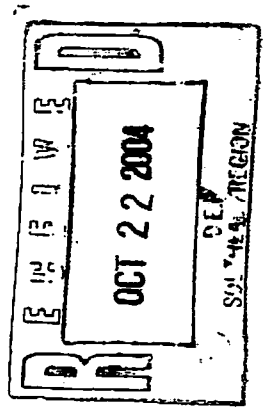
DONALD P. NAGLE, PC

ATTORNEY AT LAW

5 MAIN STREET EXTENSION, SUITE 300

PLYMOUTH, MASSACHUSETTS 02360

TEL: 508-732-8970 FAX: 508-732-8971



October 20, 2004

BY FAX
AND FIRST CLASS MAIL

Jonathan Hobill
Regional Engineer
Department of Environmental Protection
Southeast Regional Office
20 Riverside Drive
Lakeville, Massachusetts 02347

Re: **Eagle Gas, 131 Main Street, Carver, MA**
RTN 4-13333

Dear Mr. Hobill:

This letter addresses allegations by the Licensed Site Professional ("LSP") hired by Eagle Gas regarding the above-captioned Site that the newly discovered free-phase product discovered at the Site is "old" gasoline, and therefore attributable to Richard Nantias, the former owner of the property.

However, analytical results of a chromatograph performed under the direction of James Decoulis, LSP for Eagle Gas, which I only recently obtained, demonstrate that the free-phase product is unquestionably diesel fuel, a product unrelated to Mr. Nantais' prior ownership. These results, a copy of which is attached, were reported to Mr. Decoulis on September 10, 2004 and were not submitted to David Bennett, LSP for Richard Nantais until October 14, 2004.

I have also included a copy of the October 14, 2004 transmittal e-mail for the results from Mr. Decoulis to David Bennett. Mr. Decoulis's email indicates:

> *Attached is Alpha Analytical's NAPL product analysis comparing the product in the right-of-way with the product in the microwell two feet in front of the building. This analysis, together with last week's visual comparison in the field, appears to reveal that the product is similar.*

Contrary to Mr. Decoulis's prior assertions that this free-phase product, only recently discovered by Eagle Gas, is attributable to a release of gasoline during the prior ownership of Richard Nantais, the attached data demonstrates that, by Mr. Decoulis's own admission, this contamination "is similar" to the known diesel release attributable to Eagle Gas.

WWW.DPNAGLELAW.COM

EMAIL: NAGLE@DPNAGLELAW.COM

On a recent site visit with Mr. Decoulis and DEP's Cynthia Baron, David Bennett reports that **six feet** of diesel product was detected in one or more monitoring well at the Site. Mr. Decoulis and Eagle Gas have known of the presence of free-phase diesel fuel at the Site for at least a year, if not much earlier. Yet, despite enforcement action by the

Department, no action has been taken by Eagle Gas to abate this serious environmental condition. Instead, Eagle Gas has gone out of its way to delay action and to make unsupported allegations that Richard Nantais is responsible for contamination that is clearly the responsibility of Eagle Gas. DEP has already rejected a proposed IRA Plan submitted by Eagle Gas in response to a Notice of Noncompliance, presumably because it fail to proposed active recovery of free-phase product. At the recent Site visit, David Bennett offered Mr. Decoulis the use of an active recovery system. Mr. Decoulis declined the offer and has failed to propose any plans to operate an active recovery system at the Site, nor has he resubmitted an amended IRA plan to DEP indicating what he does plan to do. Meanwhile, the free-phase diesel plume is migrating unabated.

As the former owner of property that is part of the Site, Richard Nantais is very concerned that the lack of action by Eagle Gas will complicate his efforts to fully remediate the historical gasoline spill at the Site. If the diesel fuel is allowed to migrate unabated, it may intermingle with the "far-field" historical gasoline spill addressed by Mr. Nantias, unnecessarily complicating the liability picture.

As indicated in the IRA Status Report recently submitted to DEP on behalf of Mr. Nantais, additional sampling is necessary to fully delineate the "far-field" contamination. In light of the lack of action by Eagle Gas, additional monitoring wells will be required to demonstrate a distinction between the older spill and the recent diesel spill. We anticipate submitting a schedule shortly for completing a Phase II Comprehensive Investigation for the "far-field" area of the Site. We request that, after you have had a chance to review this submittal, we meet with DEP to discuss our proposal.

Thank you for your attention to this matter.

Very truly yours,

Donald P. Nagle

Enclosure
cc: Cynthia Baran, DEP
Richard Nantiais
Ted Kaegael
David Bennett

Donald Nagle

From: David Bennett [dbennett@bennett-oreilly.com]
Sent: Thursday, October 14, 2004 11:29 AM
To: Ted Kaegael
Cc: Donald Nagle
Subject: Fw: NAPL Product Comparison, Eagle Gas, Carver

Alpha Product Analysis + Chrom...

[redacted]

----- Original Message -----
From: "James J. Decoulos" <jamesj@decoulos.com>
To: "Dave Bennett" <dbennett@bennett-oreilly.com>
Sent: Thursday, October 14, 2004 6:27 AM
Subject: NAPL Product Comparison, Eagle Gas, Carver

> Dave,
>
> Attached is Alpha Analytical's NAPL product analysis comparing the
> product in the right-of-way with the product in the microwell two feet
> in front of the building. This analysis, together with last week's
> visual comparison in the field, appears to reveal that the product is
> similar. Not sure if peak area analysis is necessary.

Jim

> James J. Decoulos, PE, LSP
> Decoulos & Company
> 3 Electronics Avenue
> Danvers, MA 01923
> web: www.decoulos.com
>
> tel: 617-489-7795
> fax: 877-842-9629

ALPHA ANALYTICAL LABORATORIES

Eight Walkup Drive
Westborough, Massachusetts 01581-1019
(508) 898-9220 www.alphalab.com

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

CERTIFICATE OF ANALYSIS

Client: Decoulos & Company

Address: 3 Electronics Ave

Danvers, MA 01923

Attn: Mr. Jim Decoulos

Project Number: 616

Site: EAGLE GAS

Laboratory Job Number: L0409661

Date Received: 02-SEP-2004

Date Reported: 10-SEP-2004

Delivery Method: Alpha

ALPHA SAMPLE NUMBER	CLIENT IDENTIFICATION	SAMPLE LOCATION
L0409661-01	DCW-7	131 MAIN, CARVER
L0409661-02	ERW-2	131 MAIN, CARVER
L0409661-03	BP-5RR	131 MAIN, CARVER

I, the undersigned, attest under the pains and penalties of perjury that, based upon my personal inquiry of those responsible for obtaining the information, the material contained in this report is, to the best of my knowledge and belief, accurate and complete. This certificate of analysis is not complete unless this page accompanies any and all pages of this report.

Authorized by: James Todaro
This document electronically signed

ALPHA ANALYTICAL LABORATORIES
NARRATIVE REPORT

Laboratory Job Number: L0409661

TPH-8100M

L0409661-01 through -03 and the associated Laboratory Duplicate have elevated limits of detection due to the 20x dilutions required by the elevated concentrations of target compounds in the sample. The Surrogate % Recoveries were not recovered due to the dilutions required to quantitate the samples.

ALPHA ANALYTICAL LABORATORIES
CERTIFICATE OF ANALYSIS

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

Laboratory Sample Number: L0409661-01
DCW-7
Sample Matrix: OIL

Date Collected: 26-AUG-2004 13:30
Date Received : 02-SEP-2004
Date Reported : 10-SEP-2004

Condition of Sample: Satisfactory

Field Prep: None

Number & Type of Containers: 1-Glass

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE PREP	DATE ANAL	ID
Hydrocarbon Scan by GC 8100M				1 8100M	0903 16:30	0906 20:21	MS
Mineral Spirits	ND	mg/kg	200000				
Gasoline	ND	mg/kg	200000				
Fuel Oil #2/Diesel	940000	mg/kg	200000				
Fuel Oil #4	ND	mg/kg	200000				
Fuel Oil #6	ND	mg/kg	200000				
Motor Oil	ND	mg/kg	200000				
Kerosene	ND	mg/kg	200000				
Transformer Oil	ND	mg/kg	200000				
Unknown Hydrocarbon	ND	mg/kg	200000				
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	ND	%	40-140				

Comments: Complete list of References and Glossary of Terms found in Addendum I

ALPHA ANALYTICAL LABORATORIES
CERTIFICATE OF ANALYSIS

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

Laboratory Sample Number: L0409661-02
ERW-2
Sample Matrix: OIL

Date Collected: 26-AUG-2004 14:00
Date Received : 02-SEP-2004
Date Reported : 10-SEP-2004

Condition of Sample: Satisfactory

Field Prep: None

Number & Type of Containers: 1-Glass

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE PREP	DATE ANAL	ID
Hydrocarbon Scan by GC 8100M				1 8100M	0903 16:30	0906 21:25	MS
Mineral Spirits	ND	mg/kg	200000				
Gasoline	ND	mg/kg	200000				
Fuel Oil #2/Diesel	870000	mg/kg	200000				
Fuel Oil #4	ND	mg/kg	200000				
Fuel Oil #6	ND	mg/kg	200000				
Motor Oil	ND	mg/kg	200000				
Kerosene	ND	mg/kg	200000				
Transformer Oil	ND	mg/kg	200000				
Unknown Hydrocarbon	ND	mg/kg	200000				
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	ND	%	40-140				

Comments: Complete list of References and Glossary of Terms found in Addendum I

ALPHA ANALYTICAL LABORATORIES
CERTIFICATE OF ANALYSIS

MA:M-MA086 NH:200301-A CT:PH-0574 ME:MA086 RI:65 NY:11148 NJ:MA935 Army:USACE

Laboratory Sample Number: L0409661-03
BP-5RR
Sample Matrix: OIL

Date Collected: 26-AUG-2004 14:30
Date Received : 02-SEP-2004
Date Reported : 10-SEP-2004

Condition of Sample: Satisfactory

Field Prep: None

Number & Type of Containers: 1-Glass

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE PREP	DATE ANAL	ID
Hydrocarbon Scan by GC 8100M				1 8100M	0903 16:30	0906 22:29	MS
Mineral Spirits	ND	mg/kg	200000				
Gasoline	ND	mg/kg	200000				
Fuel Oil #2/Diesel	940000	mg/kg	200000				
Fuel Oil #4	ND	mg/kg	200000				
Fuel Oil #6	ND	mg/kg	200000				
Motor Oil	ND	mg/kg	200000				
Kerosene	ND	mg/kg	200000				
Transformer Oil	ND	mg/kg	200000				
Unknown Hydrocarbon	ND	mg/kg	200000				
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	ND	%	40-140				

Comments: Complete list of References and Glossary of Terms found in Addendum I

ALPHA ANALYTICAL LABORATORIES
QUALITY ASSURANCE BATCH DUPLICATE ANALYSIS

Laboratory Job Number: L0409661

Parameter	Value 1	Value 2	Units	RPD	RPD Limits
Hydrocarbon Scan by GC 8100M for sample(s) 01-03 (L0409661-01, WG180056)					
Mineral Spirits	ND	ND	mg/kg	NC	40
Gasoline	ND	ND	mg/kg	NC	40
Fuel Oil #2/Diesel	940000	950000	mg/kg	1	40
Fuel Oil #4	ND	ND	mg/kg	NC	40
Fuel Oil #6	ND	ND	mg/kg	NC	40
Motor Oil	ND	ND	mg/kg	NC	40
Kerosene	ND	ND	mg/kg	NC	40
Transformer Oil	ND	ND	mg/kg	NC	40
Unknown Hydrocarbon	ND	ND	mg/kg	NC	40
Surrogate(s)	Recovery				QC Criteria
o-Terphenyl	ND	ND	%	NC	40-140

ALPHA ANALYTICAL LABORATORIES
QUALITY ASSURANCE BATCH SPIKE ANALYSES

Laboratory Job Number: L0409661

Parameter	% Recovery	QC Criteria
Hydrocarbon Scan by GC 8100M LCS for sample(s) 01-03 (WG180056)		
Petroleum Spike	119	40-140
Surrogate(s)		
o-Terphenyl	101	40-140

ALPHA ANALYTICAL LABORATORIES
QUALITY ASSURANCE BATCH BLANK ANALYSIS

Laboratory Job Number: L0409661

PARAMETER	RESULT	UNITS	RDL	REF METHOD	DATE PREP	DATE ANAL	ID
Blank Analysis for sample(s) 01-03 (WG180056-1)							
Hydrocarbon Scan by GC 8100M				1 8100M	0903 16:30	0905 00:50	MS
Mineral Spirits	ND	mg/kg	10000				
Gasoline	ND	mg/kg	10000				
Fuel Oil #2/Diesel	ND	mg/kg	10000				
Fuel Oil #4	ND	mg/kg	10000				
Fuel Oil #6	ND	mg/kg	10000				
Motor Oil	ND	mg/kg	10000				
Kerosene	ND	mg/kg	10000				
Transformer Oil	ND	mg/kg	10000				
Unknown Hydrocarbon	ND	mg/kg	10000				
Surrogate(s)	Recovery		QC Criteria				
o-Terphenyl	103.	%	40-140				

REFERENCES

1. Test Methods for Evaluating Solid Waste: Physical/Chemical Methods. EPA SW-846. Third Edition. Updates I - IIIA, 1997.

GLOSSARY OF TERMS AND SYMBOLS

REF Reference number in which test method may be found.
METHOD Method number by which analysis was performed.
ID Initials of the analyst.
ND Not detected in comparison to the reported detection limit.

Please note that all solid samples are reported on dry weight basis unless noted otherwise.

LIMITATION OF LIABILITIES

Alpha Analytical, Inc. performs services with reasonable care and diligence normal to the analytical testing laboratory industry. In the event of an error, the sole and exclusive responsibility of Alpha Analytical, Inc., shall be to re-perform the work at it's own expense. In no event shall Alpha Analytical, Inc. be held liable for any incidental consequential or special damages, including but not limited to, damages in any way connected with the use of, interpretation of, information or analysis provided by Alpha Analytical, Inc.

We strongly urge our clients to comply with EPA protocol regarding sample volume, preservation, cooling, containers, sampling procedures, holding times and splitting of samples in the field.

Eight Walkup Drive, Westborough, MA 01581-1019
Tel: 508-898-9220 or 800-624-9220 x179
Fax: 508-898-9193 Visit us at: www.alphalab.com
Michelle M. (Wiita) Morris, Client Services
Direct Phone Line: 508-439-5179
Email: mwiita@alphalab.com

Fax

To: Jim Decoulos **From:** **Michelle M. (Wiita) Morris**

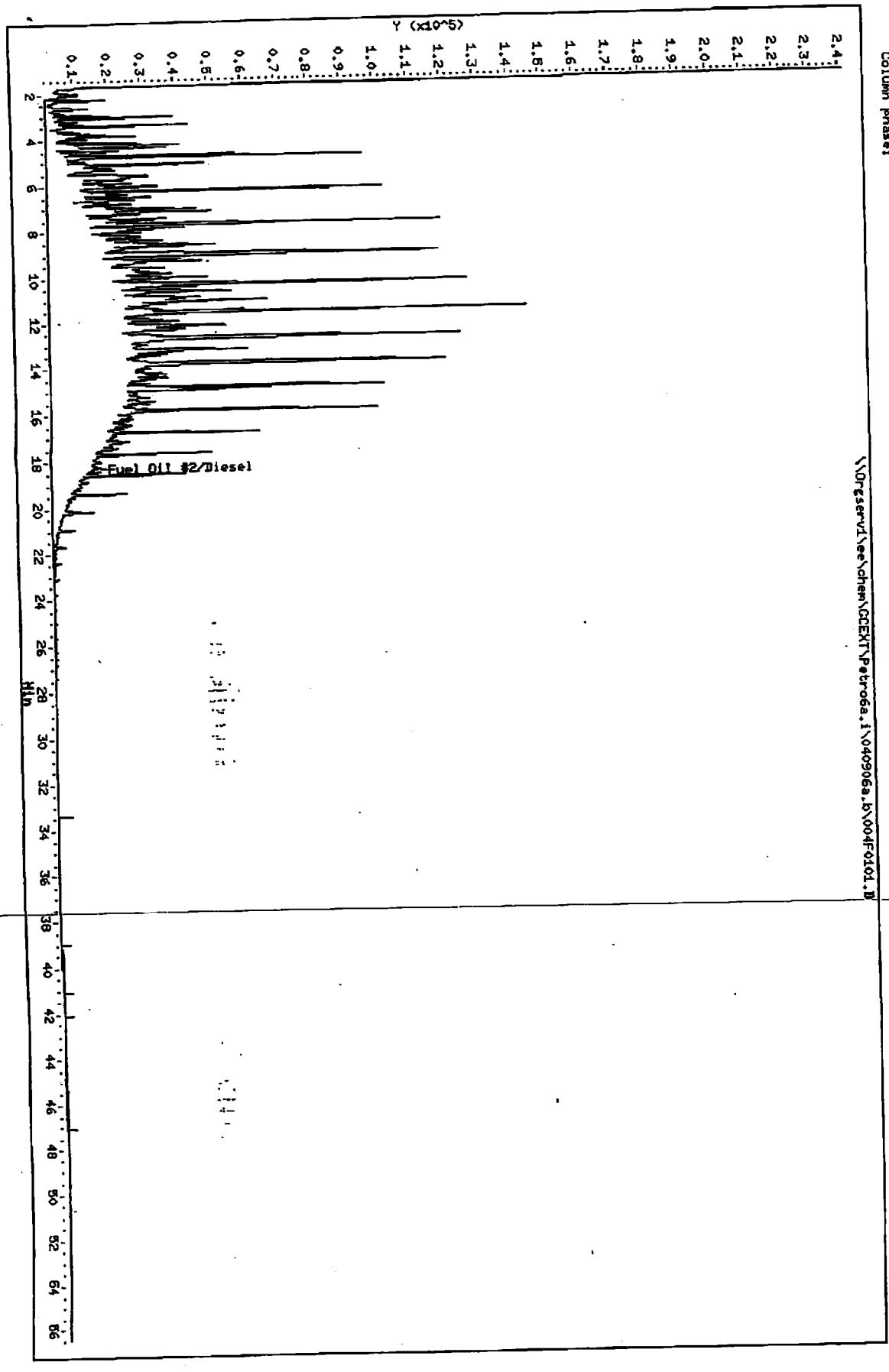
Company: Decoulous&Company **Pages:** 4

Fax: 877-842-9629 **Date:** 9/17/04

Re: Chromatograms **CC:**

L0409661

- **Comments:**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Operator: mah
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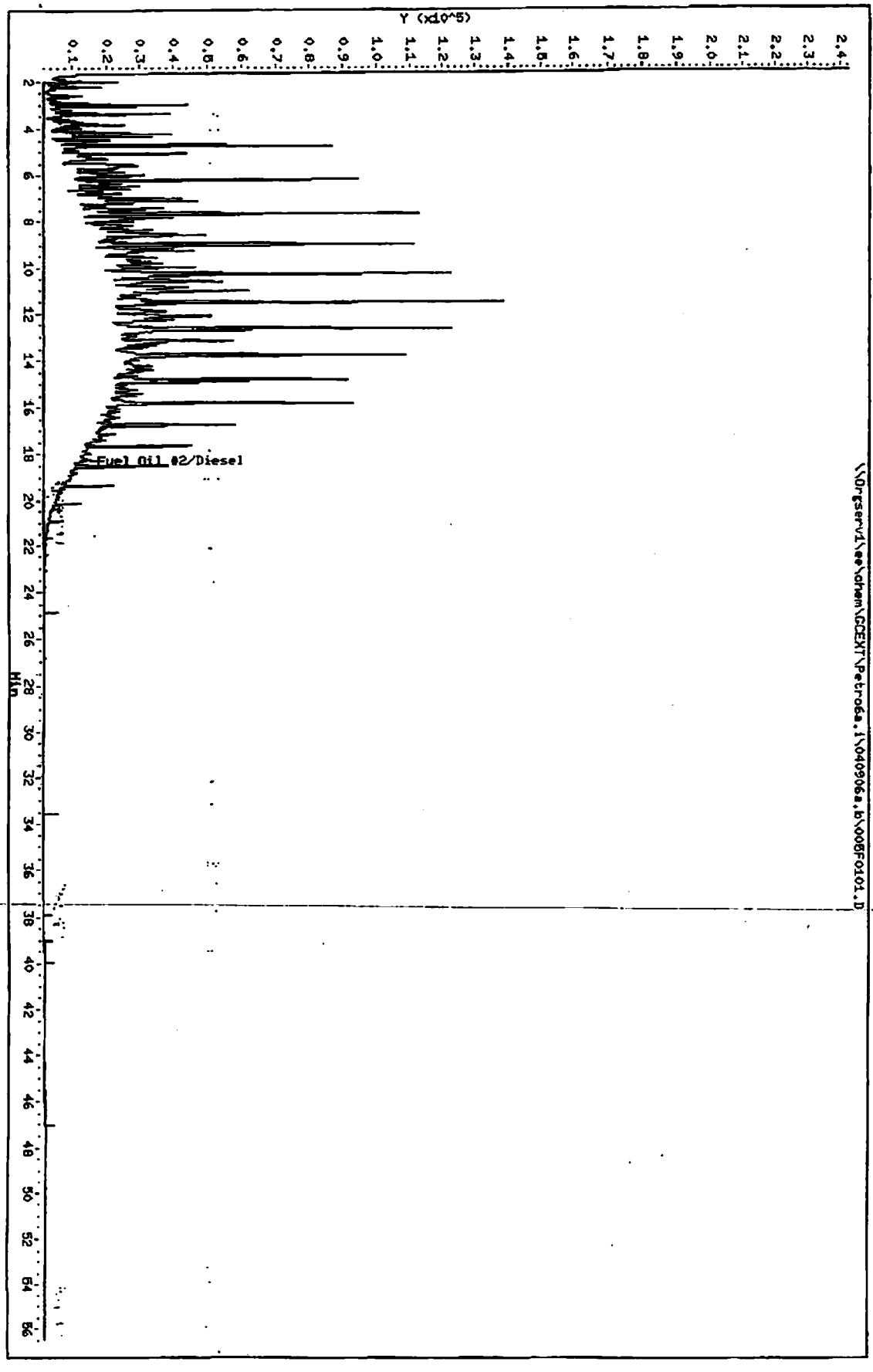
Min



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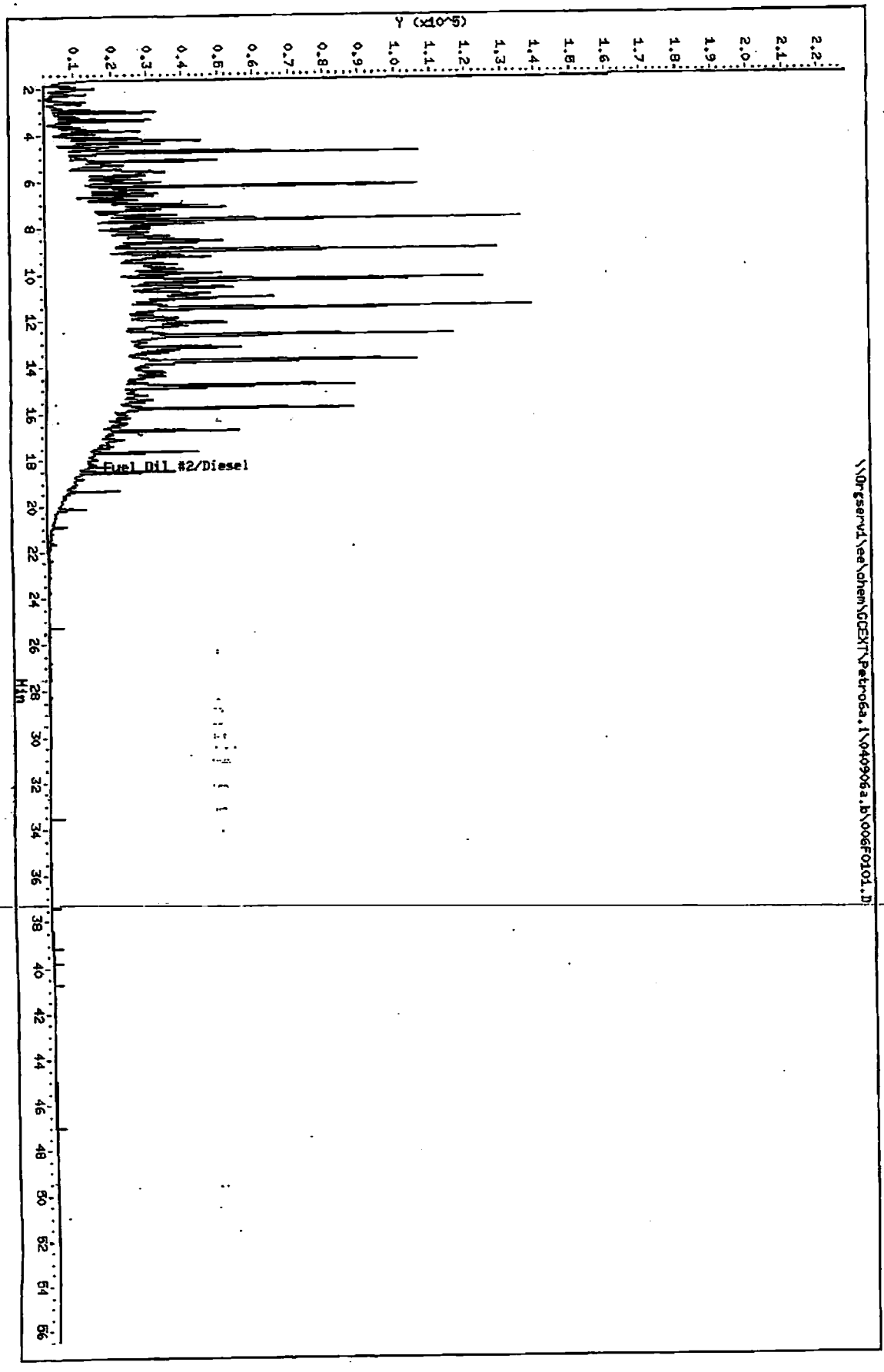
Instrument: Petro6a.i
Operator: mah
Column diameter: 0.53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Date : 06-SEP-2004 22:29
Client ID:
Sample Info: 10409661-03, 8100-s, x20 rr
Instrument: Petro6a.i
Operator: mah
Column diameter: 0.53
Column phase:
Y (x10^5)
Fuel Oil #2/Diesel
\\Orgserv1\ee\chem\GCEXT\Petro6a.i\040906a.b\006F0101.D
Min