GZA
GeoEnvironmental
of New York

*Engineers and
Scientists*

January 26, 2010
Project No. 21.0056547.00

Mr. John T. Kolaga, Esq.
DAMON MOREY LLP
The Avant Building - Suite 1200
200 Delaware Avenue
Buffalo, NY 14202-2150
Email: jkolaga@damonmorey.com

Re: Monitoring Well Sampling Letter Report
1130 Niagara Street
Buffalo, New York

535 Washington Street
11th Floor
Buffalo, New York
14203
716-685-2300
Fax: 716-685-3629
www.gza.com

Dear John:

GZA GeoEnvironmental of New York (GZA) is pleased to present Damon Morey LLP with our summary letter report summarizing the results of our recent monitoring well sampling event completed at the property addressed as 1130 Niagara Street, Buffalo, New York (Site).

BACKGROUND

An initial Phase II Environmental Site Assessment (Phase II) investigation was completed by Conestoga-Rovers & Associates (CRA) in May 2009 at the Site property. A copy of the report was not provided to GZA. The Phase II reportedly identified the presence of subsurface petroleum contamination at the southern portion of the warehouse, identified as SB-12, as shown on the attached Figure 1. Due to the presence of "free product" identified by CRA, New York State Department of Environmental Conservation (NYSDEC) was contacted, and spill #0903551 was assigned to the Site.

GZA was provided with limited portions of CRAs investigation. "Free product" was identified at SB-12. CRA completed a supplemental Phase II investigation on June 3 to June 5, 2009, in the area of SB-12. Five additional soil borings were completed in the area, identified as SB-12A through SB-12E, also included on Figure 1. GZA was also provided a Table 1 produced by CRA, entitled Soil Boring Summary which is included in Attachment A. The summary indicated that free product was encountered at four of the five additional soil borings completed. One location was converted to a monitoring well, and a Stratigraphic and Instrumentation Log for location SB-12E/MW-1 is also included as Attachment A.

GZA understands that Leisure Living is interested in obtaining a "closed" or "inactive" status on NYSDEC spill #0903551.

Monitoring Well Sampling

In December 2009, GZA was retained by Leisure Living to collect a groundwater sample from the existing well identified as SB-12E/MW-1 to assess for the possible presence of free product at this location. GZA completed the following tasks as part of the sampling event:

- Observed for the presence of petroleum product within existing monitoring well designated MW-1 located in the southern portion of the warehouse.
- Obtained a sample from MW-1 for analytical testing including a Fingerprint analysis via Method 310.13 and Flashpoint.
- Contracted with Test America Laboratory of Buffalo, New York to analyze the sample collected.
- Prepared this letter report summarizing the analytical results of the sample collected.

GZA sampled the existing monitoring well (SB-12E/MW-1) on January 7th, 2010. The location of SB-12E/MW-1 is shown on the attached Figure 1. Prior to sampling, GZA screened just above the top of the well riser immediately upon removal of the well cap for organic vapor compounds using an organic vapor meter (OVM) outfitted with a photoionization detector and a 10.2 eV ultraviolet lamp[1]. Ambient air at the Site was used to establish background organic vapor concentrations. The OVM readings were identified at concentrations ranging from 13 to 17 ppm.

GZA utilized a Solonist Interface Meter – Model 122 (Interface Meter) to determine if petroleum product was present in the well. This instrument allows for non-conductive liquids (product) to be measured separately from that of groundwater. These non-conductive liquids are represented by a steady light and tone response whereas water, a conductive liquid, is represented by an intermittent light and tone response. GZA observed a steady response from approximately 7.28 feet below the top of monitoring well riser (TOR) to a depth of approximately 12.39 feet below the TOR. Therefore, approximately 5 feet of non-conductive liquid, or product, was measured in MW-1. Due to the presence of the product material, the depth of well represented on the attached Stratigraphic and Instrumentation Log was not verified.

GZA collected one sample (two 40-milliliter vials and one 16-ounce amber glass jar) for laboratory analysis with the use of a disposable polyethylene bailer. During sample collection, GZA observed the material to be that of lightly viscous oil.

[1] The OVM used was a Mini Ray 2000 and was calibrated in accordance with manufacturer's recommendations. A gas standard of isobutylene was used at an equivalent concentration of 100 parts per million (ppm) as benzene for calibration.

Analytical Laboratory Testing

One sample of the product collected was submitted for analytical testing for Fingerprint Analysis via Method 310.13 and Flashpoint. The sample was packed in an ice-filled cooler and hand delivered to the Test America Laboratory following typical chain-of-custody procedures.

Analytical Test Results

Findings of the laboratory testing of the sample analyzed are presented below. The analytical laboratory report is provided in Attachment B. The analytical results for the sample of product are summarized in the Table below.

MW-1	
ANALYTE	**CONCENTRATION (mg/kg)**
Petroleum Fingerprint by Method 310.13	
Fuel Oil #2	610,000
Motor Oil	2,000,000
General Chemistry Parameters	
Flashpoint	>176° F

Conclusions

Approximately 5 feet of non-conductive liquid, or product, was measured in MW-1. Visual observations made prior to sampling indicated an apparent lightly viscous oil was present within the well at the top of groundwater. The analytical results of the sample collected indicate that petroleum product is present in MW-1 in the form of Motor Oil and Fuel Oil #2, and has a Flashpoint greater than 176° F.

We trust this satisfies your current needs. Please feel free to contact the undersigned if you have any questions.

Sincerely,

GZA GEOENVIRONMENTAL OF NEW YORK

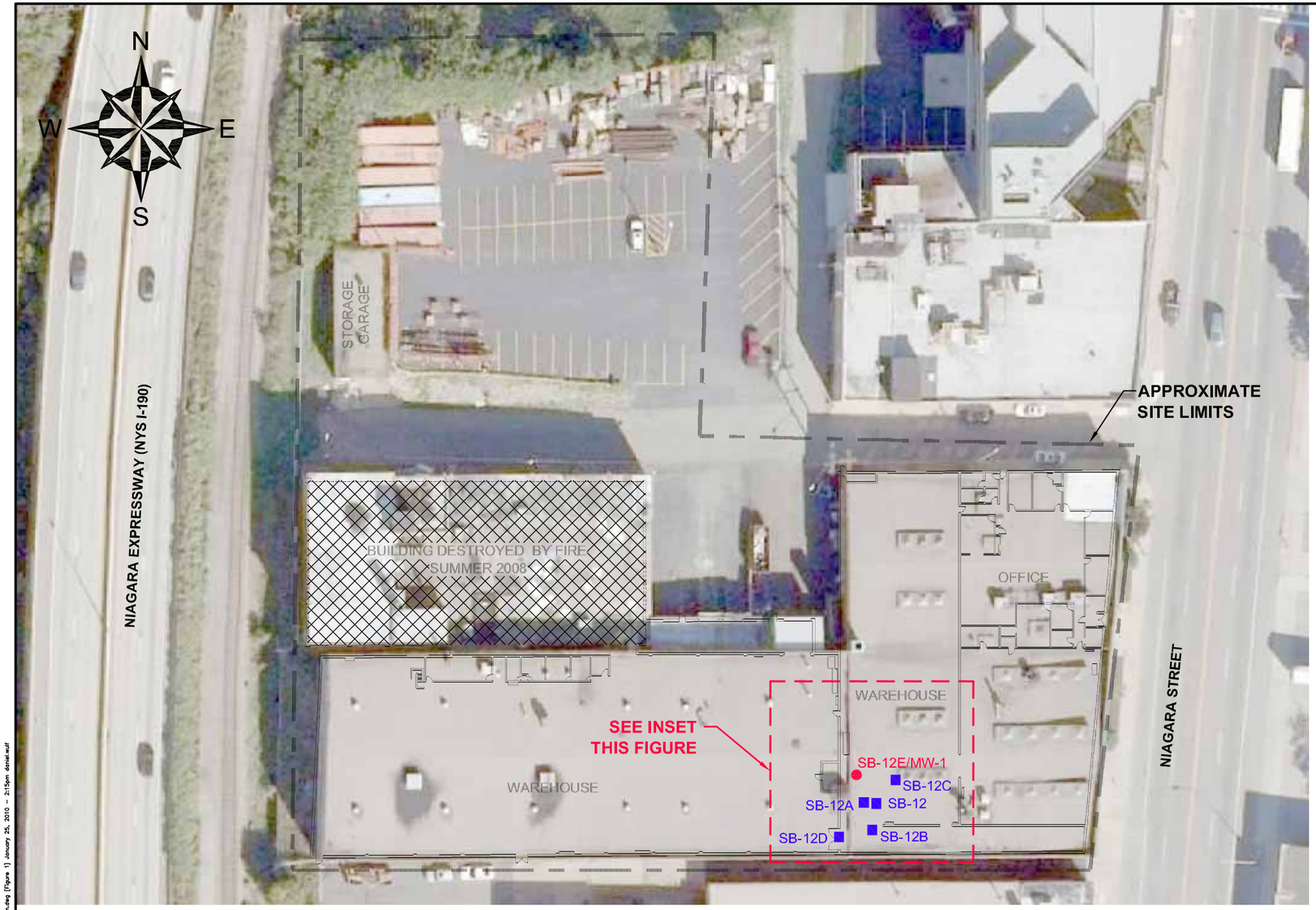
John Beninati
Project Manager

Michele Wittman, P.G.
Project Reviewer

Bart Klettke, P. E.
Associate Principal

Attachments: Figure 1 – Site Plan
Attachment A – CRA Soil Boring Summary & Stratigraphic and Instrumentation Log
Attachment B – Analytical Data Report

FIGURE



SITE PLAN

0 30 60 120

SCALE IN FEET

INSET

0 10 20 40

SCALE IN FEET

NOTES:

1. BASE MAP ADAPTED FROM AN AERIAL PHOTO AND PROPERTY LINE DOWNLOADED FROM http://www.bing.com/maps/ AND FIELD OBSERVATIONS.

2. BORING LOCATIONS SHOWN, TAKEN FROM FIGURE 1 OF A PHASE II ENVIRONMENTAL SITE ASSESSMENT REPORT PREPARED BY CONESTOGA-ROVERS & ASSOCIATES, DATED JULY 2009, PROVIDED TO GZA BY DAMON MORLEY, LLP.

3. THE SIZE AND LOCATION OF EXISTING SITE FEATURES SHOULD BE CONSIDERED APPROXIMATE.

LEGEND:

SB-12E/MW-1 — APPROXIMATE LOCATION AND DESIGNATION OF MONITORING WELL INSTALLED PREVIOUSLY BY CONESTOGA-ROVERS & ASSOCIATES

SB-12B — APPROXIMATE LOCATION AND DESIGNATION OF SOIL BORING DONE PREVIOUSLY BY CONESTOGA-ROVERS & ASSOCIATES

NO.	ISSUE/DESCRIPTION	BY	DATE

LEISURE LIVING
1130 NIAGARA STREET
BUFFALO, NEW YORK

GROUNDWATER SAMPLING
SITE PLAN

PREPARED BY:
GZA GeoEnvironmental of N.Y.
Engineers and Scientists
535 WASHINGTON STREET 11th FLOOR
BUFFALO, NEW YORK 14203
(716) 685-2300

PREPARED FOR: LEISURE LIVING

PROJ MGR: JMB	REVIEWED BY:	CHECKED BY:	FIGURE 1
DESIGNED BY:	DRAWN BY: DEW	SCALE: AS SHOWN	
DATE JANUARY 2010	PROJECT NO. 21.0056547.00	REVISION NO.	SHEET NO. 1 of 1

ATTACHMENT A

SOIL BORING SUMMARY

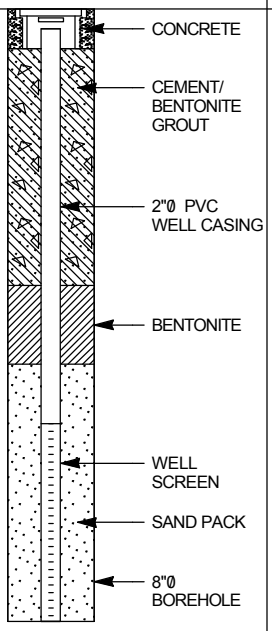
STRATIGRAPHIC and INSTRUMENTATION LOG

STRATIGRAPHIC AND INSTRUMENTATION LOG (OVERBURDEN)

PROJECT NAME: Leisure Living Phase II
PROJECT NUMBER: 55833
CLIENT: Rich Products
LOCATION: Buffalo, NY

HOLE DESIGNATION: SB-12E/ MW-1
DATE COMPLETED: June 5, 2008
DRILLING METHOD: 4.5" HSA
FIELD PERSONNEL: J. Raby

DEPTH ft BGS	STRATIGRAPHIC DESCRIPTION & REMARKS	DEPTH ft BGS
	CONCRETE FLOOR	
	FILL-concrete fragments, bricks, sand, gravel	1.00
	CH-CLAY, with fine gravel, hard, plastic, massive, light brown, dry, traces of oil found throughout clay	7.00
	SW-SAND, trace silt, dense, fine grained, well graded, yellowish orange, moist	14.70
	TOP OF BEDROCK	15.00
	END OF BOREHOLE @ 15.5ft BGS	15.50
	Auger Refusal @ 15.5 ft BGS	



WELL DETAILS
Screened interval:
10.50 to 15.50ft BGS
Length: 5ft
Diameter: 2in
Slot Size: 10
Material: PVC
Seal:
7.00 to 9.00ft BGS
Material: BENTONITE
Sand Pack:
9.00 to 15.50ft BGS
Material: 00 SAND

SAMPLE NUMBER	INTERVAL	REC (ft)	'N' VALUE	PID (ppm)
SS1		0.7	15	0.2
SS2		0.9	59	0.3
SS3		1.4	9	0.7
SS4		1.2	36	0.4
SS5		1.3	41	0.3
SS6		1.6	43	0.3
SS7		1.0	39	0.4

NOTES: MEASURING POINT ELEVATIONS MAY CHANGE; REFER TO CURRENT ELEVATION TABLE

TABLE 1

SOIL BORING SUMMARY
PHASE II ESA - LEISURE LIVING SITE
BUFFALO, NEW YORK

Soil Boring Identification	*Installation Start Date*	*Area Investigated*	*Surface Covering*	*Total Depth (ft b.g.s.)*	*Fill (ft b.g.s.)*		*Native Clay (ft b.g.s.)*		*Bedrock depth (ft b.g.s.)*	*Maximum PID Reading ppm*		*Observations of Potential Impacts*
					from	*to*	*from*	*to*		*Scan*	*Headspace*	
Initial Phase II ESA												
SB-12	May 20, 2009	Open Pit	Concrete	15.5	1.0	5.5	5.5	>15.5	NE	3.7	NA	Free product was observed from 7.5 to 15.5 ft
Supplemental Phase II Investigation												
SB-12A	June 3, 2009	SB-12 Potential Impacts	Concrete	15.6	0.8	7.0	7.0	15.6	15.6	1.7	NA	Free product observed to 14.5 ft b.g.s.
SB-12B	June 3, 2009	SB-12 Potential Impacts	Concrete	7.0	1.0	3.0	3.0	>7	NE	0.2	NA	Traces of free product to 5 ft b.g.s.
SB-12C	June 4, 2009	SB-12 Potential Impacts	Concrete	11.0	1.0	7.0	7.0	>13	NE	1.7	NA	Free product was observed from 7.0 to 11.0 ft
SB-12D	June 4, 2009	SB-12 Potential Impacts	Concrete	9.0	1.0	3.0	3.0	>9	NE	0.2	NA	None
SB-12E	June 5, 2009	SB-12 Potential Impacts	Concrete	15.5	1.0	7.0	7.0	15.0	15.0	0.7	NA	Traces free product observed to 14.5 ft b.g.s.

Notes:
ppm : parts per million
ft b.g.s.: feet below ground surface

ATTACHMENT B

ANALYTICAL REPORT

TestAmerica
THE LEADER IN ENVIRONMENTAL TESTING

Analytical Report

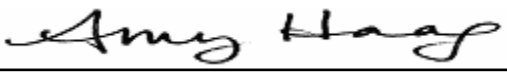
Work Order: RTA0251

Project Description
Leisure Living

For:

Jon Beninati

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427



Amy Haag

Project Manager

Amy.Haag@testamericainc.com

Wednesday, January 20, 2010

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

TestAmerica Buffalo
Current Certifications

As of 1/27/2009

STATE	Program	Cert # / Lab ID
Arkansas	CWA, RCRA, SOIL	88-0686
California*	NELAP CWA, RCRA	01169CA
Connecticut	SDWA, CWA, RCRA, SOIL	PH-0568
Florida*	NELAP CWA, RCRA	E87672
Georgia*	SDWA,NELAP CWA, RCRA	956
Illinois*	NELAP SDWA, CWA, RCRA	200003
Iowa	SW/CS	374
Kansas*	NELAP SDWA, CWA, RCRA	E-10187
Kentucky	SDWA	90029
Kentucky UST	UST	30
Louisiana*	NELAP CWA, RCRA	2031
Maine	SDWA, CWA	NY0044
Maryland	SDWA	294
Massachusetts	SDWA, CWA	M-NY044
Michigan	SDWA	9937
Minnesota	SDWA,CWA, RCRA	036-999-337
New Hampshire*	NELAP SDWA, CWA	233701
New Jersey*	NELAP,SDWA, CWA, RCRA,	NY455
New York*	NELAP, AIR, SDWA, CWA, RCRA,CLP	10026
Oklahoma	CWA, RCRA	9421
Pennsylvania*	NELAP CWA,RCRA	68-00281
Tennessee	SDWA	02970
Texas*	NELAP CWA, RCRA	T104704412-08-TX
USDA	FOREIGN SOIL PERMIT	S-41579
USDOE	Department of Energy	DOECAP-STB
Virginia	SDWA	278
Washington*	NELAP CWA,RCRA	C1677
Wisconsin	CWA, RCRA	998310390
West Virginia	CWA,RCRA	252

*As required under the indicated accreditation, the test results in this report meet all NELAP requirements for parameters for which accre ditation is required or available. Any exceptions to NELAP requirements are noted in this report.

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

CASE NARRATIVE

According to 40CFR Part 136.3, pH, Chlorine Residual, Dissolved Oxygen, Sulfite, and Temperature analyses are to be performed immediately after aqueous sample collection. When these parameters are not indicated as field (e.g. field-pH), they were not analyzed immediately, but as soon as possible after laboratory receipt.

A pertinent document is appended to this report, 1 page, is included and is an integral part of this report.

TestAmerica Laboratories, Inc. certifies that the analytical results contained herein apply only to the samples tested as received by our Laboratory.

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

DATA QUALIFIERS AND DEFINITIONS

>	Result is greater than the indicated value.
Q6	Results in the diesel organics range are primarily due to overlap from a heavy oil range product.
NR	Any inclusion of NR indicates that the project specific requirements do not require reporting estimated values below the laboratory reporting limit.

GZA GeoEnvironmental - Buffalo, NY
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Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

Executive Summary - Detections

Analyte	Sample Result	Data Qualifiers	RL	MDL	Units	Dil Fac	Date Analyzed	Lab Tech	Batch	Method
Sample ID: RTA0251-01 (MW-1 - Waste)						**Sampled: 01/07/10 10:00**		**Recvd: 01/07/10 17:50**		
Petroleum Fingerprint by Method 310.13										
Fuel Oil #2	**610000**	Q6	240	71	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Motor Oil	**2000000**		480	140	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
General Chemistry Parameters										
Flashpoint	**>176**		50.0	50.0	°F	1.00	01/15/10 16:31	RMM	10A0916	1010

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

Sample Summary

Sample Identification	Lab Number	Client Matrix	Date/Time Sampled	Date/Time Received	Sample Qualifiers
MW-1	RTA0251-01	Waste	01/07/10 10:00	01/07/10 17:50	

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535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

Analytical Report

Analyte	Sample Result	Data Qualifiers	RL	MDL	Units	Dil Fac	Date Analyzed	Lab Tech	Batch	Method
Sample ID: RTA0251-01 (MW-1 - Waste)						**Sampled: 01/07/10 10:00**		**Recvd: 01/07/10 17:50**		
Petroleum Fingerprint by Method 310.13										
Fuel Oil #2	**610000**	Q6	240	71	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Fuel Oil #4	ND		240	71	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Fuel Oil #6	ND		240	71	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Gasoline	ND		95	29	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Kerosene	ND		240	71	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Motor Oil	**2000000**		480	140	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
Other-1	ND		240	71	mg/kg	20.0	01/11/10 14:01	MAN	10A0382	310.13
General Chemistry Parameters										
Flashpoint	**>176**		50.0	50.0	°F	1.00	01/15/10 16:31	RMM	10A0916	1010

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

SAMPLE EXTRACTION DATA

Parameter	Batch	Lab Number	Wt/Vol Extracte	Units	Extract Volume	Units	Date Prepared	Lab Tech	Extraction Method
General Chemistry Parameters									
1010	10A0916	RTA0251-01	50.00	g	50.00	mL	01/15/10 16:26	RMM	No Prep Flashpoint
Petroleum Fingerprint by Method 310.13									
310.13	10A0382	RTA0251-01	0.14	g	1.00	mL	01/09/10 10:40	LTT	3550B GC

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

LABORATORY QC DATA

Analyte	Source Result	Spike Level	RL	MDL	Units	Result	% REC	% REC Limits	% RPD	RPD Limit	Data Qualifiers
Petroleum Fingerprint by Method 310.13											
Blank Analyzed: 01/11/10 (Lab Number:10A0382-BLK1, Batch: 10A0382)											
Fuel Oil #2			17	5.0	mg/kg	ND					
Fuel Oil #4			17	5.0	mg/kg	ND					
Fuel Oil #6			17	5.0	mg/kg	ND					
Gasoline			6.7	2.0	mg/kg	ND					
Kerosene			17	5.0	mg/kg	ND					
Motor Oil			33	10	mg/kg	ND					
Other-1			17	5.0	mg/kg	940					
LCS Analyzed: 01/11/10 (Lab Number:10A0382-BS1, Batch: 10A0382)											
Fuel Oil #2		15000	17	5.0	mg/kg	14500	97	50-150			
LCS Dup Analyzed: 01/11/10 (Lab Number:10A0382-BSD1, Batch: 10A0382)											
Fuel Oil #2		15000	17	5.0	mg/kg	14500	97	50-150	0.02	35	

GZA GeoEnvironmental - Buffalo, NY
535 Washington St, 11th Floor
Buffalo, NY 14203-1427

Work Order: RTA0251

Project: Leisure Living
Project Number: [none]

Received: 01/07/10
Reported: 01/20/10 17:33

LABORATORY QC DATA

Analyte	Source Result	Spike Level	RL	MDL	Units	Result	% REC	% REC Limits	% RPD	RPD Limit	Data Qualifiers
General Chemistry Parameters											
LCS Analyzed: 01/15/10 (Lab Number:10A0916-BS1, Batch: 10A0916)											
Flashpoint		81.0	50.0	50.0	°F	82.0	101	97.5-102.5			
Duplicate Analyzed: 01/15/10 (Lab Number:10A0916-DUP1, Batch: 10A0916)											
QC Source Sample: RTA0251-01											
Flashpoint	176		50.0	50.0	°F	176			0		>

Chain of Custody Record

Temperature on Receipt ____

Drinking Water? Yes ☐ No ☒

TestAmerica
THE LEADER IN ENVIRONMENTAL TESTING

TAL-4124 (1007)

Client: GZA	Project Manager: JOHN BENSWART	Date: 1/7/10	Chain of Custody Number: 095922
Address: 535 WASHINGTON ST, 11TH FLOOR	Telephone Number (Area Code)/Fax Number: 716-849-7032	Lab Number	Page 1 of 1
City: BUFFALO / State: NY / Zip Code: 14203	Site Contact: SMO	Lab Contact: AMY HAAG	Analysis (Attach list if more space is needed)
Project Name and Location (State): LEISURE LIVING, BUFFALO, NY	Carrier/Waybill Number		8260 Full Target List
Contract/Purchase Order/Quote No.			

Sample I.D. No. and Description (Containers for each sample may be combined on one line)	Date	Time	Matrix: Air	Aqueous	Sed.	Soil	Containers & Preservatives: Unpres.	H_2SO_4	HNO_3	HCl	NaOH	$ZnAc/NaOH$	Special Instructions/ Conditions of Receipt
MW-1	1/7/10	1000		X			X						

Possible Hazard Identification
☐ Non-Hazard ☐ Flammable ☐ Skin Irritant ☐ Poison B ☒ Unknown

Sample Disposal
☐ Return To Client ☐ Disposal By Lab ☒ Archive For 1 Months (A fee may be assessed if samples are retained longer than 1 month)

Turn Around Time Required
☐ 24 Hours ☐ 48 Hours ☐ 7 Days ☐ 14 Days ☐ 21 Days ☐ Other

QC Requirements (Specify)

	Date	Time		Date	Time
1. Relinquished By	1/7/10	1750	1. Received By	1/7/10	1750
2. Relinquished By	Date	Time	2. Received By	Date	Time
3. Relinquished By	Date	Time	3. Received By	Date	Time

Comments: PRODUCT IDENTIFIED

2.0°

DISTRIBUTION: WHITE - Returned to Client with Report; CANARY - Stays with the Sample; PINK - Field Copy