

DW 09-213

November 27, 2009

Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, NH 03301-2429



To the board,

As you are aware, Gina and I experienced a sewer backup July 20-21, 2008. We strongly believe that the responsibility falls on Eastman Sewer Company and are confident that the evidence we have provided the Public Utilities Commission proves this. Given the fact that our elevations are adequate and that our first attempt to clear the blockage failed, because RotoMan's snake was only 100 feet long and they had to return the following day to jet the line, and as stated in their bill our line is clear of obstructions, the blockage occurred at the main. These facts and the history of sewer malfunctions in Eastman should provide reasonable evidence that Eastman Sewer is responsible. Richard Hautaniemi of Construction Strategies LLC has agreed to attend the hearing as a witness.

Sincerely,

Joel Hutchins

Construction Strategies, LLC

Planning, Management & Technical Consulting

P. O. Box 1853
Grantham, NH 03753

603-863-8357
constrat@earthlink.net

21 October, 2008

Joel and Gina Hutchins
3 Robin Lane
Grantham, NH 03753

Brian Harding, General Manager
Eastman Sewer Company
PO Box 470
Grantham, NH 03753

Re: Sewer Backup Complaint

Dear Mr. and Mrs. Hutchins and Mr. Harding,

In assisting Mr. and Mrs. Hutchins with the above complaint, I have prepared answers to the following questions that have been posed to the Hutchins as a result of their complaint. My answers come from viewing the property on the day of the incident. I would like to add that I have extensive experience with installing much of the infrastructure of the Eastman Community having been involved with the project since it began. As such, I am very familiar with the sewer system, as well as other developmental aspects of the community.

Question 1-9 Richard Hautaniemi, General Manger of Construction Strategies, LLC, a construction management company specializing in permitting, property development and environmentally sensitive building.

Question 1-10 (a) 130' from invert out at foundation and down slope.

Elevations:	First floor	101.00
	Foundation top of wall	100.00
	Invert out at foundation	96.39
	Invert of main at SMH	92.43
	Rim of SMH	98.70

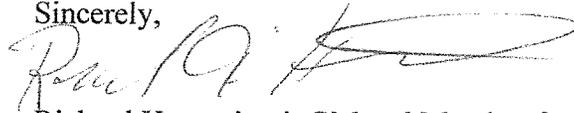
(b) 3:00 pm July 22, 2008

(c) Approximately 15 minutes, the cover was sealed closed by sand, silt and corrosion.

(d) It appeared that the effluent had reached the top of the manhole and settled to a level approximately .5' below the rim and was continuing to drop. It further appeared that the manhole rim had been damaged by a grader or snow plow; the brick work for grade adjustment had been damaged and a brick and other material had dropped into the invert.

(e) The manhole cover was cemented to the rim by sand, silt and corrosion. It did not appear to have overflowed due to the natural seal we encountered.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Hautaniemi". The signature is written in a cursive style with a large, sweeping flourish at the end.

Richard Hautaniemi, GM and Member for
Construction Strategies, LLC



Regional Corporate Offices
 PO Box 110 Sanbornton, NH 03269
 528 County Rd, New London, NH 03257

Contract 13694

Service Date
 Month: 7, Day: 21, Year: 03

Customer's Name: Juel Hutchins Home Phone: 603 454-7125
 Service Address: 3 Robin Lane Apt#: _____ Cell Phone: _____
 City: Grantham State: NH Zip: _____ Work Phone: _____
 Bill To: _____ (Must Have Prior Approval From Office)
 Service Tech Name: Shawn

Residential
 Commercial

Federal ID #: 20-3813058
 SO #: _____

Toll Free
1-866-ROOTERMAN
 (1-866-766-8376)
 www.866Rooterman.com

Please Pay From This Invoice - No Statement Rendered

WORK AUTHORIZATION I, the undersigned, being duly authorized to order and/or receive said work, hereby authorize Rooter-Man® to perform such work necessary to complete these tasks. I AGREE TO PAY THE FLAT RATE PRICE IN FULL UPON COMPLETION and other charges such as extra materials and labor which may be incurred in connection with said work. I understand that plumbing fixtures and piping may be aged and deteriorated and agree to hold Rooter-Man® harmless for any damage which may result from these conventional drain cleaning repair methods.

Customer Signature _____ Time _____

Flat Rate Price
\$1,182.97

Qty	Task	Description	Price	Amount
1	T/000	Main Sewer Line	406.66	406.66
1		After hrs Service call	95.00	95.00
1	A1779	limited Access	158.81	158.81
1	A1002	High Pressure Jet	522.50	522.50

WORK COMPLETION. I acknowledge completion of the above mentioned work which has been done to my satisfaction.

TRIP CHARGE \$29.95
FLAT RATE
1182.97

Customer Signature _____ Time 10:23

	DAYS	Guarantee (Mark One)					Remarks
Main Line	X	30	90	180	365		
Branch Line	X	30	90	180	365		
Toilet Auger	X	1	5	7	30		
Repair	X	30	90	180	365		

Payment Method
Check # 1317
 Amount Paid
1182.97

Credit Card Number: _____ EXP: _____ CCV: _____
 Card Holder's Signature: _____ Approval Code: _____
 E-mail: rooterman@tda.net

Comments Cabled MSL 100' 3 times
 Camera line still blocked near Sewer
 Returning 7/22 for Jetting

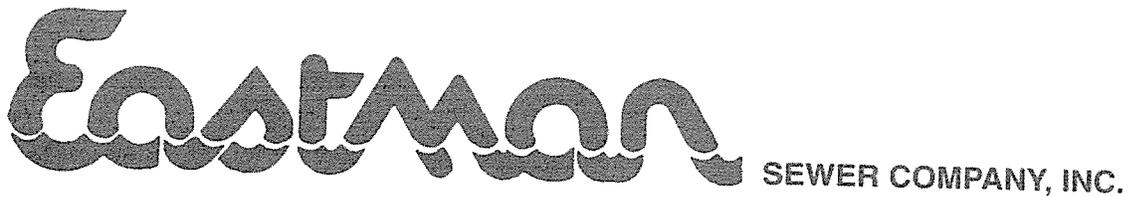
Video inspection on Main Line after completion of jetting. Showed No sign of any obstruction.

!!!

11552 SUSANT ARS NOT ACCURATE

- 13:45 PM Called West Cove B lift station and checked status
- 13:55 PM Called Gayle and advised her that I had called and checked both pump stations without detecting any problems at either of them. Told Gayle that both Scott and Keith were a long ways away and would not get on scene for two or three hours.
- 16:15 PM Scott arrived on scene, no obvious problem and no one at home at 3 Robin Lane. Scott went to check the pump stations to be sure no problems existed there. No problems found.
- 16:30 PM Scott returned to 3 Robin Lane. Owner arrived. He showed Scott the manhole with the backup.
- 16:54 PM Keith spoke with Scott Campbell. Scott was on scene and had called Stearns to pump manhole. Scott reported that the manhole was filled up about halfway.
- 17:15 PM Keith arrived in Eastman. Scott reported that the homeowner was upset and had been yelling at him. Stearns pumped the sewage from the manhole structure. They were inserting their jetter line into the main to clean the sewer main when Keith arrived. Keith spoke with the homeowner. He had calmed down. He said that earlier, he had sewage running out into his first floor bathroom through the shower drain. The sewage flow had stopped. He had his line cleaned and inspected by a contractor and found it to be free of problems. He had opened the manhole and discovered the backup there. He cleaned up the mess in his house during the day before we arrived. He stated that his washing machine was running and his son was in the shower when he discovered the problem. He said that he had had a problem with his line last year and had to have a contractor clean his service line to remove a blockage.
- Scott and Keith opened the downstream manhole, no flow was present. Stearns jetted the line until the blockage was cleared. Scott and Keith observed flow in the downstream manhole after blockage was cleared. Brian Stearns had the homeowner flush his toilet 4 or 5 times to ensure that there was no remaining blockage. Owner reported no problems. He apologized for his earlier behavior and asked Keith to pass his apology to Brian Harding.
- 18:21 PM Job was completed, Keith called Brian Harding and updated him.
- 7/22/08 Brian Stearns called in the morning and advised that the homeowner had called again and was still having problems. Brian Stearns sent one of his crew over and pulled the manhole cover where the blockage had been. He found no problem and called WSO to report that the main was not blocked.

Conclusions: The sewage never surcharged from the top of the manhole, so the sewage never reached the ground level at the street.



November 20, 2009

Joel & Gina Hutchins
PO Box 410
Grantham, NH 03753

Re: Proposed Settlement for Sewer Back-Up at 3 Robin Lane

Dear Joel & Gina,

In her letter dated November 5th, Debra Howland (Executive Director with the NH Public Utilities Commission) indicated the P.U.C. encourages the parties involved in the ongoing complaint to continue discussions and resolve this matter if possible. We agree with that recommendation and believe that having this matter go forward to the Evidentiary Hearing at the P.U.C. on December 7, 2009 is not the best outcome. Therefore, the Eastman Sewer Company (ESC) would like to settle this matter to everyone's satisfaction.

While ESC does not believe it was negligent or responsible for the back-up into the basement of 3 Robin Lane in July of 2008, we do recognize this back-up and a blockage caused by hardened grease in the nearby main sewer line at the same time were likely related events. Survey data generated by Construction Strategies, LLC (Grantham, NH) and provided by you indicates the invert at the foundation of 3 Robin Lane is approximately six inches lower than the rim of the nearest sewer man-hole and approximately four inches higher than the invert of the main at the man-hole. It is ESC's position that these respective elevations make 3 Robin Lane susceptible to sewer back-ups if there is a blockage in the main sewer line. If this situation is not corrected, future back-ups could occur.

In the interest of resolving this matter amicably, the Eastman Sewer Company offers the following:

- A one-time payment to you for **\$2,958.97** for expenses incurred related to the sewer back-up into the basement of your home at 3 Robin Lane in July of 2008
- A recommendation that the basement fixtures at 3 Robin Lane be configured to comply with recognized Plumbing Code, thereby preventing future back-ups
- An understanding the Eastman Sewer Company will not recognize or accept any future claims for sewer back-ups at 3 Robin Lane

Agreement reached on November ____, 2009

Brian Harding
General Manager
Eastman Sewer Company

Joel Hutchins
Owner

Gina Hutchins
Owner

cc: ESC Directors
NH Public Utilities Commission

THE STATE OF NEW HAMPSHIRE

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Thomas B. Getz

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Graham J. Morrison
Clifton C. Below

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Debra A. Howland



PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

June 4, 2009

Joel & Gina Hutchins
3 Robin Lane
PO Box 410
Grantham NH 03753

Re: Request for hearing regarding Eastman Sewer Company

Dear Mr. and Mrs. Hutchins:

Thank you for your letter of March 9, 2009 regarding your dispute with Eastman Sewer Company and a sewer back-up that occurred at your home in July 2008.

In consultation with the Director of the Commission's Legal Division, I have reviewed the information that was provided to the Commission last fall and early last winter by you and by Eastman Sewer Company. In the draft minutes of Eastman Sewer Company's February 17, 2009 meeting of its board of directors provided to the Commission Staff by Eastman Sewer Company, the board voted to deny your claim noting that "going forward, hence forth (sic) no sewer back-ups will be paid per the tariff effective December 02, 1989, PNPUC (sic) Order No. 19,600, in docket No. DS88-117, dated November 02, 1989."

In Order No. 19,600, the Commission noted Staff's objection to the provision in the tariff that provided for an exclusion of liability and stated:

"In regard to the tariff provision excluding liability, the commission finds the exclusion from liability could be misleading to a customer as it is now stated. The company should clearly state that it will be liable for its own negligence.

However the company may exclude consequential damages [see Original Page 4, section 2.2(C)(2)]."

Eastman Sewer Company's position with regard to denying claims and not paying sewer back-ups is not only at variance with its pre-February 17, 2009 practice but also with the terms of Order No. 19,600. Eastman Sewer Company's reliance on its tariff to avoid liability for negligence is incorrect.

June 4, 2009

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As I do not believe that your damages are properly classifiable as “consequential” damages, I will be recommending the Commission grant your request for a hearing. I am sending a copy of this letter to Eastman Sewer Company to make them aware of the above and expect them to revisit your claim and Mr. Brogan’s December 30, 2008 letter. To allow time for that to be accomplished, I will wait until June 19, 2009 before notifying the Commission of the above and requesting a hearing be scheduled regarding your complaint.

Sincerely,



Amanda O. Noonan

Director, Consumer Affairs

cc: Brian Harding, Eastman Sewer Company