene
		1330.0 - m-Xylene
		699.0 - O+P-Xylene
GW-3	Petroleum Hydrocarbons	None above detection limit
	HSL Volatiles	132.0 - Acetone
GW-4	Petroleum Hydrocarbons	None above detection limit
	HSL Volatiles	148.0 - Acetone

The results of the analysis of the samples collected on May 2, 1990, as reported in the final report dated June 1990, were as follows:

<u>Location</u>	<u>Analysis Type</u>	<u>Results (ppb)</u>
GW-1	Petroleum Hydrocarbons	464.0 - N-dodecane
	HSL Volatiles	19.5 - Acetone
		171.0 - Benzene
		32.6 - Ethylbenzene
		3.1 - m-Xylene
		12.3 - O+P-Xylene
GW-2	Petroleum Hydrocarbons	47,400 - Gasoline
	HSL Volatiles	65.0 - Trichloroethane
		345.0 - Ethylbenzene
		1260.0 - m-Xylene
		678.0 - O+P-Xylene
GW-3	Petroleum Hydrocarbons	None above detection limit
	HSL Volatiles	None above detection limit
GW-4	Petroleum Hydrocarbons	None above detection limit
	HSL Volatiles	None above detection limit

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The results of the Phase II environmental investigation were forwarded to the NYSDEC. On May 22, 1990, Peter R. Miller, Assistant Engineering Geologist, Bureau of Spill Prevention and Response wrote to David Oakes, Superintendent, Hornell Department of Public Works. In the letter, Miller stated:

“The Department is in receipt of the site map and groundwater analytical results for the above spill site. These data indicate low

levels of dissolved gasoline components are present in low concentrations in two of the four wells on the site. However, the two down-gradient wells show no evidence of gasoline contamination. As contamination was detected in low levels and only in the up-gradient wells, no further remedial action is required by the Department at this time.”

- “Sanborn Fire Insurance Maps,” 1888, 1893, 1898, 1904, 1909, 1915, 1926, 1948, and 1961.
  - “United States Geological Service Historical Topographic Maps,” 1918, 1967, and 1978.
  - Historical Aerial Photographs, 1963, 1985, 1994 and 2006.
  - “Brown’s Directory of North American Gas Companies,” 1900 to 2002.
3. **Request:** Provide a concise summary of information held by Respondent and Respondent’s consultants with respect to:
- i. a history of and description of the Site, including the nature of operations;
  - ii. the types, quantities, physical state, locations, methods, and dates of disposal or release of hazardous waste at or emanating from the Site;
  - iii. a description of current Site security (i.e. fencing, posting, etc.); and
  - iv. the names and addresses of all persons responsible for disposal of hazardous waste, including the dates of such disposal and any proof linking each such person responsible with the hazardous wastes identified.

**Response:**

i. History and Description of the Site

*The Site and Property Ownership*

The Hornell Site is composed of eight individual parcels of property. Property encompassing the Hornell Site was purchased by Hornell Gas Light Company in 1894. In 1980, National Fuel conveyed the property encompassing the Hornell Site to the City of Hornell.

The City currently owns a portion of the Site, while Maple City Lodging Partnership, the owner of the Comfort Inn, owns the balance of the Hornell Site.

*Site Operations*

The earliest information regarding the operations of the Hornell Site comes from a Sanborn Map dated 1888. The 1888 Sanborn Map indicates that a company called “Hornellsville Gas Works” was located on the Site at the time. The Sanborn Map includes the following buildings: a coal shed, coal storage, a purifying building and 12 retorts. A single gasometer is visible on the map, just south of the main buildings.

There is no indication from the map or NYSPSC documents that the facility was in operation in 1888. In addition, Kroll found no information that

indicates a connection between an entity named Hornellsville Gas Works and any of National Fuel's predecessors-in-interest.

On June 23, 1894, the Hornell Gas Light Company was incorporated.<sup>2</sup> The Hornell Gas Light Company is the earliest known predecessor-in-interest to National Fuel that occupied the Hornell Site.

In the Sanborn Map dated July 1898, a second, slightly smaller gasometer is visible to the east of the gas plant along Franklin Street. The Sanborn Map indicates that the initial larger gasometer was no longer used by July 1898. In addition, the structures labeled as "Coal Shed" and "Coal Storage" along Franklin Street were changed to "Purifiers" and "Meter", respectively, likely indicating a change in the manufacturing process or a termination of operations all together, presumably in conjunction with Hornell Gas Light Company's occupation of the Hornell Site.

The Sanborn map dated 1904 indicates that the facility is "Not in Operation". The structure labeled as "Retort" is labeled "No Longer in Use", indicating that manufacturing on the Hornell Site ceased at some point in time between 1894 and 1904. Based upon the July 1898 Sanborn Map, it is likely that these operations ceased closer to 1894 because, as noted above, the buildings formerly labeled "Coal Shed" and "Coal Storage" are no longer labeled as such. The newer, eastern most gasometer is now labeled "Iron Gasometer – Natural Gas", further indicating a change in process, commensurate with Hornell Gas Light Company's presence at the Hornell Site.

In 1909, the facility continues to be inoperative, according to the Sanborn Map for that year.

The 1915 Sanborn Map indicates that the structure that formerly housed the retort was converted to a garage. In addition, the purifying house, the largest building on the property, is labeled as "Not Used". The first gasometer on the Hornell Site is labeled "To be Removed". The Sanborn map also continues to identify the Hornell Gas Light Company as "Not in Operation".

Beginning in 1926, the facility seems to have undergone a renovation and transformation. Records submitted to the NYSPSC indicate that a new gasometer was installed in the far northeast corner of the Site near the corner of Franklin and Canisteo Streets, where a home formerly existed. The gasometer was installed by Stacey Brothers Gas Construction Company of

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<sup>2</sup> Articles of Incorporation of Hornell Gas Light Company, June 23, 1894. Investigation into Hornell Gas Light Company's corporate history continues. In 1906, the Associated Gas and Electric Company (AGEC) was organized - a holding company consisting of Ithaca Gas Light Company (which was formed in 1852) and the assets it had acquired, including Hornell Gas Light Company. Between 1906 and 1914, Hornell Gas Light Company was listed as a subsidiary of AGEC. AGEC apparently "sold its securities" in Hornell Gas Light Company in 1914. In 1930, AGEC filed for bankruptcy and was subsequently reorganized by the Federal Bankruptcy Court and forced to split into pieces. One of the pieces became New York State Gas and Electric Company and another became General Public Utilities Corporation.



Cincinnati, Ohio and had a capacity of 500,000 cubic feet.<sup>3</sup> Additionally, in a submission provided to the NYSPSC, Hornell Gas Light Company reports that additional equipment, including boilers, gas engines, blowers and other equipment, were installed at the facility between 1926 and 1933.<sup>4</sup> The 1926 Sanborn map reflects that the “Purifying House” is “Not Used”. The second gasometer on the Hornell Site, the one installed around 1898, appears to have been removed from the property at some point in time between 1915 and 1926.

Documents submitted by Hornell Gas Light Company to the NYSPSC indicate that Hornell Gas Light Company produced oil gas between 1926 and 1931, and 32 days in 1932. The facility appears to have operated exclusively as a gas distributor thereafter.

On October 23, 1941, Hornell Gas Light Company was merged into the Empire Gas and Fuel Company, Ltd.<sup>5</sup> According to the certificate of merger, Empire Gas and Fuel Company, Ltd. was to acquire and “be possessed of all the estate, property, rights, privileges, and franchises of the Hornell Gas Light Company” and was to “assume all of Hornell Gas Light Company’s obligations.”<sup>6</sup> The name of the merged company was “Empire Gas and Fuel Company, Ltd.”. The operations at the time were limited to distribution.

The Sanborn Map dated 1948 depicts Empire Gas & Fuel Company as the operator of the facility. A notation below the company’s name states, “Natural Gas Booster & Purifying Plant”. “Booster Pumps” occupy the building where the “Purifying House” may have operated many years before.

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<sup>3</sup> The “American Trade Index,” published by the National Association of Manufacturers of New York for the years 1917 – 1918, identify Stacey Brothers Gas Construction Company as a builder and installer of “gas works machinery, gas holders, oil storage tanks, water storage tanks and coal carbonizing plants”.

<sup>4</sup> The submission to the NYSPSC by Hornell Gas Light Company was for the year 1942. The submission indicates that the facility was an “oil gas plant” and that the last date of gas manufacturing was March 1932.

<sup>5</sup> The Empire Gas and Fuel Company, Ltd., was incorporated on July 31, 1885. A separate entity, with a similar name, Empire Gas and Fuel Company, was incorporated on May 29, 1885. Both entities would eventually become part of National Fuel. On June 13, 1966, Empire Gas and Fuel Company is merged into United Natural Gas Company. The merger agreement indicates that all of the “rights, privileges, franchises, and property, real, personal and mixed, now of Empire Gas and Fuel Company shall vest in” the United Natural Gas Company. (See, Certificate of Merger between United Natural Gas Company and Empire Gas and Fuel Company, October 26, 1965.) The merger agreement contained a rider, which indicated that at the time of the merger between Empire Gas and Fuel Company and United Natural Gas Company, National Fuel Gas Company owned all of the outstanding shares of both entities. The appropriate regulatory approval was obtained and the merger was finalized June 13, 1966.

<sup>6</sup> Certificate of Merger of the Hornell Gas Light Company with the Empire Gas and Fuel Company, Ltd., October 23, 1941.

In approximately 1955, the 500,000 cubic feet gasometer, located on the north east corner of the Site, was removed. The facility ceased operations around or prior to that time.

Empire Gas and Fuel Company, Ltd. merged with Iroquois Gas Corporation on October 29, 1963. Records filed with the New York Secretary of State's office indicate that National Fuel Gas Company is the "holder of record of all outstanding shares of Iroquois Gas Corporation and Empire Gas and Fuel Company, Ltd."

According to Mayor Hogan, the current Mayor of the City of Hornell, the spot previously occupied by the 500,000 cubic feet gasometer was known as "the Franklin Street playground" in the 1970s. Mayor Hogan recalled that the paved circle that outlined the former gasometer would be flooded with water by the town and turned into an ice skating area.

The brick structures that formerly occupied the portion of the Hornell Site along the south side of Franklin Street were torn down by the City of Hornell as part of a "community development project" in the 1970s.<sup>7</sup>

In 1980, the property on which the gas plant sat was conveyed to the City of Hornell. Thereafter, five underground storage tanks, two of which were located between Albion and Franklin Streets, along Canisteo Street, were removed. It is not known who owned these underground tanks, but there is no information identified to date that suggests any of the operations of the natural gas plants involved any of the tanks.

That part of the Hornell Site that runs north-south along Canisteo Street was purchased by the Maple City Lodging Partnership ("MCLP") from the City of Hornell in the early 1990s. In 1994, MCLP erected a Comfort Inn on the Site. The western half of the Hornell Site, that part of the property which runs east-west along Franklin Street, is currently vacant and has been since the structures were removed in the 1970s.

### *Adjacent Properties*

#### *Brewery*

The property across Franklin Street, directly to the north of the Hornell Site, was owned and operated by Schwarzenbach Brewing Company, a manufacturer of beer and other consumables. The brewery operated between 1895 and 1920 and utilized coal, gas, steam and electricity to operate.

The brewery closed in 1920, but reopened in 1934 as the Hornell Brewing Company. In 1960, the brewery was purchased by the Mertopolis Brewery of

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<sup>7</sup> According to Mayor Hogan, Franklin Street was designated a "target area" for redevelopment and was therefore eligible for a Community Development Block Grant in the 1970s. The property was purchased by the City of Hornell for future use. The grant allowed the City of Hornell to tear down and remove the buildings associated with the gas plant that formerly occupied the Site.

New Jersey. The brewery closed in 1964 and its operations were moved to Baltimore, Maryland.

#### *Dry Cleaners*

Between 1900 and at least 1961, a dry cleaning facility operated between Albion and Spruce Streets, one block south of the Hornell Site. The southern half of the Comfort Inn now sits where the dry cleaners once was. The three underground storage tanks removed by the City of Hornell in the 1980s may have been associated with the dry cleaning operations.

#### *Spruce Street Industrial Complex*

One block south of Albion Street, along Canisteo Street, is Spruce Street. Between 1900 and 1932, the Merrill Silk Company operated along the south side of Spruce Street. The company was engaged in the manufacture of silk products, including gloves, scarves, hosiery, lingerie and underwear. The facility engaged in all facets of silk manufacturing, including weaving, dyeing, cleaning and packaging.

In 1939, the facility was purchased by Hornell Industries. Hornell Industries operated a printing and dyeing plant on the property until 1943, when their activities were moved to Mexico.

The property was acquired by Chapman Transmission Company which manufactured motor vehicle transmissions on the property until the early 1960s. In 1961, the property was acquired by the Hornell Development Company and then by the City of Hornell in 1978.

#### *Car Dealership and Garage*

According to Mayor Hogan, a car dealership and garage occupied the property located at the corner of Albion and Canisteo Streets. While neither the 1948 nor the 1961 Sanborn Maps show a car dealership, the building located at the corner is identified as "Sheet Metal Works" in the 1948 map and "Tire Recap" in the 1961 Sanborn.

#### *Conclusions*

Kroll has reviewed and analyzed all of the documentation obtained to date regarding the Hornell Site's history, operations and ownership. Kroll has found no information to suggest that National Fuel or any predecessor-in-interest caused or contributed to the release of any substance regulated by NYSDEC, on or adjacent to the Hornell Site.

Further, it appears that MGP operations at the Hornell Site pre-date the earliest identified Sanborn Map dated 1888, and National Fuel's involvement at the Site did not begin until its predecessor-in-interest, Hornell Gas Light Company, was incorporated and took over operations at the Site some time after July 1894. Based upon a review of the Sanborn Maps and other data, Hornell Gas Light Company may have never operated the Site as a coal gas

manufacturing facility as evidenced by the changes to the facility depicted in the 1898 Sanborn Map. Furthermore, it appears that all operations at the Site ceased for some length of time, beginning at some point prior to the Sanborn Map dated 1904, which depicts the plant as “Not in Operation”.

Between 1926 and 1928, the operations at the Hornell Site appear to have undergone further transformation. Numerous pieces of equipment were installed at the facility beginning in 1926, with an apparent focus on the purification of oil gas. New engines, boilers, boosters, and a 500,000 cubic feet gasometer were installed.

Records indicate that gas was last manufactured at the Hornell Site in March 1932, at which time the facility switched over to exclusively distributing “mixed or natural gas,” and equipment such as “scrubbers and the boiler were scrapped”. A new boiler was installed in 1933 for this purpose.

Finally, the results of the two environmental investigations at the Hornell Site characterizing the nature and extent of the contamination of the Site and surrounding property limit the known contaminants to gasoline and other fuel contaminants, including N-dodecane, Benzene, Ethylbenzene and Xylene. The known contaminants at the Site and to the southeast of the Hornell Site are consistent with the operations of a garage, car dealership and underground storage tanks, which formerly occupied parts of the Hornell Site.

ii. Disposal or Release of Hazardous Waste at or Emanating from the Site

The only spill or release at or emanating from the Hornell Site identified to date relates to the spill reported on or around October 18, 1989, as reported in the NYSDEC’s Spill Report, Spill No. 8907303.

According to a media report dated November 17, 1989, the spill was discovered during the excavation of soil in preparation of the construction of the Comfort Inn planned for the lot. During the excavation, “soil deposits with a strong smell of petroleum and gasoline” were discovered, said the report. The report stated that “the likely source of the oil was underground storage tanks that were removed by the city after demolishing building on the parcel during the acquisition of the property between 1975 and 1978.” The article reported that a car dealership and garage formerly occupied the land there. We note that as many as five underground storage tanks may have been removed from the property between Spruce and Franklin Streets.

As described above, in the responses to Requests 1 and 2, two environmental studies were undertaken and one final report generated as part of the evaluation of the release and in preparation for the construction of the Comfort Inn.

Notably this release appears to have been resolved on or about May 22, 1990, with a letter from Peter R. Miller, Assistant Engineering Geologist, Bureau of Spill Prevention and Response to David Oakes, Superintendent, Hornell Department of Public Works, in which Miller stated:

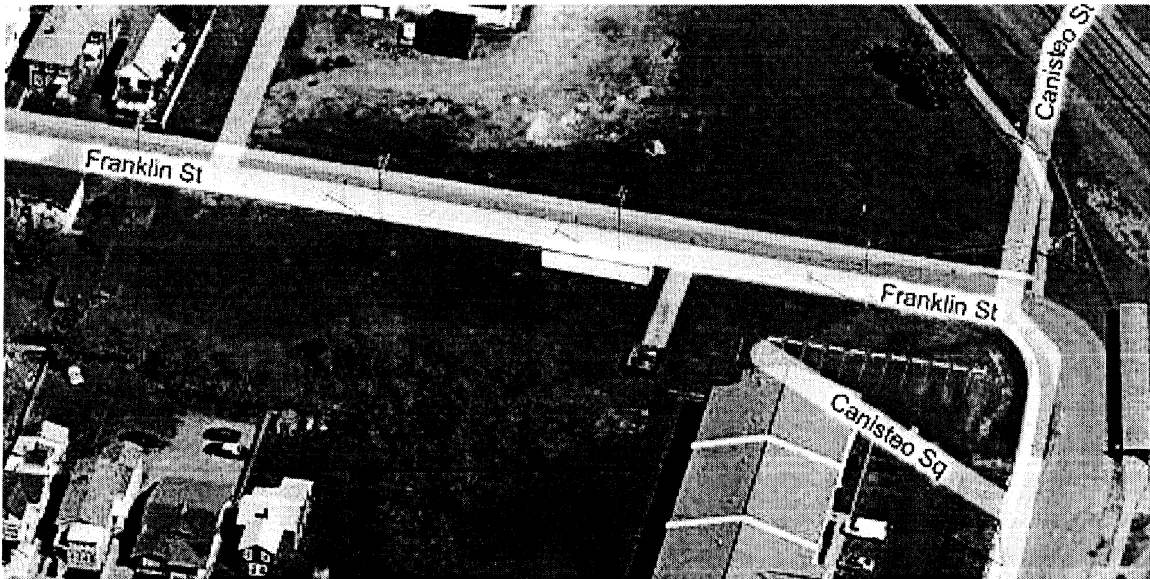
“The Department is in receipt of the site map and groundwater analytical results for the above spill site. These data indicate low levels of dissolved

gasoline components are present in low concentrations in two of the four wells on the site. However, the two down-gradient wells show no evidence of gasoline contamination. As contamination was detected in low levels and only in the up-gradient wells, no further remedial action is required by the Department at this time.”

To date, no other releases of hazardous substances or disposal of hazardous substances have been identified at or emanating from the Hornell Site.

iii. A Description of Current Site Security

A visual inspection of the property did not reveal any physical security measures in place at the Hornell Site. We note that the Hornell Comfort Inn occupies a portion of the Hornell Site, while the remaining portion of the Site is vacant. A recent photograph of the Hornell Site, as obtained from an internet-based satellite photograph repository, depicts the property as it currently stands:



iv. The Identities of Individuals Responsible for any Releases at the Site

Consistent with the information provided in ii, above, the identity of the party responsible for the release/spill documented in NYSDEC Spill Report, Spill No 8907303 remains unknown. The Spill Report indicates that the responsible party is unknown. The likely source of contamination, according to media reports and the Phase I and Phase II Environmental Site Investigations, is the car dealership and garage formerly situated on the property where as many as five underground storage tanks were removed.

## CONCLUSION

The records search does not provide any evidence of a release or disposal of waste at either Batavia or Hornell – and, therefore, no ownership or operation of either site at the time of a release or disposal – by National Fuel or its predecessors-in-interest.

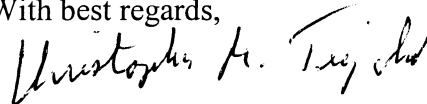
Based on the records reviewed by Kroll, it is clear that National Fuel does not have any connection to the Batavia Site.

Regarding Hornell, although National Fuel is connected to the site through its predecessor companies, Kroll's records search did not identify any known MGP wastes on the site. The Sanborn Maps indicate that MGP operations may have occurred prior to Hornell Gas Light Company acquiring the premises, and it seems that Hornell Gas Light Company used the gas works as part of its "natural" gas distribution operations. After Hornell Gas Light Company acquired the property, the Sanborn Maps indicate that various facilities are not in use or the plant is not in operation. Notably absent from the 1926 Sanborn Map are retorts, an operating purifier, and a coal/coke shed or large oil tank. The 1948 Sanborn Map refers to the plant as "**Natural Gas** Booster and Purifying Plant" (emphasis added). As a result, National Fuel's predecessors-in-interest appear to have acquired the Hornell site after MGP operations ceased and MGP wastes were disposed of, if any such disposal in fact occurred, and National Fuel does not currently own the Hornell Site.

In sum, based on the records provided through Kroll's search to date, National Fuel has concluded it is not a responsible party for the disposal of hazardous waste which constitutes a significant threat to human health or the environment at either the Batavia Site or the Hornell Site, and National Fuel reserves all of its rights in that regard. National Fuel may conduct additional research into records regarding the Batavia Site and Hornell Site, and therefore, may supplement these reports with additional information.

Please feel free to call me at (716) 857-7735 if you have any questions regarding these reports.

With best regards,



Christopher M. Trejchel  
*Assistant General Manager*

CMT/gld

Cc: P. M. Ciprich, Esq.  
S. J. Mugel, Esq.  
J. L. Greenthal, Esq.  
T. B. Alexander  
M. Lesser, Esq., NYSDEC  
G. Sutton, NYSDEC Region 9  
B. Putzig, NYSDEC Region 8  
G. Laccetti, NYSDOH  
R. Fedigan, NYSDOH