

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Modification to a Consent Order for
Development and Implementation
of a Remedial Program for an
Inactive Hazardous Waste Disposal
Site under Article 27, Title 13
of the Environmental Conservation Law
by

National Fuel Gas Distribution Corp.

Respondent.

**ORDER ON CONSENT
MODIFICATION**

Index #B9-0577-00-05(A)

WHEREAS, the New York State Department of Environmental Conservation ("Department") is responsible for enforcement of the Environmental Conservation Law and such law provides the Department authority to enter into this Modification to an Order on Consent ("Modification");

WHEREAS, the Department and National Fuel Gas Distribution Corp. ("Respondent") entered into an Order on Consent ("Order"), dated January 27, 2005, for performance of a remedial program at property described as Operable Unit-2B ("OU-2B") and Operable Unit-2C ("OU-2C") of the National Fuel Gas Buffalo Service Center Site. A copy of the Order is attached to this Modification as Exhibit "A" and is incorporated into this Modification;

WHEREAS, Paragraph 2 of the Order describes the "Site" as follows:

The Site is described as Operable Unit-2B ("OU-2B") and Operable Unit-2C ("OU-2C") of the National Fuel Gas Buffalo Service Center Site which is the subject of Voluntary Cleanup Program Agreement ("Voluntary Agreement") Index Number B9-0577-00-05, December 11, 2000 ("Site"). The Site is more particularly described in Exhibit "A" which is a map of the Site.

WHEREAS, Respondent has requested pursuant to Paragraph XII.G.2.i of the Order to redefine the Site thereunder by expanding the Site to include a portion of Operable Unit-2A ("OU-2A") of the Voluntary Agreement.

WHEREAS, Respondent agrees to be bound by the terms of this Modification and consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Modification and agrees not to contest the validity of this Modification.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT THE ORDER WILL BE MODIFIED AS FOLLOWS:

I. Paragraph 2 of the Order is hereby modified to read as follows:

National Fuel Gas Distribution Corp. is a public utility corporation with its principal offices at 6363 Main Street, Williamsville, New York ("Respondent"). Respondent is the successor to the former operator responsible for the manufactured gas operations which were conducted adjacent to the Site. The Site is described as Operable Unit -2B ("OU-2B"), Operable Unit-2C ("OU-2C") and the northern-most section of the Operable Unit-2A ("OU-2A") area that is in approximate alignment with the Wilkeson slip, of the National Fuel Gas Buffalo Service Center Site which is the subject of Voluntary Cleanup Program Agreement Index Number B9-0577-00-05, December 11, 2000 ("Site"). The Site is more particularly described in Exhibit "B" which is a map of the Site.

II. Exhibit "B" of this Modification includes a map of the redefined Site which shall replace the map in Exhibit "A" to the Order.

III. This Modification shall control to the extent of a conflict between the provisions hereof and those of the Order. Except as provided in this Modification, the Order and the documents related thereto, shall continue in full force and effect.

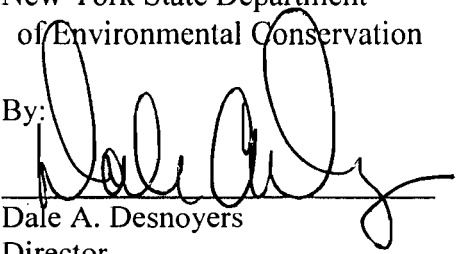
IV. No term, condition, understanding or agreement purporting to modify this Modification shall be binding unless subscribed to by both parties in accordance with the term of the Order.

V. The effective date of this Modification shall be the date on which it is signed by the Commissioner or the Commissioner's designee.

DATED: **AUG 31 2005**

Denise M. Sheehan
Acting Commissioner
New York State Department
of Environmental Conservation

By:


Dale A. Desnoyers
Director
Division of Environmental Remediation

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Modification, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Modification.


By: P. M. Ciprich
National Fuel Gas Distribution Corp. *pmc*
P. M. Ciprich

Title: Assistant Secretary & General Counsel

Date: August 17, 2005

[illegible]

On the 17th day of August, in the year 2005, before me, the undersigned, personally appeared Paula Ciprich, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Signature and Office of individual
taking acknowledgment

My Commission Expires 4.18.06